

TABLE OF CONTENTS

ARTICLE 1

1.0	AGREEMENT AND INTERPRETATION	2
1.1	AGREEMENT	2
1.1.1	<u>Contents</u>	2
1.2	INTERPRETATION	5
1.2.1	<u>Definitions</u>	5
1.2.2	<u>Purposes</u>	15
1.3	FINANCIAL ARRANGEMENTS	15
1.3.1	<u>Payments</u>	15
1.3.2	<u>Advance</u>	15
1.3.3	<u>Loans</u>	16
1.3.4	<u>Past Payments</u>	16
1.3.5	<u>Payment by Canada</u>	16
1.3.6	<u>Interest on Late Payments</u>	17

Schedule 1.1	Financial Schedule
Schedule 1.2	Terms and Conditions of Hydro Bond
Schedule 1.3	Past Payments
Schedule 1.4	Trust Indenture

THIS AGREEMENT made as of the day of , 1996.

BETWEEN:

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

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

OF THE FIRST PART,

- and -

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

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

OF THE SECOND PART,

- and -

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

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

OF THE THIRD PART,

- and -

THE MANITOBA HYDRO-ELECTRIC BOARD,

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

OF THE FOURTH PART.

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

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

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

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

ARTICLE 1

1.0 AGREEMENT AND INTERPRETATION

1.1 AGREEMENT

1.1.1 Contents. The following Schedules are attached to and form part of this **Agreement**:

- Schedule 1.1 **Financial Schedule**
- Schedule 1.2 Terms and Conditions of **Hydro Bond**
- Schedule 1.3 Past Payments
- Schedule 1.4 **Trust Indenture**
- Schedule 2.1 Map of Location of Safety Measures
- Schedule 2.2 Pre-determined Compensation
- Schedule 2.3 **Compensated Range Daily Average Water Level**
- Schedule 2.4 **Compensated Range 7 Day Rate of Change**
- Schedule 2.5 **Compensated Range 31 Day Rate of Change**
- Schedule 2.6 Calculation Window for 7 and 31 Day Periods
- Schedule 2.7 Sample Formulae for Pre-determined Compensation
- Schedule 2.8 Summary of Pre-determined Compensation
- Schedule 3.1 Boundaries and Exclusions of **Compensation Lands**

Schedule 3.2	Compensation Lands - Legal Survey Instructions
Schedule 3.3	Compensation Lands - Lands excluded for Public Purposes
Schedule 3.4	Easement Agreement
Schedule 3.5	Description of Easement Lands
Schedule 4.1	Fee Simple Lands - Notigi Service
Schedule 5.1	SIL Trapline Zone
Schedule 6.1	Boundaries of Nelson House Resource Management Area
Schedule 11.1	List of Specified Remedial Works
Schedule 11.2	List of Equipment Forming part of the Arena
Schedule 12.1	Claim for Compensation Form
Schedule 12.2	Notice of Receipt of Claim for Compensation
Schedule 12.3	Report, Decision and Right to Appeal
Schedule 12.4	Claimant Acceptance and Release for Compensation for Adverse Effects
Schedule 12.5	Undertaking
Schedule 12.6	Referral to Arbitration
Schedule 12.7	List of Claims Which Will Continue to be Advanced Against Hydro
Schedule 13.1	Referral to Arbitration

Schedule 13.2	Undertaking of Arbitrator
Schedule 14.1	Nelson House: List of NFA Claims to be Released
Schedule 15.1	Community Consultation Report
Schedule 15.2	List of Federal Departments Consulted
Schedule 15.3	List of Provincial Departments Consulted
Schedule 15.4	Certificate of Independent Legal Advice

1.2 INTERPRETATION

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

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

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

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

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

Arena means:

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

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

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

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

Arena Plans means Pre-Con Builders Plan Nos.:

- (a) A-1 Floor Plan, Cross Section, Wall Detail, Door and Frame Schedule-revision 3;
- (b) S-1, Foundation Plan, Roof Framing Plan, Building Section Column Layout-revision 1;
- (c) A-1 Site Plan;
- (d) A-1 Ground Floor Plan, Seating Plan Wall Types-revision 2;
- (e) A-2 Elevations, Mezzanine Plan-revision 2;
- (f) A-3 Building Sections, Enlarged Plans - revision 2;
- (g) A-4 Wall Sections -revision 1;
- (h) A-5 Wall Sections - revision 2;
- (i) A-6 Door and Frame Schedule, Room Finish Schedule Enlarged Plans- revision 2;
- (j) A-7 Enlarge Floor Plan, Bleachers Enlarge Plan- revision 1;
- (k) A-8 Anchor Plate Layout Detail -revision 0;
- (l) S-1 Foundation Plan Details-revision 6;
- (m) S-2 Second Floor Framing Plan Details- revision 5;
- (n) S-3 General Notes, Pile Schedule, Bleachers Framing - revision 4;
- (o) AS-1 Site Plan - revision 0;
- (p) M-1 Ground Floor Plumbing - revision 2;
- (q) M-2 Mezzanine Plan Plumbing - revision 2;

- (r) M-3 Ground Floor Plan Heating and Ventilation - revision 2;
- (s) M-4 Mezzanine Plan and Building Section- Heating and Ventilation - revision 2;
- (t) M-5 Equipment Schedules -revision 2;
- (u) M-6 Floor Plan, Plumbing, Heating and Ventilation -revision 2;
- (v) E-1 Electrical Main Floor Lighting Layout - revision 0;
- (w) E-2 Electrical Main Floor Power and System Layout -revision 0;
- (x) E-3 Electrical Mezzanine Plan and Panel Boards - revision 0;
- (y) E-4 Electrical Main Distribution and Specifications - revision 0;
- (z) E-1 Electrical Main Floor Lighting Layout - revision 0;
- (aa) E-2 Electrical Main Floor Power and Systems Layout - revision 0;
- (bb) Electrical Mezzanine Plan and Panelboards;
- (cc) E-4 Electrical Main Distribution and Specifications - revision 0; and
- (dd) S1A Foundation Plan (Alternate), Details (Alternate)-revision;

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

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

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

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

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

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

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

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

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

Claimant means any of:

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

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

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

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

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

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

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

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

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

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

Controlling Bench Marks means:

- (a) BM L-17A, being a brass cap grouted in bedrock located on Dog Point, approximately 15m (50ft) from the shoreline of Footprint Lake, at the end, and to the North side, of a trail leading east to Footprint Lake. For all purposes of this **Agreement** BM L-17A shall be considered to be at an elevation of 248.482m (815.23ft) **A.S.L.**; or
- (b) Geodetic Survey of Canada Bench Mark No. 70-M-008 being a tablet in a rock outcrop on top of a hill located approximately 2.1m (7ft) south of Tower No. 184 along the transmission line from Thompson to Notigi Lake. For all purposes of this **Agreement** BM 70-M-008 shall be considered to be at the elevation published in Quad. Sheet 55098 being Revision 2 dated May, 1970 which is elevation 278.476m (913.63ft) **A.S.L.**;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Funds Available means:

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

and in any subsequent fiscal year, the greater of:

- (b) the income earned on **Assets** and whichever of the following applies:
 - (i) pending receipt by the **Trust** of interest on the **Hydro Bond**, an amount determined by the **Community Approval Process**, not to exceed four million (\$4,000,000.00) dollars, or
 - (ii) during the period when the **Trust**, either directly or through **Canada**, receives the interest on the **Hydro Bond**, the interest paid on the bond, and
 - (iii) in any other circumstances, the amount by which the **Net Value of the Assets** as determined by the **Corporate Trustee** at the close of the prior fiscal year, excluding the **Arena Funds, Assets** held in the **Investment and Heritage Account**, and the principal amounts in the Operation and Maintenance Sub-Account and the Recreational Facilities and Programs Sub-Account, exceed forty million (\$40,000,000.00) dollars.

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

Future Development means:

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

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

Hydro means the Manitoba Hydro-Electric Board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NFC means the Northern Flood Committee, Inc.

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

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

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

Operation, Maintenance and Replacement means:

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) was not ordinarily resident on **Reserve** but only if the damage or loss

- arose within the **SIL Trapline Zone**; or
- (b) was ordinarily resident at or near the Community of South Indian Lake regardless of where the damage or loss arose.

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

SIL Trapline Zone means the area shown on Schedule 5.1.

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

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

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

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

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

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

1.3 FINANCIAL ARRANGEMENTS

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

1.3.2 Advance. The three million nine hundred thousand (\$3,900,000.00) dollar advance referenced in the **Financial Schedule** was paid under a separate agreement dated March 10, 1993, as amended by an agreement dated February 15th, 1995 and a further three hundred thirty-eight thousand (\$338,000.00) dollars was paid in 1994, as set forth in the **Financial Schedule**.

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

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

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

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

SCHEDULE 1.1

FINANCIAL SCHEDULE

A total settlement as follows:

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

Hydro Bond

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

SCHEDULE 1.3

PAST PAYMENTS

Canada 1974 - 1994

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

PAST PAYMENTS**Hydro**

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

PAST PAYMENTS**Manitoba**

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

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

SCHEDULE 1.2

TERMS AND CONDITIONS OF HYDRO BOND

THE MANITOBA HYDRO-ELECTRIC BOARD

FR00001

Winnipeg, Manitoba, Canada
9.762% **BOND SERIES 3T**
DUE JUNE 30, 2013

\$40,000,000.00

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

June 30, 1999

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

NISICHAWASIIHK TRUST IN TRUST FOR NELSON HOUSE FIRST NATION

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

on June 30, 2013

at the Head Office of THE MANITOBA HYDRO-ELECTRIC BOARD

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

Countersigned on behalf of
The Manitoba Hydro-Electric
Board

THE MANITOBA HYDRO-ELECTRIC
BOARD

By

By

"SPECIMEN"
Signing Officer

"SPECIMEN" Authorized
Chairman

"SPECIMEN"
Secretary

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

Dated June 30, 1999

Terms and Conditions

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

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

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

Notice of Redemption

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

Date

Authorized Signing Officer (s)

Signature and Authority to
Sign Guaranteed

Financial Institution:_____

TABLE OF CONTENTS

ARTICLE 2

2.0	WATER LEVELS AND FLOWS	
2.1	INTRODUCTION	1
2.1.1	<u>Introduction</u>	1
2.2	RECORDS	1
2.2.1	<u>Controlling Bench Marks</u>	1
2.2.2	<u>Water Level Data</u>	2
2.2.3	<u>Records</u>	3
2.2.4	<u>Notice Regarding Malfunction of Nelson House Gauge.</u>	3
2.3	OPERATION OF THE PROJECT	3
2.3.1	<u>Regulatory Authorities.</u>	3
2.3.2	<u>Undertaking of Hydro</u>	3
2.4	COMPENSATED RANGE	5
2.4.1	<u>Compensated Range</u>	5
2.5	PREDETERMINED COMPENSATION	6
2.5.1	<u>Schedule of Predetermined Compensation</u>	6
2.5.2	<u>Reasonable Assessment of Damages</u>	6
2.5.3	<u>Remedy for Encroachment</u>	6
2.5.4	<u>Calculation and Payment</u>	7
2.5.5	<u>Dispute</u>	9
2.5.6	<u>Notice to Amend Schedule 2.2</u>	9
2.5.7	<u>Process</u>	10
2.5.8	<u>Joint Studies</u>	11
2.5.9	<u>Budget</u>	11
2.5.10	<u>Arbitrator's Remedial Authority</u>	11
2.5.11	<u>Onus</u>	12
2.5.12	<u>Continuation of Payments</u>	13
2.5.13	<u>Additional Compensation</u>	13
2.5.14	<u>Onus</u>	13
2.5.15	<u>Past Period</u>	14
2.6	WINTER WATER LEVEL PROJECTION AND FORECASTS	14
2.6.1	<u>Winter Water Projections</u>	14
2.6.2	<u>Notice of Change</u>	15
2.6.3	<u>Monthly Forecasts</u>	15
2.6.4	<u>Revised Forecasts</u>	15

2.6.5	<u>Notification</u>	15
2.7	SAFETY MEASURES	16
2.7.1	<u>Safety Measures</u>	16
2.7.2	<u>Implementation of Safety Measures</u>	16
2.7.3	<u>Payment of Costs</u>	18
2.7.4	<u>Procedure</u>	18
2.7.5	<u>Employment Opportunities</u>	18
2.7.6	<u>Changes</u>	18
2.8	CONTINUATION OF NFA PROVISIONS	19
2.8.1	<u>Continuing Right</u>	19
2.8.2	<u>Subject to Easement</u>	19
2.9	END OF PROJECT	20
2.9.1	<u>Maintenance of Water Ranges</u>	20
Schedule 2.1:	Map of Location of Safety Measures	
Schedule 2.2:	Pre-determined Compensation	
Schedule 2.3:	Compensated Range Daily Average Water Level	
Schedule 2.4:	Compensated Range 7 Day Rate of Change	
Schedule 2.5:	Compensated Range 31 Day Rate of Change	
Schedule 2.6:	Calculation Window for 7 and 31 Day Periods	
Schedule 2.7:	Sample Formulae for Pre-determined Compensation	
Schedule 2.8:	Summary of Pre-determined Compensation	

ARTICLE 2

2.0 WATER LEVELS AND FLOWS

2.1 INTRODUCTION

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

2.2 RECORDS

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

Hydro release **Canada** from all liability with respect to the definition, selection or determination of the **Controlling Bench Marks** and **ASL**.

2.2.2 Water Level Data. At the **Date of the Agreement**, **Canada** operates the **Nelson House Gauge** in accordance with the Canada - Manitoba Water Quantity Surveys Agreement dated April 1, 1975. **Canada** will give not less than one hundred eighty (180) days notice to the other **Parties** if it intends to cease operating the **Nelson House Gauge**. The **Parties** agree that if **Canada** ceases such operation **Hydro** shall forthwith assume such duties. If it becomes necessary to replace or re-locate the **Nelson House Gauge**, it will be replaced by the party responsible for replacement under the applicable provisions, if any, of the Canada - Manitoba Water Quantity Surveys Agreement or any successor agreement, or in the absence of such provisions, by **Hydro** and the location shall be on Footprint Lake, in reasonable proximity to the existing location and, subject to improvements in the state of the art, the design shall be the same as the existing one and it shall be tied to a benchmark which has been established to a third order accuracy or better, in accordance with a recognized Canadian standard on vertical control levelling. The data recorded by the **Nelson House Gauge** shall be tied to the **Controlling Bench Marks**. Prior to construction of any replacement gauge or relocation of the **Nelson House Gauge**, the design and location shall be approved by **Nelson House**, **Hydro**, and at its option **Canada**, as represented by the Inland Waters Directorate

of Environment Canada or its successor, but **Canada** shall be exposed to no liability under this **Agreement** for a failure to exercise such option.

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

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

2.3 OPERATION OF THE PROJECT

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

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

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

2.4 COMPENSATED RANGE

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

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

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

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

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

2.5 PREDETERMINED COMPENSATION

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

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

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

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

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

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

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

boundaries, the thirty-one (31) day period shall be shortened by the number of days which are in a different seasonal period,

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

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

2.5.6 Notice to Amend Schedule 2.2. Where a fundamental change of a long-term nature which is not the result of **Future Development**, causes **Daily**

Average Water Levels or **Rates of Change** consistently, but not necessarily constantly, outside of the parameters of the **Compensated Range**, or where **Nelson House** and **Hydro** reasonably anticipate the occurrence of such a fundamental change, either **Nelson House** or **Hydro** may give notice to the other, that it considers the compensation set forth in Schedule 2.2 to be inordinately high or inordinately low given the circumstances of the fundamental change, or the anticipated fundamental change, and that it wishes to amend Schedule 2.2. Changes which are the result of **Future Development** are to be dealt with under Article 8.

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

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

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

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

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

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

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

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

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

to prove such allegations. In the absence of such fundamental change, except as set forth in Article 2.5.13, the reasonableness of the pre-determined compensation

in relation to occurrences outside of the **Compensated Range** shall not be open to dispute.

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

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

2.5.14 Onus. Where a matter is referred to arbitration under Articles 2.5.10 or 2.5.13, the onus of proving the alleged damage shall be on the **Party** alleging such

damage, but the onus shall always be on **Hydro** to establish that the **Project** did not cause, or contribute to, any such alleged damage or to an alleged **Adverse Effect**.

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

2.6 WINTER WATER LEVEL PROJECTION AND FORECASTS

2.6.1 Winter Water Projections. **Hydro** shall:

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

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

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

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

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

2.6.5 Notification. **Hydro** shall make reasonable efforts to broadcast in both Cree and English the narrative portion of the monthly or revised forecasts

contemplated by Article 2.6.3 and 2.6.4, over a radio station providing service in the area of Nelson House or by some other reasonable alternative method if no such radio station exists. Such broadcasts shall, in the event of a revision to a forecast, begin forthwith upon the revision being made and continue for three (3) successive days or such longer period as may be necessary in the circumstances.

2.7 SAFETY MEASURES

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

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

- (a) annually prepare, mark and maintain ice crossings and main trails on the ice in the locations shown on Schedule 2.1;
- (b) monitor the safety of ice crossings when reasonably required in the winter period;
- (c) post notices with respect to changing ice conditions and vehicle load limits on any ice crossing;

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

- (j) supply and install flashing amber lights at each end of both the God's Rapids Portage and the Early Morning Rapids Portage.

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

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

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

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

2.8 CONTINUATION OF NFA PROVISIONS

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

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

2.9 END OF PROJECT

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

SCHEDULE 2.1

MAP OF LOCATION OF SAFETY MEASURES

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

SCHEDULE 2.6

CALCULATION WINDOW FOR 7 AND 31 DAY PERIODS

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

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

SCHEDULE 2.2

PRE-DETERMINED COMPENSATION

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

Daily Average Water Level Compensation:

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

Rate of Change Compensation:

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

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

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

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

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

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

SCHEDULE 2.3

COMPENSATED RANGE DAILY AVERAGE WATER LEVEL

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

Nelson House Water Levels

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

SCHEDULE 2.4

COMPENSATED RANGE 7 DAY RATE OF CHANGE

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

Nelson House 7 Day Rate of Change

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

Compensated Range and Pre-Determined Compensation Rates

SCHEDULE 2.5

COMPENSATED RANGE 31 DAY RATE OF CHANGE

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

Nelson House 31Day Rate of Change

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

Compensated Range and Pre-Determined Compensation Rates

SCHEDULE 2.7

SAMPLE FORMULAE FOR PRE-DETERMINED COMPENSATION

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

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

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

TABLE OF CONTENTS

ARTICLE 3

3.0	COMPENSATION LANDS AND EASEMENT LANDS	1
3.1	COMPENSATION LANDS	1
3.1.1	<u>Boundaries and Exclusions</u>	1
3.1.2	<u>Written Description and Plans</u>	1
3.2	CONDITIONS OF TRANSFER	1
3.2.1	<u>Lands Transferred Free of Encumbrance</u>	1
3.2.2	<u>Minerals</u>	2
3.2.3	<u>Easement Lands</u>	2
3.3	SURVEYS	2
3.3.1	<u>Surveys</u>	2
3.3.2	<u>Completion of Surveys by Manitoba</u>	3
3.3.3	<u>Change in Survey Instructions</u>	3
3.3.4	<u>Plans and Descriptions Supplied by Manitoba</u>	3
3.3.5	<u>Affirmation</u>	4
3.3.6	<u>Execution</u>	4
3.4	ADMINISTRATION OF LANDS	5
3.4.1	<u>Transfer Documents</u>	5
3.4.2	<u>Request for Reserve Status</u>	5
3.4.3	<u>Acceptance and Designation of Reserve Lands</u>	6
3.4.4	<u>Registry of Plans, Grant of Easements and Designation as Reserve Lands</u>	6
3.4.5	<u>Completion of Process</u>	7
3.4.6	<u>Disposition and Use of Lands</u>	7
3.4.7	<u>On the Ground Surveys</u>	8
3.5	CONDITION OF LANDS	8
3.5.1	<u>Warranty</u>	8
3.5.2	<u>Environmental Reports</u>	9
3.5.3	<u>Environmental Conditions</u>	9
3.5.4	<u>Response by Manitoba</u>	10
3.5.5	<u>Nelson House responsibilities.</u>	11
3.5.6	<u>Study</u>	12
3.5.7	<u>Opt to Negotiate</u>	12
3.5.8	<u>Fundamental Change</u>	12

3.5.9	<u>Response by Manitoba</u>	13
3.5.10	<u>Replacement Land</u>	14
3.5.11	<u>Arbitration</u>	14
3.5.12	<u>Continuation of Manitoba's Jurisdiction</u>	15
3.5.13	<u>Acceptability</u>	15
3.5.14	<u>Rejection by Canada</u>	15
3.5.15	<u>Negotiate Boundaries</u>	16
3.5.16	<u>Severance</u>	16
3.5.17	<u>Alternative</u>	16
3.5.18	<u>Arbitration</u>	17
3.5.19	<u>No Delay</u>	17
3.5.20	<u>Warranty</u>	17
3.5.21	<u>Amendment - The Real Property Act (Manitoba)</u>	18
3.6	SURVEYS OF REPLACEMENT COMPENSATION LANDS	18
3.6.1	<u>Surveys</u>	18
3.6.2	<u>Legal Descriptions</u>	18
Schedule 3.1:	Boundaries and Exclusions of Compensation Lands	
Schedule 3.2:	Compensation Lands - Legal Survey Instructions	
Schedule 3.3:	Compensation Lands - Lands Excluded for Public Purposes	
Schedule 3.4:	Easement Agreement	
Schedule 3.5:	Description of Easement Lands	

ARTICLE 3

3.0 COMPENSATION LANDS AND EASEMENT LANDS

3.1 COMPENSATION LANDS

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

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

3.2 CONDITIONS OF TRANSFER

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

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

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

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

3.3 SURVEYS

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

3.3.2 Completion of Surveys by Manitoba. **Manitoba** shall, within sixty

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

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

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

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

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

- (a) plans of the boundaries of the **Compensation Lands** and plans of any

exclusions from **Compensation Lands** required for public purposes;

and

- (b) a legal description of the **Compensation Lands**;

satisfactory to the Surveyor General of Canada.

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

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

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

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

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

3.4 ADMINISTRATION OF LANDS

3.4.1 Transfer Documents. Upon receipt of:

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

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

3.4.2 Request for Reserve Status. Upon receipt of a copy of an Order in Council referred to in Article 3.4.1, **Nelson House** shall by **Council Resolution** request that **Canada** set aside the **Compensation Lands**, referenced in such Order in Council, as **Reserve Lands** for **Nelson House**.

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

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

- (a) record the plans referred to in Article 3.3.4 in accordance with the

Canada Lands Surveys Act (Canada);

- (b) grant **Easements** in accordance with Schedule 3.4 on all of the **Easement Lands**;
- (c) transfer partial administration and control to **Manitoba**, on the same terms and conditions as contained in the **Easement Agreement** in respect of all of the **Easement Lands**;
- (d) execute all copies of the **Easement Agreement**;
- (e) file the **Easement Agreement** granting the **Easements** in accordance with the Indian Act (Canada); and
- (f) return a fully executed copy of the **Easement Agreement** to each of **Manitoba, Nelson House and Hydro**.

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

3.4.6 Disposition and Use of Lands. **Manitoba** has, in anticipation of the conclusion of this **Agreement**, withheld from disposition, by way of sale, sale agreement, lease or permit, the lands described as the **Compensation Lands**. Following the **Date of this Agreement** and prior to transfer of administration and control of the **Compensation Lands** to **Canada**, **Manitoba** will, at no expense to **Nelson House**, grant to **Nelson House** a Land Use Permit, on terms satisfactory to **Manitoba** and **Nelson House**, for the **Compensation Lands**. Any such Land Use Permit shall terminate upon acceptance by **Canada**, under Article 3.4.3, of the transfer of administration and control of the **Compensation Lands** to **Canada**. Notwithstanding the granting of the Land Use Permit, the **Compensation Lands** shall not be deemed to be **Reserve Lands** until designated as such pursuant to this **Agreement**.

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

3.5 CONDITION OF LANDS

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

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

3.5.3 Environmental Conditions. If an environmental condition is discovered on or in the **Compensation Lands** prior to the acceptance by **Canada** of transfer of administration and control of the lands under Article 3.4.3, which environmental condition was not created by **Nelson House** or by the sufferance, connivance, abetment or willful allowance of **Nelson House**, and **Nelson House** provides an environmental report or like evidence alleging that the environmental condition does not meet acceptable environmental standards, it may give notice to **Manitoba** and **Canada** that it rejects the portion of **Compensation Lands** so damaged or injuriously affected by the condition.

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

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

standards,

and upon receipt of the environmental study, **Manitoba** may reject the notice of rejection of **Nelson House** under Article 3.5.3 or **Canada** under 3.5.14; or

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

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

accept or the **Arbitrator** may by order allow, may:

- (a) at its expense remedy the environmental condition;
- (b) request **Manitoba** provide alternate **Compensation Lands**, and **Manitoba** may, but will be under no obligation, to provide such alternate **Compensation Lands**, but if it agrees to do so, Articles 3.5.7, 3.5.10, 3.5.12 and 3.5.13 will apply; or
- (c) have the affected lands transferred to the **Corporate Trustee** or to a corporation wholly owned and controlled by **Nelson House**, in fee simple title, in which event the relevant provisions of Article 4 will apply mutatis mutandis.

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

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

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

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

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

- (a) advise **Nelson House** that:

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

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

3.5.11 Arbitration. Without in any way limiting the generality of Article 13.2.2,

where disputes arise as to:

- (a) the nature and extent of the environmental condition and its relation to acceptable standards under Articles 3.5.3 and 3.5.13;
- (b) the quantity of land damaged or injuriously affected by the environmental condition or fundamental change;
- (c) whether the environmental condition or fundamental change is attributable to **Nelson House** under Article 3.5.3, Article 3.5.5 or Article 3.5.8;
- (d) the reasonableness of **Manitoba's** election under Article 3.5.4 or Article 3.5.9;
- (e) the promptness of any of **Manitoba's** actions under Article 3.5;
- (f) the appropriate size and quality of land needed to replace under Article 3.5.4(c)(ii) or Article 3.5.9(b)(ii); or
- (g) whether a change has occurred to the land which is a fundamental change rendering the land unfit for the use of **Nelson House** as contemplated in Article 3.5.8;

such dispute may be referred to arbitration under Article 13.4.

3.5.12

Continuation of Manitoba's Jurisdiction.

Manitoba's jurisdiction

with respect to any parcel of **Compensation Lands** will not change until transfer of administration and control of those lands is accepted by **Canada** under Article 3.4.3.

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

3.5.14 Rejection by Canada. Where **Canada** proposes to reject a parcel of the **Compensation Lands** on the grounds that **Canada** is not satisfied with the environmental condition of any part of such parcel, **Canada** shall forthwith notify **Nelson House** and **Manitoba**.

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

3.5.16 Severance. If the description of the affected parcel under Articles 3.5.13 and 3.5.14 can be agreed upon by **Canada, Manitoba** and **Nelson House**

under Article 3.5.15, that portion shall be surveyed and severed from the balance and administration and control of such balance of the **Compensation Lands** will be promptly accepted by **Canada**.

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

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

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

apply.

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

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

3.6 SURVEYS OF REPLACEMENT COMPENSATION LANDS

3.6.1 Surveys. Where any replacement **Compensation Lands** are

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

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

SCHEDULE 3.5

DESCRIPTION OF EASEMENT LANDS

Schedule 3.5 consists of a description entitled "Schedule 3.5: Easement Lands within Nelson House Indian Reserve No.'s 170, 170A, 170B and 170C" and a description entitled "Schedule 3.5", both of which are attached to and form part of this Schedule.

TABLE OF CONTENTS

ARTICLE 4

4.0	FEE SIMPLE LANDS	1
4.1	INTRODUCTION	1
4.1.1	<u>Introduction</u>	1
4.2	LANDS TO BE GRANTED	1
4.2.1	<u>Description</u>	1
4.2.2	<u>Conversion to Reserve</u>	1
4.2.3	<u>Warranty</u>	2
4.3	TRANSFER OF TITLE	2
4.3.1	<u>Legislation by Canada</u>	2
4.3.2	<u>Lands Not Converted to Reserve</u>	3
4.3.3	<u>Costs of Surveys and Transfers</u>	3
4.4	LAND USE PERMITS	4
4.4.1	<u>Issuance</u>	4
4.4.2	<u>Not Reserve</u>	4
4.5	GENERAL CONDITIONS	5
4.5.1	<u>Expropriation</u>	5
4.5.2	<u>Environmental Reports</u>	5
4.5.3	<u>Registration</u>	5
4.5.4	<u>Land Transfer</u>	6

Schedule 4.1: **Fee Simple Lands** - Notigi Service Centre

ARTICLE 4

4.0 FEE SIMPLE LANDS

4.1 INTRODUCTION

4.1.1 Introduction. This Article and the **Indenture** set out the procedures for dealing with **Fee Simple Lands** which may be acquired by **Nelson House** from **Manitoba** in fee simple title pursuant to this **Agreement**.

4.2 LANDS TO BE GRANTED

4.2.1 Description. **Fee Simple Lands** are those parcels of provincial Crown land described in Schedule 4.1 .

4.2.2 Conversion to Reserve. Following the **Date of this Agreement**, **Canada** will continue its reasonable efforts to process the **Fee Simple Lands** pursuant to its **ANew Bands and Additions to Reserves Policy@**. Should **Canada** notify the **Parties**, in writing, that the environmental condition of the **Fee Simple Lands** is

satisfactory to **Canada** under Article 3.5.13 and the **Fee Simple Lands** have been approved, to be accepted and set apart as **Reserve Land**, Articles 3.2.1, 3.2.2, 3.3, 3.4, 3.5.2 and 3.5.12 shall, with the necessary modifications, apply but Articles 3.5.1, 3.5.3 to 3.5.11, both inclusive, 3.5.14 to 3.5.19, both inclusive, and 3.5.21 shall not apply. If no such notice is given by **Canada**, or if **Canada** should notify the **Parties**, in writing, that the **Fee Simple Lands** have not been approved to be accepted and set apart as **Reserve Land**, then the provisions of Article 3 will not apply, and the **Fee Simple Lands** will be dealt with under Article 4 of the **Agreement** and the provisions of the **Indenture**.

4.2.3 Warranty. **Nelson House** chose the **Fee Simple Lands** because they were under a provincial Land Use Permit issued to **Nelson House** and were being used as a service station site and restaurant by **Nelson House**. **Nelson House** has inspected the **Fee Simple Lands** and for the purposes of Article 4 the **Fee Simple Lands** are acceptable to **Nelson House**. **Manitoba** makes no warranty as to the environmental condition of the **Fee Simple Lands** and shall be under no obligation under this **Agreement** in relation thereto.

4.3 TRANSFER OF TITLE

4.3.1 Legislation by **Canada**. If necessary, **Canada** shall recommend the enactment of legislation to provide that Section 36 of the Indian Act does not apply to the **Fee Simple Lands** and, when enacted, **Canada** shall proclaim such legislation in force.

4.3.2 Lands Not Converted to Reserve. If the **Fee Simple Lands** are not set apart as **Reserve Lands** under Article 3, the **Fee Simple Lands** shall, subject to proclamation of the legislation contemplated in Article 4.3.1, be transferred by **Manitoba** to the **Corporate Trustee**, or a corporation wholly owned and controlled by **Nelson House**, in trust for the use and benefit of **Nelson House** free and clear of all encumbrances, reservations, caveats, estates, rights and interests in favour of any person other than **Nelson House** or those whose interest is claimed through **Nelson House**, save and except for reservations to the Crown in Right of Manitoba under Section 4.1 of The Crown Lands Act, (Manitoba).

4.3.3 Costs of Surveys and Transfers. **Manitoba** shall, at its expense including the payment of any land transfer tax, complete all surveys, transfers and registrations of title for the **Fee Simple Lands** under Article 4.3.2, including Registration Detail Applications and forms of Request. At the time of registration of title, Registration Detail Applications, together with forms of Request, shall be completed for filing in the appropriate Land Titles Office requesting a separate duplicate title for the **Fee Simple Lands**.

4.4 **LAND USE PERMITS**

4.4.1 Issuance. The **Fee Simple Lands** are currently under a Land Use Permit issued to **Nelson House** and until such time as administration and control of the **Fee Simple Lands** has been transferred by **Manitoba** to **Canada** or title to the **Fee Simple Lands** has been transferred to the **Corporate Trustee** under Article 4.3.2, such Land Use Permit shall be continued in force at no charge to **Nelson House**. Any such Land Use Permit shall terminate upon acceptance of transfer of administration and control of the **Fee Simple Lands** by **Canada** under Article 3, or the transfer of title to the

Fee Simple Lands to the **Corporate Trustee**, or corporation wholly owned and controlled by **Nelson House**, under Article 4.3.2.

Not Reserve. Notwithstanding the existence of any Land Use Permit in favour of **Nelson House**, the **Fee Simple Lands** shall not be deemed to be **Reserve Lands** until designated as such pursuant to this **Agreement**.

4.5 GENERAL CONDITIONS

4.5.1 Expropriation. If any part of the **Fee Simple Lands**, while the fee simple title is held by the **Corporate Trustee** or a corporation wholly owned and controlled by **Nelson House**, is expropriated under the legislative authority of **Manitoba**, **Nelson House** shall have the right, as part of the compensation for, but not as a condition of, such expropriation, to acquire replacement lands within the **Resource Management Area**, subject to the agreement of **Manitoba** and **Nelson House**, and subject to compliance with The Water Power Act (Manitoba) and the provisions of The Crown Lands Act (Manitoba).

4.5.2 Environmental Reports. Until the **Fee Simple Lands** fall within the administration and control of **Canada** or are transferred to the **Corporate Trustee**, or a corporation wholly owned and controlled by **Nelson House**, the **Parties** shall, on a without prejudice basis, provide to each other copies of any non-confidential environmental studies, reports or audits related to the **Fee Simple Lands** which are in, or come into, their possession.

4.5.3 Registration. Where **Nelson House, Hydro, the Corporate Trustee** or a corporation wholly owned and controlled by **Nelson House**, wishes to register a land titles document in series with the transfer of land conveying fee simple title referred to in Article 4.3.2, notice thereof shall be given to **Manitoba** within sixty (60) days of the **Date of this Agreement**.

4.5.4 Land Transfer. Where lands are transferred to a corporation other than the **Corporate Trustee, Chief and Council** will ensure that the applicable procedures of Article 8.1, 8.2, 8.3(e), and 8.4 of the **Indenture**, with the necessary modifications, are applied with respect to subsequent transactions involving those lands.

SCHEDULE 4.1

FEE SIMPLE LANDS - NOTIGI SERVICE CENTRE

Fee Simple Lands shall consist of the lands shown on Plan 4.1 attached to and forming part of this Schedule.

TABLE OF CONTENTS

ARTICLE 5

5.0	SOUTH INDIAN LAKE	1
5.1	SOUTH INDIAN LAKE	1
5.1.1	<u>Request for Band Status</u>	1
5.1.2	<u>Exchange Lands</u>	1
5.1.3	Manitoba to Transfer.	1
5.1.4	<u>Selection Procedure</u>	2
5.1.5	<u>Applicable Policies</u>	2
5.1.6	<u>Survey and Transfer Procedures.</u>	3
5.1.7	<u>Not Party</u>	3

Schedule 5.1: **SIL Trapline Zone**

ARTICLE 5

5.0 SOUTH INDIAN LAKE

5.1 SOUTH INDIAN LAKE

5.1.1 Request for Band Status. **Members** resident at or in the vicinity of South Indian Lake have indicated that they wish to be organized as a Band under the Indian Act (Canada) separate from **Nelson House** and **Chief and Council** supports this initiative.

5.1.2 Exchange Lands. **Chief and Council** has previously proposed that two thousand (2,000) acres of the **Compensation Lands** to which **Nelson House** is entitled be made available within the **SIL Trapline Zone** to **Members** resident at or near the Community of South Indian Lake.

5.1.3 Manitoba to Transfer. **Manitoba** agrees that **Nelson House** may, subject to Article 5.1.4, in addition to the lands described in Article 3 and 4 of this **Agreement**, select a parcel of two thousand (2,000) acres of provincial Crown land within the **SIL Trapline Zone**, but in other respects in accordance with the provisions for the selection of exchange lands under Article 3 of the **NFA**. The transfer by **Manitoba** to **Canada** of the lands so selected to be set aside as reserve

is conditional upon the creation of a new Band consisting of persons who prior to becoming members in that new Band were **Members** resident in and around the Community of South Indian Lake under arrangements which are acceptable to each of:

- (a) **Nelson House**, as expressed in a referendum;
- (b) the proposed membership of the new Band as expressed in a referendum;
- (c) **Manitoba**, in respect of matters involving provincial jurisdiction or funding;
- (d) **Hydro**, in respect of matters involving the protection of water power; and
- (e) **Canada**.

5.1.4 Selection Procedure. In conjunction with consideration of the proposal to establish a new Band at South Indian Lake, **Nelson House** will establish procedures for **Members** resident at or in the vicinity of the Community of South Indian Lake to select the lands to be chosen under Article 5.1.3.

5.1.5 Applicable Policies. **Canada** will process a request supported by **Nelson House** for creation of a new Band in accordance with applicable policies and the provisions of the Indian Act (Canada); but there is no express or implied agreement or undertaking that **Canada** will recognize or create a separate Band or

reserve under the Indian Act (Canada) or that **Nelson House, Canada, Manitoba,** or **Hydro** will agree to arrangements therefor.

5.1.6 Survey and Transfer Procedures. Article 3 applies with necessary modifications to the survey and transfer of the two thousand (2,000) acres referred to in Article 5.1.3 provided that none of the land selected will abut upon or be subject to impact caused by waterways which are, or may be, subject to influence by the **Project**. Land which is set back from any such impacting, or potentially impacting, waterway sufficiently to ensure that existing and potential water power is protected is acceptable for selection.

5.1.7 Not Party. Neither Article 5 nor the provision of land pursuant to Article 5 implies that any new Band which was not a party to the **NFA**, becomes a party to, or has any rights under, the **NFA** whether or not its members were formerly members of a First Nation which was a party to the **NFA**.

SCHEDULE 5.1

SIL TRAPLINE ZONE

SIL Trapline Zone shall consist of the lands shown on “Plan of Registered Traplines - Southern Indian” attached to and forming part of this Schedule.

TABLE OF CONTENTS

ARTICLE 6

6.0	RESOURCE MANAGEMENT	1
6.1	INTRODUCTION	1
6.1.1	<u>Introduction</u>	1
6.2	RESOURCE MANAGEMENT AREA	1
6.2.1	<u>Designation of Area</u>	1
6.2.2	<u>Amendment of Area</u>	1
6.3	RESOURCE MANAGEMENT BOARD	1
6.3.1	<u>Establishment</u>	1
6.3.2	<u>Board Meetings</u>	2
6.3.3	<u>Change in Members</u>	2
6.3.4	<u>Alternate Members</u>	2
6.3.5	<u>Replacing Members</u>	2
6.3.6	<u>Rules and Appointment of Chair</u>	3
6.3.7	<u>Quorum</u>	3
6.3.8	<u>Decisions</u>	3
6.4	PROGRAMS AND BUDGETS	3
6.4.1	<u>Annual Program and Budget</u>	3
6.4.2	<u>Budget Components</u>	4
6.4.3	<u>Sharing of Costs</u>	4
6.4.4	<u>Technical Support</u>	4
6.4.5	<u>Fiscal Year</u>	5
6.4.6	<u>Reports</u>	5
6.5	BOARD FUNCTIONS	5
6.5.1	<u>Board Activities</u>	5
6.5.2	<u>Resource Management Plans</u>	6
6.5.3	<u>Application of Resource Management Plans</u>	7
6.5.4	<u>Land Use Plans</u>	7
6.5.5	<u>Application of Land Use Plans</u>	8
6.6	APPROVAL OF PLANS	8
6.6.1	<u>Reference</u>	8
6.6.2	<u>Responding to Plans</u>	8
6.6.3	<u>Resubmission</u>	8

6.6.4	<u>Final Decision</u>	9
6.6.5	<u>Extensions</u>	9
6.6.6	<u>Adopting Plans</u>	9
6.6.7	<u>Withdrawal of Plans</u>	9
6.6.8	<u>Updating Plans</u>	9
6.6.9	<u>Resource Allocations.</u>	10
6.7	CONSULTATION	10
6.7.1	<u>Consulting with Interested Parties</u>	10
6.7.2	<u>Giving Notice</u>	11
6.7.3	<u>Requesting Information</u>	11
6.7.4	<u>Requesting Assistance</u>	11
6.8	GENERAL	12
6.8.1	<u>Transitional Measure</u>	12
6.8.2	<u>No Derogation</u>	12
6.8.3	<u>Federal Impediments</u>	12
6.8.4	<u>No Federal Powers</u>	13
6.8.5	<u>Access to Lands</u>	13
6.8.6	<u>Existing Rights</u>	13
6.8.7	<u>Conflicts with Laws</u>	13
6.8.8	<u>Statutory Requirements</u>	13
6.8.9	<u>Discontinuance</u>	14
6.8.10	<u>No Revenue Sharing</u>	14
6.8.11	<u>Amendment</u>	14

Schedule 6.1: **Nelson House Resource Management Area**

ARTICLE 6

6.0 RESOURCE MANAGEMENT

6.1 INTRODUCTION

6.1.1 Introduction. This article sets out the procedure for establishing and operating a Resource Management Board consisting of representatives of **Manitoba** and **Nelson House**.

6.2 RESOURCE MANAGEMENT AREA

6.2.1 Designation of Area. **Nelson House** and **Manitoba** shall each, within their respective authority and powers, designate the areas described in Schedule 6.1, as the **Resource Management Area**.

6.2.2 Amendment of Area. The **Resource Management Area** may be amended by agreement between **Nelson House** and **Manitoba**.

6.3 RESOURCE MANAGEMENT BOARD

6.3.1 Establishment. Within ninety (90) days following the **Date of this Agreement, Manitoba and Nelson House** shall each appoint two (2) persons for a four (4) year term and two (2) persons for a three (3) year term to constitute the Resource Management Board ("the Board"). All subsequent appointments shall each be for a term of four (4) years.

6.3.2 Board Meetings. The inaugural Board shall meet at the **Reserve** not later than thirty (30) days following the appointment of its last member. The Board shall meet at least four (4) times a year at **Nelson House**.

6.3.3 Change in Members. **Nelson House and Manitoba** may change the number of Board members provided that there will always be an equal number of members appointed by each.

6.3.4 Alternate Members. If any Board member is unable or unwilling to complete that member's term of appointment, **Nelson House** or **Manitoba** shall, as the case may be, appoint an alternate member for the balance of such term .

6.3.5 Replacing Members. **Nelson House** and **Manitoba** shall, at least thirty (30) days before the expiration of the term of a member appointed by it, either reappoint that member or appoint a new member and so advise the other party.

6.3.6 Rules and Appointment of Chair. The Board shall establish its rules and procedures. A chair shall be selected from among the Board members, and the member so selected shall continue to have a vote as a member but shall have no additional or deciding vote as the chair.

6.3.7 Quorum. A quorum shall be at least three (3) members of each of **Manitoba** and **Nelson House**

6.3.8 Decisions. Decisions of the Board shall be made by consensus unless a member requests and a majority agrees that a decision be made by vote. Equal numbers of members appointed by **Nelson House** and **Manitoba** shall participate in any vote.

6.4 PROGRAMS AND BUDGETS

6.4.1 Annual Program and Budget. The Board shall, on or before September 1 in any year, submit an annual program and budget for the next fiscal year to **Nelson House** and **Manitoba** for approval. Within ninety (90) days of receipt of the budget, each such **Party** shall advise the Board whether it accepts or rejects all or part of the annual program and budget.

6.4.2 Budget Components. The budget may:

- (a) include anticipated requirements for:
 - (i) staff, facilities, equipment and administration,
 - (ii) public meetings, consultations and hearings,
 - (iii) research, publications and public education,
 - (iv) technical assistance,
 - (v) other programs or activities determined by the Board, and
- (b) identify how the budget will be funded including the proportions to be paid by **Nelson House** and **Manitoba**.

6.4.3 Sharing of Costs. **Nelson House** and **Manitoba** shall pay the costs of their representatives on the Board, not covered by normal programs. Other budgeted costs will be shared by **Nelson House** and **Manitoba** in the proportions determined jointly at the time of the review and approval of the annual program and budget.

6.4.4 Technical Support. Technical support and programs for land use planning and natural resource management, available from **Manitoba**, will be made available to and co-ordinated with programs of the Board without charge. However, in those instances where a set fee or charge has been established, it will be levied unless otherwise waived by **Manitoba**.

6.4.5 Fiscal Year. The fiscal year of the Board shall commence on April 1 in any year unless changed by agreement between **Manitoba** and **Nelson House**.

6.4.6 Reports. The Board:

- (a) may publish reports or other materials; and
- (b) shall within ninety (90) days after the end of the fiscal year provide **Nelson House** and **Manitoba** with a written report which:
 - (i) describes the activities carried out during the year, and

- (ii) evaluates the success or failure of the activities undertaken, and the reasons therefor.

6.5 BOARD FUNCTIONS

6.5.1 Board Activities. The Board may:

- (a) investigate **Resources**, their use, and any influences on them;
- (b) monitor activities within the **Resource Management Area**;
- (c) propose subjects for research;
- (d) prepare information and communication strategies;
- (e) hold meetings and workshops or otherwise consult publicly or privately with any person;
- (f) develop and recommend resource management plans in accordance with Articles 6.5.2 and 6.5.3;
- (g) develop and recommend land use plans in accordance with Articles 6.5.4. and 6.5.5; and
- (h) carry out other duties jointly assigned to it by **Nelson House** and **Manitoba**.

6.5.2 Resource Management Plans. The Board may develop and recommend

Resource Management Plans which, without limitation may include provision for:

- (a) total allowable harvesting levels;
- (b) species enhancement;
- (c) methods of harvesting;
- (d) health and safety considerations;
- (e) procedures for the assignment or re-assignment of new, vacant or under-utilized traplines, fishery quotas and wild rice leases;
- (f) enforcement considerations;
- (g) protecting and enhancing **Resources** and their environment;
- (h) prescribing and monitoring levels of use;
- (i) establishing priorities and allocations for domestic, commercial and recreational uses of **Resources** by lease, permit, quota or otherwise;
- (j) resolving conflicts related to the use of **Resources**;
- (k) protecting and conserving **Resources**; and
- (l) sustainable development of **Resources**.

6.5.3 Application of Resource Management Plans. Notwithstanding Article 6.5.2 and subject to applicable legislation, a Resource Management Plan shall apply within a **Municipality** only insofar as it does not conflict with the provisions of a **Development Plan, Basic Planning Statement or Planning Scheme** for the **Municipality** or any part

thereof.

6.5.4 Land Use Plans. The Board may develop and recommend Land Use Plans, which without limitation may include provision for:

- (a) zoning lands;
- (b) prescribing areas of land or bodies of waters for purposes of regulating use;
- (c) prescribing and regulating land uses;
- (d) establishing administrative arrangements for the construction or occupation of cabins or shelters;
- (e) recognizing and preserving areas of ecological, cultural or historical significance; and
- (f) resolving conflicting uses of land.

6.5.5 Application of Land Use Plans. Notwithstanding Article 6.5.4 and subject to applicable legislation, Land Use Plans shall not apply within a **Municipality** in which a **Development Plan** or a **Basic Planning Statement** or **Planning Scheme** comes into effect for the **Municipality**.

6.6 APPROVAL OF PLANS

6.6.1 Reference. The Board shall forward proposed Land Use Plans, Resource Management Plans or recommendations to **Nelson House, Manitoba** and **Hydro** accompanied by written reasons for supporting the plan or recommendation.

6.6.2 Responding to Plans. Within ninety (90) days of receiving a plan or recommendation, **Nelson House** and **Manitoba** shall notify the Board in writing, with a copy to each other, whether they accept or reject the plan or recommendation.

6.6.3 Resubmission. The Board may, within sixty (60) days of receipt of notice under Article 6.6.2, that a plan or recommendation is not acceptable, resubmit to **Nelson House** and **Manitoba**:

- (a) a revised plan or recommendation;
- (b) a request that the rejected plan or recommendation be reconsidered, including such additional information as the Board may consider relevant.

6.6.4 Final Decision. **Nelson House** and **Manitoba** may, within sixty (60) days of a resubmission by the Board under Article 6.6.3, advise the Board and each other in writing of their final decision on the matter. No further resubmission under Article 6.5.3

may be made without the approval of any dissenting party.

6.6.5 Extensions. Time limits set forth in Articles 6.6.2, 6.6.3 and 6.6.4 may be extended by agreement in writing between **Nelson House** and **Manitoba**.

6.6.6 Adopting Plans. Where **Nelson House** and **Manitoba** both advise the Board that a plan is acceptable for adoption, each shall promptly take all appropriate steps within their respective jurisdictions to give the plan full effect and shall promptly provide the Board with documentation giving the plan such effect.

6.6.7 Withdrawal of Plans. In the absence of approval by both **Nelson House** and **Manitoba** no Resource Management Plan or Land Use Plan developed by the Board, or recommendation of the Board will have any force or effect.

6.6.8 Updating Plans. The Board shall conduct a regular review of all approved plans and recommendations and, where it is considered necessary, propose amendments to **Nelson House** and **Manitoba** along with supporting reasons. The procedures outlined in Articles 6.6.2 to 6.6.7, both inclusive, shall apply to any proposed amendments.

6.6.9 Resource Allocations. Pending approval of any Land Use Plan or

Resource Management Plan with respect to the lands and resources within the **Resource Management Area, Manitoba** and **Nelson House** shall refer requests for resource allocations and applications for Land Use Permits to the Board. Within forty-five (45) days of receiving such referral, the Board may submit recommendations on the allocations or land uses in accordance with Article 6.6. Requests for resource allocations and applications for Land Use Permits received prior to the establishment of the Board will be deferred pending its establishment and will then be referred to the Board for consideration hereunder.

6.7 CONSULTATION

6.7.1 Consulting with Interested Parties. Before recommending that a Land Use Plan or Resource Management Plan be adopted, the Board shall:

- (a) hold one (1) or more public meetings in such manner as it determines to be appropriate to obtain the views of, and provide information to, interested parties;
- (b) give at least thirty (30) days written notice of the meeting under Article 6.7.1(a) to **Hydro**, and provide it with a copy of any proposed plan; and
- (c) give at least thirty (30) days written notice of the meeting under Article 6.7.1(a) to the Town of Leaf Rapids, the City of Thompson, the Local

Government District of Mystery Lake, the Council of the Northern Affairs Community of Nelson House and any other municipal authority within the **Resource Management Area** and provide such municipal authority with a copy of any proposed plan.

6.7.2 Giving Notice. In addition to any other notice, the Board shall bring public meetings to the attention of, and invite thereto, any local associations of **Resource** users within the **Resource Management Area** known to have an interest in the subject matter.

6.7.3 Requesting Information. **Nelson House** and **Manitoba** shall each, upon written request of the Board and subject to payment, unless waived, of any prescribed fee, provide the Board with information within their control about matters being dealt with by the Board except where such information is privileged or confidential.

6.7.4 Requesting Assistance. **Nelson House** and **Manitoba** shall each, upon written request of the Board, provide to the Board:

- (a) information concerning the application of existing laws, policies, procedures and plans affecting management or use of **Resources** in the **Resource Management Area**; and

- (b) assistance in drafting any recommendation or plan, provided that this shall not imply that **Manitoba** or **Nelson House** will adopt the recommendation or plan.

6.8 GENERAL

6.8.1 Transitional Measure. From the **Date of this Agreement** to the date the Board first meets, **Nelson House** and **Manitoba** shall defer pending and new applications for **Resource** allocations and land use permits within the **Resource Management Area**. The Board shall provide recommendations on these applications within forty-five (45) days of its first meeting.

6.8.2 No Derogation. Nothing in Article 6 shall derogate from any authority of **Nelson House, Manitoba** or **Canada** within their respective jurisdiction over the lands and **Resources** in the **Resource Management Area**.

6.8.3 Federal Impediments. Actions taken pursuant to Article 6 may be applicable to **Reserve Lands** but no action taken pursuant to Article 6 shall impose restrictions or impediments on any lands which **Canada** may acquire by any means within its jurisdiction or which are acquired by, transferred to or transferable to **Canada** for any

purposes.

6.8.4 No Federal Powers. Article 6 does not contemplate the exercise of powers by **Canada** under federal statutes or regulations other than the Indian Act (Canada).

6.8.5 Access to Lands. Article 6 does not restrict the right of any person to enter on provincial Crown lands for any lawful purpose.

6.8.6 Existing Rights. Nothing in Article 6 shall affect licences, permits or leases issued by **Nelson House** or **Manitoba** prior to the **Date of this Agreement** or affect any right or privilege granted, or any responsibility acquired, under a licence, permit, lease or administrative policy of **Nelson House** or **Manitoba**.

6.8.7 Conflicts with Laws. **Nelson House** and **Manitoba** shall each take reasonable measures to ensure that their actions pursuant to this Article 6 do not conflict with any federal or provincial laws in force in Manitoba.

6.8.8 Statutory Requirements. Nothing in Article 6 alters any statute or any statutory authority or requirement or confers any statutory approval.

6.8.9 Discontinuance. **Nelson House** and **Manitoba** may jointly decide to discontinue the Board and its activities or assign the functions of the Board under Article 6 to other entities.

6.8.10 No Revenue Sharing. The purposes of the Board do not extend to consideration of royalties, income or other revenue derived from or attributable to **Resources**, and, subject to Article 3.2.2, nothing in this **Agreement** entitles **Manitoba** or **Nelson House** to share in the royalties, income or other revenue derived from **Resources** within the other's jurisdiction, ownership or administration and control.

6.8.11 Amendment. Except for Article 6.8, **Manitoba** and **Nelson House** may amend the procedures in Article 6, provided any such amendment is consistent with this **Agreement** and not prejudicial to **Canada** and **Hydro**.

SCHEDULE 6.1

NELSON HOUSE RESOURCE MANAGEMENT AREA

Nelson House Resource Management Area shall be the area shown on Plan 6.1 attached to and forming part of this Schedule.

TABLE OF CONTENTS

ARTICLE 7

7.0	ENVIRONMENTAL MONITORING AND INVESTIGATION	
7.1	INTRODUCTION	
7.1.1	<u>Introduction</u>	1
7.1.2	<u>Monitoring by Nelson House</u>	1
7.1.3	<u>Legislation</u>	1
7.2	FOUR PARTY ARRANGEMENTS	
7.2.1	<u>Responsibility</u>	1
7.2.2	<u>Meetings</u>	2
7.2.3	<u>Representatives of the Parties</u>	2
7.2.4	<u>Convenor of Meetings</u>	2
7.2.5	<u>Expenses</u>	2
7.2.6	<u>Purposes</u>	2
7.2.7	<u>No arbitration</u>	3
7.2.8	<u>Determination</u>	3

ARTICLE 7

7.0 ENVIRONMENTAL MONITORING AND INVESTIGATION

7.1 INTRODUCTION

7.1.1 Introduction. Article 7 establishes and describes arrangements to coordinate environmental monitoring and share the information developed.

7.1.2 Monitoring by Nelson House. If approved by the **Community Approval Process**, **Nelson House** will undertake environmental monitoring in the **Resource Management Area**.

7.1.3 Legislation. Nothing in Article 7 requires any **Party** to take any action in relation to environmental monitoring not otherwise provided for in this **Agreement** or required by statute or regulation, and further does not modify or exempt any **Party** from any requirement related to environmental monitoring arising under this **Agreement** or imposed by statute or regulation.

7.2 FOUR PARTY ARRANGEMENTS

7.2.1 Responsibility. **Canada** shall be responsible for scheduling and

convening meetings in accordance with Article 7.2.

7.2.2 Meetings. Unless otherwise agreed, representatives of the **Parties** shall meet at least once each year.

7.2.3 Representatives of the Parties. The **Parties** will arrange for their respective representatives to attend such meetings.

7.2.4 Convenor of Meetings. Not later than sixty (60) days in advance of each meeting **Canada** will coordinate the date, time, place, and agenda and arrange for the exchange of pertinent documents and requests for information.

7.2.5 Expenses. Each **Party** will bear its own costs in connection with the provisions of Article 7.2.

7.2.6 Purposes. The purposes of the meetings, and associated exchanges of information, are to:

- (a) provide such disclosure of non-privileged information of contemporary relevance to the **Resource Management Area**, as is reasonable and practicable to provide;
- (b) discuss plans of any **Party** to conduct investigations of environmental

conditions in or near the **Resource Management Area**;

- (c) discuss contemplated environmental monitoring or investigations of any **Party** in or near the **Resource Management Area**, pursuant to provisions of this **Agreement** or any statute or regulation;
- (d) consider whether, and to what extent, it is practical to adjust any activities under Articles 7.2.6 (b) or (c), to accommodate the environmental assessment interests of the other **Parties**, without prejudicing the interests of the **Party** conducting the activities ; and
- (e) discuss whether and to what extent, the results of any environmental audit, impact statement or impact assessment may be made available to other persons.

7.2.7 No arbitration. Notwithstanding Article 13, the purposes under Article 7.2.6 are consensual in nature and disagreements or disputes under Article 7.2.6 are not referable to arbitration or court.

7.2.8 Determination. The four (4) **Party** arrangement contemplated by Article 7 may be held in abeyance or terminated by the mutual agreement of all **Parties**, and shall, unless agreed, terminate at the end of the **Project**. If the representative of **Nelson House** fails to attend meetings in two (2) successive years, without being excused or without reasonable cause, the provisions of Article 7 shall terminate.

TABLE OF CONTENTS

ARTICLE 8

8.0	FUTURE DEVELOPMENT	1
8.1	INTRODUCTION	1
8.1.1	<u>Introduction</u>	1
8.2	FUTURE PROJECT DEVELOPMENT	1
8.2.1	<u>No Implied Concurrence</u>	1
8.2.2	<u>Future Development</u>	1
8.2.3	<u>Documents.</u>	1
8.3	PLANNING PROCESS	2
8.3.1	<u>Annual Meeting</u>	2
8.3.2	<u>Process</u>	3
8.3.3	<u>Joint Studies</u>	6
8.3.4	<u>Work Plan and Budget</u>	6
8.3.5	<u>Nelson House Co-operation</u>	7
8.3.6	<u>Hydro decisions</u>	8
8.3.7	<u>Reconsideration</u>	9
8.3.8	<u>Hydro Relieved</u>	9
8.4	FUTURE DEVELOPMENT COMPENSATION	10
8.4.1	<u>Compensation Program</u>	10
8.4.2	<u>Consultation and Study.</u>	10
8.4.3	<u>Pre-Approval.</u>	11
8.4.4	<u>Arbitrator's Power.</u>	13
8.4.5	<u>Re-submission.</u>	14
8.4.6	<u>Modifications.</u>	14
8.4.7	<u>Hydro Undertaking.</u>	15
8.5	GENERAL	16
8.5.1	<u>Without Prejudice</u>	16
8.5.2	<u>Subject to Easement</u>	16
8.5.3	<u>No Compulsion</u>	16
8.5.4	<u>Relocation</u>	16
8.5.5	<u>Amendment</u>	16

ARTICLE 8

8.0 FUTURE DEVELOPMENT

8.1 INTRODUCTION

8.1.1 Introduction. Article 8 sets forth planning principles and processes in relation to **Future Development**.

8.2 FUTURE PROJECT DEVELOPMENT

8.2.1 No Implied Concurrence. Nothing in Article 8 shall imply concurrence with or approval by **Nelson House** or **Canada** of any **Existing Development** or **Future Development** or operation of any portion of the **Project** affecting **Nelson House**, the **Reserve**, **Members**, or the **Resource Management Area**.

8.2.2 Future Development **Hydro** and **Nelson House** acknowledge that **Hydro** may, within the foreseeable future, undertake **Future Development** and initiate further preparatory and other work related to such **Future Development**.

8.2.3 Documents. **Hydro** has provided to **Nelson House** indexes listing all planning, engineering, environmental and other like reports which have been

finalized by **Hydro** in relation to **Future Development** and agrees to provide to **Nelson House**, in a timely fashion:

- (a) copies of any such finalized report, which is current and relevant to an option for **Future Development** being considered by **Hydro**; and
- (b) relevant supporting data which **Nelson House** may reasonably require;

and which would be subject to disclosure under The Freedom of Information Act (Manitoba).

8.3 PLANNING PROCESS

8.3.1 Annual Meeting. **Hydro** agrees to annually convene in Thompson, or elsewhere in Manitoba, a special meeting with, or attend a regular meeting of, **Chief and Council** and its advisors:

- (a) to review work undertaken by **Hydro** since the last annual meeting in relation to **Future Development**;
- (b) to review any physical works related to **Future Development** which **Hydro** intends to construct in the coming year;
- (c) to review the draft work plan prepared by **Hydro** under Article 8.3.4; and
- (d) to discuss issues and concerns relevant to **Future Development**.

Prior to such annual meeting **Hydro** shall provide **Nelson House** with a copy of its proposed work plan and **Hydro** and **Nelson House** shall exchange copies of any planning, engineering or environmental report or study in relation to **Future Development** which has been finalized during the period since the last annual meeting and which, if applicable, would be subject to disclosure under The Freedom of Information Act (Manitoba).

8.3.2 Process. Prior to making its final selection of its option for **Future Development**, **Hydro** shall:

- (a) with respect to each option for **Future Development** being considered by **Hydro**, provide to **Nelson House**:
 - (i) maps showing potential sites,
 - (ii) detailed descriptions of each option for development including anticipated impacts on water levels and rates of change in water levels of Footprint Lake and other water bodies in the **Resource Management Area**,
 - (iii) maps showing the extent of inundation,
 - (iv) an outline of anticipated positive and negative effects on water bodies in the

Resource Management Area,

and as changes are made, up-date such maps, descriptions and outline and provide same to **Nelson House**;

- (b) advise **Nelson House** and **Canada** which options for **Future Development**, if any, could not proceed without an arrangement for the taking or using of **Reserve Lands**, an amendment to the **Easement** or the granting of a new easement on **Reserve Lands**;
- (c) in consultation with **Nelson House**, identify any issues of particular concern or importance to **Nelson House** and **Members**;
- (d) in consultation with **Nelson House**, identify and review potential positive and negative effects on **Nelson House** and **Members** which could result from each option for **Future Development** ;
- (e) undertake such studies and investigations as are necessary to obtain a reasonable assessment and understanding of such potential effects which have been identified and after consultation with **Nelson House**, consider reasonable design modifications which could eliminate or alleviate any identified **Adverse Effects**;
- (f) after consultation with **Nelson House**, identify, design and cost mitigatory and remedial works which are reasonable, to alleviate anticipated **Adverse Effects** which cannot be eliminated by design modifications;

- (g) in consultation with **Nelson House**, consider practical and reasonable ways in which **Nelson House** can benefit from such **Future Development**;
- (h) consult with **Nelson House** to determine which option for **Future Development**, if any, is preferred by **Nelson House**;
- (i) if an amendment to the **Easement** or a new easement or some other arrangement is required for the taking or using of **Reserve Lands** to accommodate such **Future Development**, obtain from **Nelson House** and **Canada** agreement to provide such arrangement, new easement or amendment to the **Easement**;
- (j) pursuant to Article 8.4, in consultation with **Nelson House**, develop a proposal to compensate **Nelson House** for **Adverse Effects** which are not off-set by benefits of the **Future Development** and which cannot reasonably be eliminated or alleviated;
- (k) identify in a reasonably timely manner:
 - (i) any employment opportunities related to **Future Development** which may be available for **Members** including any pre-requisite education or training, and
 - (ii) any business opportunities related to **Future Development** which may be

available to **Nelson House** and **Members**

In the **Resource Management Area**, and

- (l) consult with **Nelson House** about any other relevant matter related to selecting an option for **Future Development**.

8.3.3 Joint Studies. Whenever a study or investigation of an issue of particular concern or importance to **Nelson House** and **Members** is required under Article 8.3.2, **Nelson House** and **Hydro** agree that, if practicable and reasonable, such study or investigation, including the establishment of the terms of reference for same, shall, subject to Article 8.3.4, be undertaken by them jointly and with others who may also be affected.

8.3.4 Work Plan and Budget. At least annually **Hydro** shall prepare a work plan outlining the nature and scope of any work, including any consultation, study or investigation which it anticipates it will undertake to meet the process obligations under Article 8.3.2 during the coming year, and **Nelson House**, in consultation with **Hydro**, shall prepare, and where appropriate revise, a budget for the reasonable costs which **Nelson House** anticipates it will incur in order to participate in the work plan. If **Hydro** approves such budget, or it is approved by the **Arbitrator**, **Hydro** agrees to pay such costs in a timely manner, provided that:

- (a) the actual invoice reflects the budget; and

- (b) the work done accords with the work outlined in the budget.

Hydro shall not be required under Article 8.3.4 to pay or re-imburse **Nelson House** for:

- (c) any salary, honorariums, fees, per diems or other similar costs, except reasonable expenses necessarily incurred, for the participation or involvement of any **Members**, including **Members** who are representatives of **Nelson House**, at any meetings or in any of the processes under Article 8, except where such **Member** has been retained as a qualified expert ;
- (d) any costs in relation to the arbitration of a dispute.

Article 8.3.4 will not preclude an award of costs under Article 13.4.

8.3.5 **Nelson House Co-operation.** Subject to Article 8.3.7, **Nelson House** will co-operate with **Hydro** on a timely basis as contemplated in Articles 8.3.1, 8.3.2 and 8.3.3 including the annual meetings, consultations, joint studies and planning processes. **Nelson House** will also co-operate with **Hydro** to:

- (a) identify areas of concern and importance to **Nelson House** and **Members**;
- (b) facilitate the gathering of information from **Members** in relation to the **Reserve** and the **Resource Management Area**;
- (c) facilitate communication between **Hydro** and **Members**; and

- (d) if applicable, inform **Hydro** and **Canada**, in writing, whether it is prepared to have the **Easement** amended or a new easement or other arrangements for the taking and using of **Reserve Land** granted, if required, to accommodate **Future Development**.

8.3.6 **Hydro decisions.** **Hydro** maintains its discretion to:

- (a) determine under Article 8.3.4 its annual work plan and the extent, scope and timing of work required to meet its obligations under Article 8.3.2;
- (b) determine options for consideration and select the option for **Future Development** with which it will proceed;
- (c) adopt, amend or terminate its on-the-job employment and business opportunities policies;
- (d) design any works, structure or development forming any part of **Future Development**; and
- (e) subject to applicable laws, initiate federal or provincial regulatory review processes in relation to such **Future Development**.

Accordingly, subject to any requirement in relation to the taking or using of **Reserve Lands**, and without in any way limiting or restricting the undertaking of **Hydro** in Article 8.4.7 or the requirement to act in good faith and, notwithstanding the provisions of Article 13, no dispute under Article 8 respecting any decision of **Hydro**

relating to those matters outlined in Articles 8.3.6 (a), (b), (c), (d) and (e) is referable to arbitration or is otherwise justiciable under this **Agreement**. Notwithstanding the foregoing, disputes under Article 8.3.4, in relation to the reasonable costs for **Nelson House** to participate in the work plan and, where the work plan proposes a study which under Article 8.3.3 is to be undertaken by **Nelson House** and **Hydro** jointly, disputes in relation to the terms of reference for same, are referable to arbitration under Article 13.4.

8.3.7 Reconsideration. Prior to proceeding with any joint study, survey, referendum or other process under Article 8 requiring the participation of, or otherwise involving, **Members** generally, **Nelson House** may, and at the request of **Hydro** will:

- (a) hold a public meeting of **Members** to determine if the **Members** will co-operate in such process; and
- (b) advise **Hydro** of the results of such public meeting of **Members** and if **Nelson House** will co-operate as contemplated under Articles 8.3.5, 8.4.2 and 8.4.3.

8.3.8 Hydro Relieved. If **Nelson House** advises **Hydro** that it is no longer prepared to co-operate as contemplated in Article 8.3.5, 8.4.2 and 8.4.3, as the result of a determination under Article 8.3.7 or otherwise, or if **Nelson House**

fails to participate in studies, consult with **Hydro**, attend annual meetings, identify concerns, communicate, provide information or otherwise fails to co-operate as contemplated in said Articles 8.3.5, 8.4.2 and 8.4.3, **Hydro** may apply to the **Arbitrator** for an order relieving it from its obligations under Article 8.4.7(a) and any other obligation under Article 8 which cannot be met without such co-operation. However, the **Arbitrator** shall have no authority to relieve **Hydro** from its obligations under the **Easement** or to obtain an amendment to the **Easement**, a new easement or any arrangement for the taking or using of **Reserve Lands**.

8.4 FUTURE DEVELOPMENT COMPENSATION

8.4.1 Compensation Program. In selecting an option for **Future Development**, the impacts upon **Nelson House** and the cost and methods for compensating **Nelson House** and **Members** for **Adverse Effects**, are relevant considerations to be addressed as early in the process as feasible.

8.4.2 Consultation and Study. To address compensation issues, **Nelson House** and **Hydro** will work together to fully assess any benefit to **Nelson House**, and the cost and methods of compensating **Nelson House** and **Members** for **Adverse Effects** of **Future Development**. In relation to such matters, and the acceptability of any compensation proposals, **Nelson House** shall:

- (a) participate in compiling and providing data and information within the knowledge of **Nelson House** and **Members**;
- (b) participate in community surveys;
- (c) participate in joint studies;
- (d) conduct polls or referenda of **Members**; and
- (e) participate in the design, implementation and analysis of compensation cost- benefit studies to ensure that such studies give appropriate weight and are sensitive to issues of concern to **Nelson House** and **Members**.

8.4.3 Pre-Approval. It is in the best interests of **Nelson House** and **Hydro** to fully assess and finalize compensation issues, prior to formal commencement of any federal or provincial environmental review and licensing processes and, accordingly:

- (a) **Nelson House** agrees to work with **Hydro** under Article 8.3.2(j) in its effort to prepare as detailed and complete a compensation proposal as possible to address compensation for **Nelson House** and **Members** for the known and foreseeable **Adverse Effects of Future Development**;
- (b) a consideration of Schedule 2.2 shall be included in the preparation of the compensation proposal;

- (c) if **Hydro** and **Nelson House** are unable to jointly develop and agree upon a compensation proposal, **Hydro** shall finalize a compensation proposal and submit it to **Nelson House** for its consideration;
- (d) **Nelson House** shall review the compensation proposal submitted by **Hydro** and within six (6) months advise **Hydro** if it accepts or rejects the compensation proposal;
- (e) if **Nelson House** rejects the compensation proposal submitted by **Hydro**, and **Nelson House** and **Hydro** are unable to agree upon an acceptable compensation proposal, then either or both **Parties** may, in accordance with the procedures in Article 13.4, submit a compensation proposal to the **Arbitrator** for approval under Article 8.4.4;
- (f) the **Arbitrator** shall, within the time periods established by Article 13.3.9, fix the date for a hearing at which **Nelson House** and **Hydro** will have the opportunity to submit evidence and arguments in support of or against any compensation proposal submitted under Article 8.4.3(e);
- (g) at the request of **Hydro** and **Nelson House** the **Arbitrator** shall waive the holding of a hearing under Article 8.4.3(f) and proceed to consider any proposals submitted under Article 8.4.3(e);
- (h) the **Arbitrator** may adjourn the hearing under Article 8.4.3(f) at any

time with the consent of **Hydro** and **Nelson House** or without the consent of **Hydro** and **Nelson House**, on not more than one occasion and for not more than thirty (30) days, where, in the opinion of the **Arbitrator**, the **Parties** could agree upon a compensation proposal within that time;

- (i) hearings under Article 8.4.3 shall be held in camera provided that the **Party** initiating the hearing process shall give notice of the hearing to **Canada** and **Manitoba** who may, but are not obliged to, appear at, participate in or be added as intervenors at such hearings; and
- (j) information obtained from evidence given or from documents submitted to the **Arbitrator**, at or for a hearing under Article 8.4.3, shall not be made public.

8.4.4 Arbitrator's Power. Based upon a review of any compensation proposals submitted under Article 8.4.3(e) and any evidence presented, including relevant information obtained and compiled pursuant to Article 8.4.2, the **Arbitrator** shall:

- (a) approve a compensation proposal submitted under Article 8.4.3(e); or
- (b) reject and make recommendations for modifying such compensation proposals.

The **Arbitrator** shall have no power to amend any compensation proposal

submitted under Article 8.4.3(e) or to determine compensation for the taking or using of **Reserve Land**. If the proposed **Future Development** proceeds the compensation proposal approved by the **Arbitrator** under Article 8.4.4 including any amendment to Schedule 2.2 shall, subject to Article 8.4.6, be binding upon **Hydro** and **Nelson House** unless otherwise agreed to in writing by **Hydro** and **Nelson House** .

8.4.5 Re-submission. If no compensation proposal submitted under Article 8.4.3(e) is approved by the **Arbitrator**, either **Nelson House** or **Hydro** may, at any time or times thereafter, submit new or amended compensation proposals to the same **Arbitrator** or, if the **Arbitrator** is no longer willing or able to act, to a new **Arbitrator** selected as herein provided, and the provisions of Articles 8.4.3 (f), (g), (h), (i), (j) and 8.4.4 shall apply to such new compensation proposal.

8.4.6 Modifications. Either **Nelson House** or **Hydro** may request that a compensation proposal agreed upon under Article 8.4.3 or approved under Article 8.4.4 be reviewed and modified, as may be required, to accommodate changes in the proposed **Future Development** resulting from federal or provincial environmental review and licensing processes. Notwithstanding such review and modification, to which process the provisions of Article 8 shall to the extent relevant apply, and notwithstanding any appeal of the decision of the **Arbitrator**, **Hydro** may

proceed at any time with the proposed **Future Development** whether or not a modified compensation proposal has been agreed upon or approved or the appeal heard and determined. Where it so proceeds **Hydro** shall be bound by the original compensation proposal agreed to under Article 8.4.3, or approved under Article 8.4.4, unless or until a modified compensation proposal has been agreed upon or approved under Article 8.4.6 .

8.4.7 **Hydro Undertaking.** Subject to Article 8.3.8, **Hydro** undertakes not to proceed with physical construction of any permanent dam or generating facility constituting part of **Future Development** until:

- (a) **Hydro** and **Nelson House** have agreed upon a compensation proposal or the **Arbitrator** has approved a compensation proposal;
and
- (b) if required, amended or additional easements or other arrangements for the taking or using of **Reserve Lands**, have been agreed to by **Nelson House**, and if applicable **Canada**.

Subject to **Hydro's** obtaining all required federal and provincial licences and approvals for any such preliminary works, the undertaking of **Hydro** under Article 8.4.7 shall not prevent **Hydro** from proceeding with all of its preliminary works including, without limitation, the construction of infrastructure such as access roads, construction camps, dikes, clearing, and supply of power necessary to support and

further the construction of such **Future Development**.

8.5 GENERAL

8.5.1 Without Prejudice. Any process under Article 8 is without prejudice to **Canada** or **Manitoba**, except to the extent that **Canada** or **Manitoba** may specifically concur. Nothing in Article 8 relieves against any statutory requirement.

8.5.2 Subject to Easement. The provisions of Article 8 are subject to the terms of, and do not alter or amend, the **Easement Agreement** or the **Easement**.

8.5.3 No Compulsion. Nothing in the **Agreement** shall compel **Nelson House** or **Canada** to agree to amend the **Easement** or the **Easement Agreement** or to grant a new easement.

8.5.4 Relocation. Nothing in Article 8 shall compel **Nelson House** to relocate the community of Nelson House in order to escape the impacts of the

Project.

8.5.5 Amendment. With the consent of **Canada**, which consent shall not be withheld unreasonably , the processes outlined in Articles 8.3 and 8.4, except those relating to easements or to arrangements for the taking or using of **Reserve Lands**, may be amended by **Nelson House** and **Hydro**.

TABLE OF CONTENTS

ARTICLE 9

9.0	INDIAN MONEYS	1
	INTRODUCTION	1
9.1.1	<u>Introduction</u>	1
9.2	EXEMPTIONS FROM INDIAN MONEYS REQUIREMENTS	1
9.2.1	<u>Legislation</u>	1
9.2.2	<u>Alternative to Specific Legislation</u>	1
9.3	PAYMENT OF INTEREST TO THE TRUST	2
9.3.1	<u>Payment to Canada</u>	2
9.3.2	<u>Amounts</u>	2
9.3.3	<u>Transfer of Interest to the Trust</u>	3
9.4	SUBSEQUENT LEGISLATION	3
9.4.1	<u>Subsequent Article 9.2.1 Legislation</u>	3
9.4.2	<u>Subsequent Article 9.2.2 Legislation</u>	3
9.4.3	<u>Maturity of Hydro Bond Held by Canada</u>	3

ARTICLE 9

9.0 INDIAN MONEYS

9.1 INTRODUCTION

9.1.1 Introduction. The purpose of this Article is to describe arrangements for those portions of the **Settlement Proceeds** which may be subject to subsection 35(4) of the Indian Act (Canada).

9.2 EXEMPTIONS FROM INDIAN MONEYS REQUIREMENTS

9.2.1 Legislation. **Canada** will recommend legislation to Parliament to provide that subsection 35(4) of the Indian Act (Canada) does not apply to this **Agreement** or to the **Settlement Proceeds**.

9.2.2 Alternative to Specific Legislation. If the legislation contemplated by Article 9.2.1 has not been previously enacted and proclaimed, then, if other legislation has been enacted and proclaimed which authorizes the transfer and administration of Indian Moneys, as defined in the Indian Act (Canada), to trust arrangements of the kind set forth in the **Indenture**, then each **Party** shall take the steps pursuant to that legislation to accomplish the transfer and administration of

all **Settlement Proceeds** to and under the trust arrangements set forth in the **Indenture**.

9.3 PAYMENT OF INTEREST TO THE TRUST

9.3.1 Payment to **Canada**. In the absence of the legislation contemplated by Articles 9.2.1 or 9.2.2, **Hydro** shall pay the amounts required to be paid for the **Operation, Maintenance and Replacement** of the **Arena** pursuant to Article 11, to **Canada**, as capital moneys for the use and benefit of **Nelson House**. Consistent with applicable procedures and statutory requirements **Canada** will facilitate the payment of these moneys for the **Operation, Maintenance and Replacement** of the **Arena**.

9.3.2 Amounts. If the legislation contemplated in Articles 9.2.1 or 9.2.2 is not proclaimed prior to June 30, 1999, then one half (1/2) of the **Hydro Bond** in the principal amount of twenty million (\$20,000,000.00) dollars, which would otherwise have been delivered on that date to **Nelson House** for settlement on the **Trust**, shall be issued in the name of Her Majesty the Queen in Right of Canada for the use and benefit of **Nelson House** and delivered to **Canada**. When legislation permits, the **Hydro Bond** shall be returned by **Canada** to **Hydro** together with the requisite transfer documents and **Hydro** shall issue a replacement bond in the

name of the **Trust**; or, if the **Hydro Bond** has matured, or been redeemed, any **Settlement Proceeds** held by **Canada** shall be paid or delivered to the **Trust**.

9.3.3 Transfer of Interest to the **Trust**. On or before receipt by **Canada** of the **Hydro Bond** as contemplated by Article 9.3.2, **Canada** will make an order under section 69 of the Indian Act (Canada) providing that the interest on the **Hydro Bond** held by **Canada** shall be transferred to the **Trust**.

9.4 **SUBSEQUENT LEGISLATION**

9.4.1 Subsequent Article 9.2.1 Legislation. If it appears the legislation referred to in Article 9.2.1 will not be enacted and proclaimed prior to June 30, 1999, **Canada** shall recommend legislation to Parliament to provide for the transfer to the **Trust** of all **Settlement Proceeds**, if any, held by **Canada**.

9.4.2 Subsequent Article 9.2.2 Legislation. If legislation of the kind referred to in Article 9.2.2 is proclaimed subsequent to June 30, 1999, each **Party** shall take the steps necessary pursuant to the proclaimed legislation to transfer to the **Trust** all **Settlement Proceeds**, if any, held by **Canada**.

9.4.3 Maturity of **Hydro Bond** Held by **Canada**. If no legislation of the

kind contemplated by Article 9.2.1 or 9.2.2 has been enacted and proclaimed prior to January 1, 2012, and any **Settlement Proceeds** paid or payable by **Hydro** or **Manitoba** are held by **Canada** for the use and benefit of **Nelson House, Nelson House** and **Canada** will immediately enter into negotiations with a view to prompt transfer of those **Settlement Proceeds** to the **Trust** in accordance with applicable legal authorities.

TABLE OF CONTENTS

ARTICLE 10

10.0	SETTLEMENT PROCEEDS AND FEDERAL AND PROVINCIAL FUNDING AND PROGRAMMING	1
10.1	INTRODUCTION	1
10.1.1	<u>Introduction</u>	1
10.2	PROVISIONS APPLICABLE TO CANADA	1
10.2.1	<u>Programs of Canada</u>	1
10.2.2	<u>Standards for Decisions</u>	1
10.2.3	<u>Disclosure</u>	4
10.2.4	<u>Assignment</u>	4
10.2.5	<u>Notice</u>	5
10.2.6	<u>Emergencies</u>	5
10.2.7	<u>Compensation Lands</u>	5
10.2.8	<u>Changes</u>	6
10.3	PROVISIONS APPLICABLE TO MANITOBA	6
10.3.1	<u>Manitoba Programs</u>	6
10.3.2	<u>Considerations</u>	6
10.4	SETTLEMENT PROCEEDS AND HYDRO POLICIES	7
10.4.1	<u>Hydro Policies</u>	7
10.5	GENERAL PROVISIONS	7
10.5.1	<u>No Requirement</u>	7
10.5.2	<u>Exclusion</u>	8
10.5.3	<u>Potable Water</u>	8
10.5.4	<u>Termination</u>	9
10.5.5	<u>Manitoba</u>	9

ARTICLE 10

10.0 SETTLEMENT PROCEEDS AND FEDERAL AND PROVINCIAL FUNDING AND PROGRAMMING

10.1 INTRODUCTION

10.1.1 Introduction. Article 10 describes standards and procedures to describe the relationship between the use of **Settlement Proceeds** by **Nelson House**, and the provision of **Normal Funding and Programming** to **Nelson House** by **Canada** and **Manitoba**.

10.2 PROVISIONS APPLICABLE TO CANADA

10.2.1 Programs of Canada. The application or disbursement of **Settlement Proceeds** by **Nelson House**, in accordance with this **Agreement** and the provisions of the **Indenture** shall not be substitutes for **Normal Funding and Programming** which may otherwise be made available by **Canada**.

10.2.2 Standards for Decisions. Decisions on such **Normal Funding and Programming** by departments of the government of **Canada** shall be in accordance

with the standards set forth in the following paragraphs :

- (a) where **Normal Funding and Programming** are based on assessments of the financial needs of First Nations, their members, or their members ordinarily resident on reserve, a reduction of **Nelson House** need shall not reduce the quantum of such **Normal Funding and Programming** to the extent that such a reduction of need is reasonably attributable to, or results from, the expenditure of **Settlement Proceeds**;
- (b) where **Normal Funding and Programming** are based on applications to be submitted, it shall be the applicant's responsibility to make application in an appropriate form on a timely basis. In appraising the merits of, and making decisions on, such applications, departments of the government of **Canada** shall not reject applications based on the availability or expenditure of **Settlement Proceeds**. However, the availability or expenditure of **Settlement Proceeds** may be taken into account where such availability or expenditure would make the decision more favourable to **Nelson House** or the applicant, such as, without limiting the generality of the foregoing, where the provision or investment of equity or matching or qualifying funds is required or

- permitted in connection with the application process;
- (c) where **Normal Funding and Programming** is based on quantitative formulae reflecting statistical measures of demographic and other characteristics of First Nations, such formulae shall not be designed, developed or applied so as to substitute the availability, or expenditure, of **Settlement Proceeds** for **Normal Funding and Programming** which, in the absence of those **Settlement Proceeds**, would be, or would have been, available;
 - (d) where **Normal Funding and Programming** are administered by a board, panel or other entity appointed by **Canada**, but with independent decision making authority with respect to the provision of funding or the application or administration of the program, the program design shall provide to **Nelson House, Chief and Council**, any **Member**, group of **Members**, or **Controlled Institution** treatment which is the same as or similar to that provided to other First Nations or their members in comparable circumstances; and
 - (e) where **Settlement Proceeds** are expended to construct **Capital Works** on **Reserve**, it shall be the responsibility of **Nelson House** to provide or obtain funding for the **Operation and Maintenance** of such **Capital Works**. **Canada** shall not be obliged to, but may, in its

discretion, provide funding for **Operation and Maintenance** of such **Capital Works**. **Operation and Maintenance** funding shall be available to **Nelson House** to the same extent it is available to other First Nations who fund capital works and infrastructure out of sources other than **Normal Funding and Programming**.

10.2.3 Disclosure. **Nelson House** shall provide **Canada** on a timely basis with all information reasonably requested by **Canada** to meet the requirements of the **Normal Funding and Programming** to which the provisions of Articles 10.2 and 10.5 apply. Either **Canada** or **Nelson House** may request a meeting to review the adequacy or reasonableness of the information requested or provided, and a meeting for that purpose shall be held.

10.2.4 Assignment. If the **Minister** should determine that there is a substantial degree of agreement among the First Nations of Manitoba that some or all **Normal Funding and Programming** would more appropriately be provided by an entity or agency not forming part of the Government of Canada, the provisions of Articles 10.2 and 10.5 respecting **Canada** may be assigned to that entity or agency. However, no such assignment shall be permitted unless there are reservations in favour of **Nelson House** of all of the rights, privileges and

responsibilities under the provisions of Article 10.2 and 10.5 applicable to **Canada**, in a form which binds assignees and successors in interest.

10.2.5 Notice. **Nelson House** shall provide notification to **Canada** and or to any assignee pursuant to Article 10.2.4 as soon as it becomes evident that the allocation of **Normal Programming and Funding** may be or may have been affected by the expenditure of **Settlement Proceeds** contrary to the provisions of Articles 10.2 and 10.5. If any dispute is not resolved between **Nelson House** and **Canada**, or its assignee, within a reasonable period of time, it shall be the responsibility of either **Canada**, or its assignee or **Nelson House** to submit the matter to arbitration and advance the resolution of the dispute on a timely basis.

10.2.6 Emergencies. The procedures set out above will not preclude or prejudice consideration of any application by **Nelson House** for assistance in the event of emergencies. Articles 10.2 and 10.5 shall not be construed to mean that such emergency funding is or will be available.

10.2.7 Compensation Lands. It is understood, as between **Canada** and **Nelson House**, that **Normal Funding and Programming** allocations to **Nelson House** will be neither restricted from application to the **Compensation Lands**, nor

increased by reason of the **Compensation Lands** other than as may result from the fair application of general **Normal Funding and Programming** policies of **Canada**, unless **Canada** and **Nelson House** otherwise agree in the future.

10.2.8 Changes. Subject to Article 10.2.1, it is understood as between **Canada** and **Nelson House** that federal policy changes may, from time to time, have an impact on the allocation of **Normal Funding and Programming**. **Canada** will provide notice of policy changes to **Nelson House** within the same time frames and in the same manner as the information is made available to other First Nations.

10.3 PROVISIONS APPLICABLE TO MANITOBA

10.3.1 Manitoba Programs. **Settlement Proceeds** shall not be considered substitutes for **Normal Funding and Programming** available to communities, residents, or groups of residents of Manitoba, under the normal program criteria of **Manitoba** in effect from time to time.

10.3.2 Considerations. In considering requests for **Normal Funding and Programming**, **Manitoba** shall:

- (a) consider all requests in accordance with program criteria in existence

from time to time; and

- (b) provide **Normal Funding and Programming**, subject to there being unexpended moneys within the existing budget of the relevant program, without reduction in the amounts which would be available in the absence of **Settlement Proceeds**.

10.4 SETTLEMENT PROCEEDS AND HYDRO POLICIES

10.4.1 Hydro Policies. Neither the **Settlement Proceeds**, nor the release given by **Nelson House** in favour of **Hydro** is intended to disentitle or disadvantage **Nelson House** or **Members** from the opportunity to participate in, or receive, the full benefit of any general business opportunity, employment or training policies of **Hydro** in force from time to time relating to aboriginal peoples in Northern Manitoba. **Hydro** and **Nelson House** agree to meet at Nelson House at least once every year to identify opportunities, if any, for **Members** to apply or compete for, or participate in, **Hydro** related business, employment and training opportunities.

10.5 GENERAL PROVISIONS

10.5.1 No Requirement. Except for the purpose of compliance with the

standards set out in Article 10.2 in respect of **Canada**, and Article 10.3 in respect of **Manitoba**, nothing in Article 10 shall, or shall be deemed to, require the provision of any **Normal Funding and Programming** by the governments of **Canada** or of **Manitoba**. Nothing in Article 10 shall require the maintenance or continuation of any **Normal Funding and Programming**, or require that any particular terms or form of **Normal Funding and Programming** be established or maintained.

10.5.2 Exclusion. If **Canada**, **Manitoba** or **Hydro** should establish a program of compensation, and the program by its terms and conditions, excludes a class or classes of First Nations, communities or persons who have previously received compensation, with respect to those matters for which such program is established, and **Nelson House** or any **Member** is within the scope or definition of such a class or classes which are excluded from, or not included in the program, the provisions of Articles 10.2, 10.3 or 10.4 shall not apply to that program.

10.5.3 Potable Water. **Nelson House** is entitled to **Normal Funding and Programming** in relation to the provision of potable water and sewer services as set out in the agreement among **Canada**, the Northern Flood Capital

Reconstruction Authority Inc., the Northern Flood Committee Inc., and the Cross Lake, Nelson House, Norway House, York Factory and Split Lake Bands pursuant to Article 6.1 of the **NFA** and dated May 10, 1988. Nothing in Article 10 shall change that agreement.

10.5.4 Termination. If the **Trust** is wound up or has **Assets** of less than one hundred thousand (\$100,000.00) dollars, the provisions of Article 10 applicable to **Canada** shall be terminated for subsequent periods of **Normal Funding and Programming**. Such termination shall not affect the rights of **Nelson House** or **Canada** or its assignee in connection with disputes regarding the provision of **Normal Funding and Programming** with respect to periods prior to such termination.

10.5.5 Manitoba. If the **Trust** is wound up or has **Assets** of less than one hundred thousand (\$100,000.00) dollars, the provisions of Article 10 applicable to **Manitoba** shall be terminated for subsequent periods of **Normal Funding and Programming**. Such termination shall not affect the rights of **Nelson House** or **Manitoba** or its assignee in connection with disputes regarding the provision of **Normal Funding and Programming** with respect to periods prior to such termination.

TABLE OF CONTENTS

ARTICLE 11

11.0	OPERATION, MAINTENANCE & REPLACEMENT	
11.1	INTRODUCTION	
11.1.1	<u>Introduction</u>	1
11.2	O & M Board	
11.2.1	<u>Establishment of O & M Board</u>	1
11.2.2	<u>Rules and Procedures</u>	1
11.2.3	<u>Quorum</u>	2
11.2.4	<u>Qualifications</u>	2
11.2.5	<u>Meetings of the O & M Board</u>	2
11.2.6	<u>Costs of Committee Members</u>	2
11.3	DUTIES OF O & M BOARD	
11.3.1	<u>Duties of the O & M Board</u>	3
11.3.2	<u>Retaining Experts</u>	4
11.3.3	<u>Access to the Reserve</u>	5
11.4	O & M FUNDING	
11.4.1	<u>Specified Remedial Works</u>	5
11.4.2	<u>Changes to Specified Remedial Works</u>	5
11.4.3	<u>Employment</u>	5
11.4.4	<u>Arena Contribution</u>	6
11.4.5	<u>No Programming</u>	6
11.5	OBLIGATIONS OF NELSON HOUSE	
11.5.1	<u>Covenant to Maintain</u>	7
11.6	ARENA INSURANCE	
11.6.1	<u>Arena Insurance</u>	7
11.6.2	<u>Responsibility</u>	8
11.6.3	<u>Increase in Premium</u>	9
11.6.4	<u>Breach of Insurance Provisions</u>	9
11.6.5	<u>Hydro Election</u>	10
11.6.6	<u>Termination Payment</u>	10
11.6.7	<u>Uninsurable</u>	11
11.6.8	<u>Hydro to Insure</u>	11
11.6.9	<u>Excessive Premiums</u>	11
11.6.10	<u>Continued Obligation</u>	12
11.6.11	<u>Breach Resulting in Loss</u>	12

11.6.12	<u>No Withholding of Consent</u>	13
11.6.13	<u>Insurance Underwriters</u>	13
11.6.14	<u>Payment of Loss</u>	14
11.6.15	<u>Destruction of Arena</u>	15
11.6.16	<u>Deductible</u>	15
11.6.17	<u>Hydro Payments where Risk Assumed</u>	15
11.7	ARENA BUDGET	
11.7.1	<u>Annual Submission of Arena Budget</u>	16
11.7.2	<u>Hydro Approval</u>	16
11.7.3	<u>Arena Budget Dispute.</u>	17
11.7.4	<u>Interest and Unexpended Moneys</u>	17
11.8	ARENA REPLACEMENT	
11.8.1	<u>Liability for Arena Replacement.</u>	17
11.8.2	<u>Early Replacement</u>	18
11.8.3	<u>Hydro Not Responsible</u>	18
11.8.4	<u>Time for Replacement.</u>	18
11.8.5	<u>Replacement of Arena</u>	19
11.8.6	<u>Standards.</u>	19
11.8.7	<u>No Warranty</u>	19
11.8.8	<u>Commencement of Replacement.</u>	20
11.8.9	<u>Lack of Funding</u>	20
11.8.10	<u>Alternate Recreational Programs Other Purposes</u>	20
11.8.11	<u>Nelson House Election</u>	21
11.8.12	<u>General</u>	22
11.8.13	<u>Notice</u>	22
11.9	TERMINATION OF OBLIGATION	
11.9.1	<u>End of Obligation</u>	22
11.10	NO WARRANTY	
11.10.1	<u>No Warranty by Nelson House</u>	23
Schedule 11.1:	List of Specified Remedial Works	
Schedule 11.2:	List of Equipment Forming part of the Arena	

ARTICLE 11

11.0 OPERATION, MAINTENANCE & REPLACEMENT

11.1 INTRODUCTION

11.1.1 Introduction. Article 11 establishes and describes procedures for addressing issues related to **Operation, Maintenance and Replacement of Specified Remedial Works** and the **Arena**.

11.2 O & M Board

11.2.1 Establishment of O & M Board. **Nelson House** and **Hydro** shall, no later than thirty (30) days following the **Date of this Agreement**, each appoint two (2) members, and one (1) alternate member, to constitute the **O & M Board**. **Nelson House** and **Hydro** may, from time to time, increase the number of members on the **O & M Board**, so long as there are equal representatives of both **Hydro** and **Nelson House**.

11.2.2 Rules and Procedures. The **O & M Board** shall, consistent with this **Agreement**, establish its own rules and procedures for the conduct of its business.

11.2.3 Quorum. A quorum of the **O & M Board** shall be the total number of members appointed to the **O & M Board**, and will be met by the presence of all members, or in the absence of any by their alternates. Except where unanimity is specifically required all decisions shall be by majority vote of the members of the **O & M Board**. Alternate members may only vote in the absence of the member for whom they are substituting.

11.2.4 Qualifications. The members and alternate members of the **O & M Board** shall have general knowledge of operation, maintenance and replacement of works similar to the **Specified Remedial Works** in isolated communities in Northern Manitoba.

11.2.5 Meetings of the O & M Board. The **O & M Board** shall meet at least semi-annually on **Reserve** unless the members unanimously decide to meet elsewhere in Manitoba.

11.2.6 Costs of Committee Members. If meetings of the **O & M Board** are held off **Reserve**, or if the duties of the Board should require a **Member** to travel off **Reserve**, the reasonable expenses for travel, lodging and meals incurred by the members, or the alternate members, appointed by **Nelson House** in attending such

meetings or in carrying out such duties shall, upon receipt of an invoice and required supporting documents verifying such expense, be reimbursed by **Hydro**.

11.3 DUTIES OF O & M BOARD

11.3.1 Duties of the **O & M Board**. **Hydro** and **Nelson House** shall cause their respective members on the **O&M Board** to:

- (a) carry out, at a minimum, annual inspections of the **Specified Remedial Works** and the **Arena**;
- (b) report and recommend to **Nelson House** and **Hydro** on:
 - (i) whether the **Specified Remedial Works** and the **Arena** are being properly maintained, operated and safeguarded,
 - (ii) whether work scheduled to be carried out is being, or has been, carried out in a good and skilful manner,
 - (iii) the appropriateness of plans for use, and hours for operation, of the **Arena**,
 - (iv) the maintenance program to be carried out during the fiscal year,

- (v) whether maintenance, repair or replacement additional to the original recommendations is desirable,
 - (vi) capital repairs or improvements that could reduce the annual cost of **Operations, Maintenance and Replacement,**
 - (vii) appropriate insurance coverage for the **Specified Remedial Works** and the **Arena,**
 - (viii) policing, security or programs to address vandalism against **Specified Remedial Works** and the **Arena,** and
 - (ix) any other matter of relevance to the **Operation, Maintenance and Replacement of Specified Remedial Works** and the **Arena,**
- (c) annually review and report to **Nelson House** and **Hydro** on the implementation of its recommendations.

11.3.2 Retaining Experts. Where necessary, the **O & M Board** may, by unanimous vote of its members, but not otherwise, retain independent experts to assist it in the performance of its duties under Article 11 and the reasonable cost, of retaining such experts shall, upon receipt of an invoice and required supporting documents verifying such costs, be paid by **Hydro**.

11.3.3 Access to the Reserve. **Nelson House** agrees that representatives of **Hydro** may enter the **Reserve** to fulfil **Hydro's** obligations under Article 11.

11.4 **O & M FUNDING**

11.4.1 Specified Remedial Works. All **Operation, Maintenance and Replacement** of **Specified Remedial Works** shall be undertaken by **Hydro** at its own expense.

11.4.2 Changes to Specified Remedial Works. **Nelson House** and **Hydro** may agree to add, improve, delete, alter or substitute any **Specified Remedial Work**. If such **Specified Remedial Work** is located on **Reserve**, the consent of **Canada** will be required. **Hydro** will have no responsibilities under

Article 11 in relation to any addition, alteration, substitution or improvement to a **Specified Remedial Work** which has not been agreed to by **Hydro**.

11.4.3 Employment. **Hydro** shall take all reasonable steps to employ **Members** or use Nelson House businesses to carry out the **Operation, Maintenance and Replacement of Specified Remedial Works**.

11.4.4 Arena Contribution. **Hydro** shall be responsible for paying ninety percent (90%) of the **Arena Budget** approved under Article 11.7 for the **Operation, Maintenance and Replacement** of the **Arena**. Notwithstanding the foregoing **Hydro** will not be responsible for any increase in the costs of **Operation, Maintenance and Replacement** of the **Arena** attributable to:

- (a) the principal use of the **Arena** being other than recreational use by **Nelson House** and **Members**;
- (b) to the use of the **Arena** being other than during reasonable hours;
or
- (c) any addition, alteration, substitution or improvement to the **Arena** which which is capital in nature and which has not been agreed to by **Hydro**.

11.4.5 No Programming. **Operation, Maintenance and Replacement** costs will not include, and **Hydro** shall not be responsible under Article 11 for, funding any activity, program or other matter not directly related to the **Operation, Maintenance and Replacement** of the **Arena** or **Specified Remedial Works**.

11.5 OBLIGATIONS OF NELSON HOUSE

11.5.1 Covenant to Maintain. **Nelson House** will carry on all **Operation, Maintenance and Replacement** of the **Arena** in accordance with Article 11 using sound building and facilities management practices, and will not withhold, from the **Arena**, normal police and fire protection services which it may from time to time provide on **Reserve**.

11.6 ARENA INSURANCE

11.6.1 Arena Insurance. Subject to Articles 11.6.8 and 11.6.9, **Nelson House** shall:

- (a) at all times maintain policies of insurance on the **Arena** as follows:
 - (i) all risk property, and broad boiler and unfired pressure vessel insurance, for replacement cost with a deductible not to exceed five thousand (\$5,000.00) dollars or such other amount as **Nelson House** and **Hydro** agree, with **Nelson House, Hydro** and the

Corporate Trustee shown as named insureds, and

- (ii) general public liability insurance for not less than two million (\$2,000,000.00) dollars protecting **Nelson House**, its employees and servants, and any other named insured from liability to third parties arising from activities in or about the **Arena**,

or, if unavailable, coverage which is as equivalent as possible to that set out above;

- (b) provide copies of all such insurance policies to **Hydro** and the **Corporate Trustee**; and
- (c) subject to Articles 11.6.3, 11.6.8 and 11.6.9 include the cost of maintaining such insurance in the **Arena Budget**.

11.6.2 Responsibility. **Nelson House** shall not knowingly permit, or permit the continuation of, anything on, in or around the **Arena** whereby:

- (a) any policy of insurance under Articles 11.6.1(a)(i) or 11.6.8 is breached or could be cancelled by the insurer;
- (b) the **Arena** would be uninsurable;

- (c) subject to Article 11.6.12, the risk assumed by **Hydro** under Articles 11.6.8 or 11.6.9 is increased; or
- (d) the premiums for the insurance required under Article 11.6.1(a)(i) are increased beyond increases attributable to inflation or claims activity which is not the fault of **Nelson House**.

11.6.3 Increase in Premium. If as a result of a breach by **Nelson House** of Article 11.6.2:

- (a) the insurance premiums charged for the insurance under Article 11.6.1(a) are increased, the portion of the premium attributable to the increase shall be the responsibility of **Nelson House**, and the contribution of **Hydro** to the costs of **Operation, Maintenance and Replacement** shall not be increased to reflect such increased premium;
- (b) the risk assumed by **Hydro** under Articles 11.6.8 or 11.6.9 is increased pursuant to Article 11.6.12 or otherwise, **Hydro** may reduce its contribution to the **Arena Budget** for the costs of **Operation, Maintenance and Replacement** by an amount equivalent to the increase in premium which would be attributable to such increase in risk if insurance under Article 11.6.1(a)(i) was in place.

The equivalent amount referred to in Article 11.6.3(b) shall be determined by agreement between **Hydro** and **Nelson House** or pursuant to Article 11.6.13.

11.6.4 Breach of Insurance Provisions. If **Nelson House** breaches Articles 11.6.1(a)(i) or 11.6.2(a) or (b), **Hydro** may give **Nelson House** written notice to remedy the breach. If **Nelson House** disputes that it has breached Articles 11.6.1(a)(i) or 11.6.2(a) or (b) it may refer the dispute to arbitration within sixty (60) days of its receipt of such notice.

11.6.5 Hydro Election. If:

- (a) **Nelson House** does not, within sixty (60) days from its receipt of notice under Article 11.6.4, dispute that it is in breach of Articles 11.6.1(a)(i) or 11.6.2(a) or (b); or
- (b) the **Arbitrator** determines that **Nelson House** is in breach of Articles 11.6.1(a)(i) or 11.6.2(a) or (b); and

Nelson House fails to remedy such breach within sixty (60) days of receipt of **Hydro's** notice under Article 11.6.4, or such longer period of time agreed to by **Hydro** or allowed by order of the **Arbitrator**, **Hydro** may, subject to Article 11.6.6 terminate its obligations in relation to the **Operation, Maintenance and Replacement** of the **Arena**.

11.6.6 Termination Payment. If **Hydro** terminates its obligations as provided in Articles 11.6.5 or 11.6.11, it shall pay **Canada**, or if the legislation contemplated by Articles 9.2.1 or 9.2.2 has been proclaimed, the **Corporate Trustee** for deposit to the **Community Development Account**, an amount equivalent to ninety per cent (90%) of the capitalized, then present value of the costs of **Operation, Maintenance and Replacement** of the **Arena** for the then anticipated useful life of the existing **Arena** plus an additional sixty (60) years. For the purposes of Article 11.4 of the **Indenture**, **Hydro** will allocate such amount between replacement costs, and operation and maintenance costs.

11.6.7 Uninsurable. If **Nelson House** is unable to comply with Article 11.6.1(a)(i), it shall immediately notify **Hydro** and the **Corporate Trustee** and advise them in writing of the name of its insurance broker and the reason coverage has been refused.

11.6.8 Hydro to Insure. Subject to Articles 11.6.4, 11.6.5 and 11.6.6, if **Nelson House**, through no fault on its part, is unable to comply with Article 11.6.1(a)(i), **Hydro** shall try to obtain such insurance for an acceptable premium, failing which **Hydro** shall assume the risk with respect to the **Arena** which would otherwise have been covered by insurance under Article 11.6.1(a)(i) .

11.6.9 Excessive Premiums. If, in the opinion of **Hydro**, the premium for insurance obtained by **Nelson House** under Article 11.6.1(a)(i) is excessive after deducting any amounts payable by **Nelson House** under Article 11.6.3, **Hydro** may, but shall be under no obligation to, assume the risk with respect to the **Arena** which would otherwise have been covered by insurance under Article 11.6.1(a)(i). During any period when **Hydro** has assumed such risk under Article 11.6.8 or 11.6.9, the **Arena Budget** shall not include any costs for such insurance but **Nelson House** will continue to be liable for any contribution to the **Arena Budget** required under Article 11.6.3.

11.6.10 Continued Obligation. Notwithstanding the assumption of risk by **Hydro** under Article 11.6.8 or 11.6.9, **Nelson House** shall, when requested by **Hydro**, make reasonable efforts to obtain the coverage referred to in Article 11.6.1(a)(i) at an acceptable premium and if acceptable coverage can be obtained, such insurance shall be obtained, the contributions to the **Arena Budget** restored and **Hydro** will no longer be liable under Articles 11.6.8 or 11.6.9.

11.6.11 Breach Resulting in Loss. If **Hydro** has assumed the risk otherwise covered by insurance under Article 11.6.8 or 11.6.9, and at any time **Nelson House**:

- (a) knowingly allows a change material to that risk without the consent of **Hydro**, and damage or loss to the **Arena** occurs as a result of such change; or
- (b) acts fraudulently in providing information to **Hydro** in relation to risks, damage or loss to the **Arena**;

Hydro will not be liable for the cost of repairing or replacing the **Arena** as a result of such risks, damage or loss and may, subject to Article 11.6.6, terminate its obligation in relation to the **Operation, Maintenance and Replacement** of the **Arena**.

11.6.12 No Withholding of Consent. Prior to any loss or damage, **Hydro** will not withhold its consent to a change material to the risk as contemplated in Articles 11.6.2(c) or 11.6.11 if:

- (a) the increased risk is one that an insurer would assume for a reasonable premium; and
- (b) **Nelson House** agrees to a reduction in **Hydro's** contribution to **Operation, Maintenance and Replacement** of the **Arena** equivalent to the increase in premium that would be levied as a consequence of such material change.

If **Nelson House** and **Hydro** do not agree on any determination under Articles 11.6.12(a) or (b), the determination will be made under Article 11.6.13.

11.6.13 Insurance Underwriters. If **Hydro** and **Nelson House** are unable to agree on a determination under Article 11.6.3 or Article 11.6.12, such determination shall be made by a qualified insurance underwriter agreed upon by **Hydro** and **Nelson House** or, if they cannot agree within fourteen (14) days, selected as follows:

- (a) **Hydro** or **Nelson House** shall each nominate an insurance underwriter to make such determination and give written notice to the other of such nomination;
- (b) such nominees shall within fourteen (14) days of their appointment, appoint a third insurance underwriter who will make the necessary determinations within thirty (30) days of that insurance underwriter's acceptance of appointment;
- (c) if the nominees appointed by **Nelson House** and **Hydro** cannot agree on the third insurance underwriter within the time specified, either **Party** may apply for the appointment of an arbitrator under The Arbitration Act (Manitoba) and all of the proceedings and the procedures shall be subject to that Act except for the fees of the arbitrator, which shall be determined by the **Parties** to the arbitration.

Hydro and **Nelson House** agree to be bound by the decision of the arbitrator appointed under Article 11.6.13 .

11.6.14 Payment of Loss. The loss payee under any policy of insurance maintained under Article 11.6.1(a)(i), and the payee under Article 11.6.16 or Article 11.6.17, shall be **Canada**, or if the legislation contemplated by Articles 9.2.1 or 9.2.2 has been proclaimed, the **Corporate Trustee**. Such funds, if paid to the **Corporate Trustee**, will be held in the **Community Development Account** and, if paid to **Canada**, will be dealt with as Indian Moneys in accordance with Section 64 of the Indian Act (Canada).

11.6.15 Destruction of Arena. Subject to the applicable provisions of the Indian Act (Canada) , if the **Arena** is damaged or destroyed as a result of a risk to be insured under Article 11.6.1(a)(i) it shall be repaired or replaced from the proceeds of the insurance, and subject to Articles 11.6.8, 11.6.9 and 11.6.16 **Hydro** shall not be liable for any costs of such repair or replacement.

11.6.16 Deductible. Where insurance proceeds are paid under Article 11.6.14, **Hydro** shall pay to the party receiving the insurance proceeds an amount equal to ninety per cent (90%) of the deductible under Article 11.6.1(a)(i).

11.6.17 Hydro Payments where Risk Assumed. If **Hydro** assumes the risk under Article 11.6.8 or 11.6.9 and **Nelson House** is not in breach of Article 11.6.2 (a), (b) or (c), **Hydro** shall pay **Canada**, or if the legislation contemplated by Articles

9.2.1 or 9.2.2 has been proclaimed, the **Corporate Trustee**, to be used, subject to the applicable provisions of the Indian Act (Canada), for the repair or replacement of the **Arena**, one hundred per cent (100%) of the cost of the loss or damage as adjusted by a qualified insurance adjuster chosen by **Nelson House** and **Hydro**, or failing agreement the **Arbitrator**, less ten per cent (10%) of the deductible referred to in Article 11.6.1(a)(i).

11.7 ARENA BUDGET

11.7.1 Annual Submission of Arena Budget. Not later than June 1 in any year, or such other date which **Nelson House** and **Hydro** agree to in writing, **Chief and Council** shall submit to **Hydro** the **Arena Budget** for the following fiscal year. Except for the contribution to the deductible under Article 11.6.16 or where **Hydro** has assumed the risk for the **Arena** under Article 11.6.8 or 11.6.9, the **Arena Budget** shall not include any costs for repairing or replacing any portion of the **Arena** damaged or destroyed by a risk to be insured under Article 11.6.1(a)(i).

11.7.2 Hydro Approval. **Hydro** shall, within forty-five (45) days of its receipt of the **Arena Budget**, advise **Nelson House**, in writing, whether it accepts the **Arena Budget**, and if it does it shall, on or before the later of the expiry of the forty-five (45) days or August 1 in any year or such other date as **Nelson House**

and **Hydro** agree to in writing, forward ninety per cent (90%) of the **Arena Budget** to **Canada**, or if the legislation contemplated by Articles 9.2.1 or 9.2.2 has been proclaimed, to the **Corporate Trustee**.

11.7.3 **Arena Budget Dispute.** If **Hydro** disputes the **Arena Budget**, or the reasonableness of the costs of **Operation, Maintenance and Replacement** reflected in that budget, it shall, within the time specified in Article 11.7.2, advance against the anticipated budget the same amount it paid under the last approved **Arena Budget** except for any extraordinary expenditures included in that last approved budget, until a new **Arena Budget** is approved by **Nelson House** and **Hydro** or determined by the **Arbitrator** under Article 13.4.

11.7.4 **Interest and Unexpended Moneys.** Any interest earned on moneys advanced under the **Arena Budget** will be used for **Operation, Maintenance and Replacement** of the **Arena**. Any moneys advanced under the **Arena Budget**, which are not expended during the fiscal period contemplated by the **Arena Budget** and any interest earned thereon shall be applied towards, and credited against, the next **Arena Budget**.

11.8 **ARENA REPLACEMENT**

11.8.1 Liability for **Arena** Replacement. Subject to Articles 11.8.2 and 11.8.3 **Hydro** shall be responsible for ninety per cent (90%) of the reasonable costs incurred in replacing the **Arena** when replacement is reasonably required.

11.8.2 Early Replacement. If, as a result of:

- (a) failure on the part of **Nelson House** to comply with Article 11.5.1;
- (b) the existence of a latent defect in the original design or construction of the **Arena**; or
- (c) any defect in the construction or design of any replacement **Arena**;

the replacement of the original **Arena** or subsequent replacement of any replacement **Arena**, is required earlier than it would otherwise have been required, the obligation of **Hydro** to fund such replacement shall be reduced to reflect the cost of expending such funds at such earlier date.

11.8.3 **Hydro** Not Responsible. Except where **Hydro** has assumed the risk under Article 11.6.8 or 11.6.9, **Hydro** shall not be responsible to repair or replace the **Arena** if it is damaged or destroyed as a result of a risk to be insured under Article 11.6.1(a)(i).

11.8.4 Time for Replacement. Either **Nelson House** or **Hydro** may give notice to the other that the **Arena** requires replacement. If the **Party** receiving

such notice agrees that the **Arena** requires replacement, or if the **Arbitrator** so rules, **Nelson House** and **Hydro** shall obtain not less than three (3) estimates from qualified contractors of the cost to replace the **Arena** under a fixed price, turn key contract to the standard required under Article 11.8.6, including the costs of demolishing the existing facility. Upon receipt of the estimates, **Nelson House** and **Hydro** shall make all reasonable efforts to agree upon a contractor to undertake the work.

11.8.5 Replacement of **Arena**. Unless otherwise required by **Nelson House**, the replacement **Arena** shall be located on the same site as the original facility which, to the extent it is not incorporated into the replacement **Arena**, shall be demolished prior to the new construction. If **Nelson House** requires the replacement **Arena** to be constructed on a new site, the net excess costs resulting from such relocation, including without limitation, the site preparation and provision of services, shall be the responsibility of **Nelson House**.

11.8.6 Standards. The replacement **Arena** shall be designed and constructed to a standard equivalent to the original construction as detailed in the **Arena Plans** with such amendments as may be required to comply with then applicable building and environmental codes and regulations.

11.8.7 No Warranty. **Canada** makes no warranties of any kind with respect to the **Arena Plans** or the **Arena**.

11.8.8 Commencement of Replacement. **Nelson House**, in consultation with **Hydro**, will obtain a fixed price, turn key contract from the contractor chosen under Article 11.8.4 or determined by the **Arbitrator** under Article 13.4. **Hydro** shall pay to **Canada**, or if the legislation under Article 9.2.1 or 9.2.2 has been proclaimed the **Corporate Trustee**, its share of such costs. Forthwith upon payment of the required contribution by **Hydro** the operation of the **Arena** will cease and the **Arena** will be demolished.

11.8.9 Lack of Funding. If **Nelson House** cannot fund its share of the cost of replacing the **Arena** then, notwithstanding that the **Arena** has ceased operating and is being demolished, **Hydro** will make a one (1) time payment to **Canada**, or if the legislation under Article 9.2.1 or 9.2.2 has been proclaimed, to the **Corporate Trustee**, of an amount equivalent to **Hydro's** contribution to the previous year's **Arena Budget**, less any extraordinary costs, to be held in the Arena Replacement Sub-account of the **Trust** and applied to the cost of replacing the **Arena**.

11.8.10 Alternate Recreational Programs Other Purposes. If, following:

- (a) receipt of the proceeds of insurance in accordance with Article 11.6.14;
- (b) the determination of the amount payable by **Hydro** under Article 11.6.17; or
- (c) the determination of the cost of replacing the **Arena** under Article 11.8.4;

Nelson House decides by a **Majority Vote** at a **Meeting of Members** not to replace the **Arena**, it shall so notify, in writing, the payee of any insurance proceeds under Article 11.6.14 and **Hydro**. Within sixty (60) days of such notice, **Hydro** shall pay **Canada** or, if the legislation contemplated by Articles 9.2.1 or 9.2.2 has been proclaimed, the **Corporate Trustee**, for deposit to the **Community Development Account**, an amount equivalent to ninety per cent (90%) of the then present value of the cost which would have been incurred in operating and maintaining a new **Arena** for a further period of 60 years, plus the amount, if any, which **Hydro** would have been responsible to pay towards the replacement of the **Arena** under whichever of Articles 11.6.16, 11.8.8 or 11.6.17 is applicable in the circumstances. Upon payment of such amounts, **Hydro** shall be released from its Article 11 obligations for the **Arena**.

11.8.11 **Nelson House Election.** Upon receiving a request in writing from **Nelson House**, **Hydro** will pay to **Canada**, or if the legislation

contemplated by Articles 9.2.1 or 9.2.2 has been proclaimed, to the **Corporate Trustee**, the capitalized, then present value of:

- (a) the costs of **Operation, Maintenance and Replacement of Specified Remedial Works** for a period of sixty (60) years from the date of such notice; and
- (b) ninety (90%) per cent of the costs of **Operation, Maintenance and Replacement** of the **Arena** for the then anticipated useful life of the existing **Arena** and an additional period of sixty (60) years.

Upon payment of such amounts **Hydro's** obligation for **Operation, Maintenance and Replacement** will end.

11.8.12 General. Whenever amounts under Article 11 are paid to **Canada** such amounts shall be capital moneys for the use and benefit of **Nelson House**.

11.8.13 Notice. **Hydro** shall give **Nelson House** written notice of any payment **Hydro** makes under Article 11 to the **Corporate Trustee** or to **Canada** for the use and benefit of **Nelson House**.

11.9 **TERMINATION OF OBLIGATION**

11.9.1 End of **Obligation**. The obligations of **Hydro** for any **Specified Remedial Work** or the **Arena** will end if such **Specified Remedial Work** or if the **Arena** is no longer required to mitigate, remedy or address **Adverse Effects**. The obligations of **Hydro** under Article 11 will, in any event, not continue beyond the lifetime of the **Project**. In the event of a dispute, the onus of proving any of the conditions under Article 11.9.1 shall be on **Hydro**.

11.10 NO WARRANTY

11.10.1 No Warranty by **Nelson House**. **Nelson House** makes no warranty as to the accuracy of the plans appended as part of Schedule 11.1.

SCHEDULE 11.1

LIST OF SPECIFIED REMEDIAL WORKS

1. The **Specified Remedial Works** are listed and described below:
 - (a) Twenty-five (25) floating residential docks located as shown on the Nelson House Agreement O & M Fund Summary Map/93/10/Fig. 1 (Attachment G) and one (1) floating residential dock located near Threepoint Lake constructed generally in accordance with, a set of plans entitled: Footprint Lake Residential Dock/Sheets 1-8 (83-08-30) and Sheet 9 (83-10-13) (Attachment A) and to a standard equivalent to their original design;
 - (b) Twenty-four (24) boat skids constructed generally as shown on a plan entitled: Footprint Lake Residential Dock: Boat Skid over Rip-Rap, Sheet 10 (83-10-21) (Attachment A);
 - (c) One (1) marina dock located as shown on the Nelson House Agreement O&M Fund Summary Map/93-10/Fig.1 (Attachment G) and constructed generally in accordance with a plan entitled Nelson House Community Docks (Attachment B);
 - (d) Causeways 1 to 4 located as shown on the Nelson House Agreement O & M Fund Summary Map/93-10/Fig. 1 (Attachment G) and constructed generally in accordance with plans entitled: Nelson House Reconstruction of Access Road/0188-E-0486/Sheets 1-4 (March, 1976) (Attachment C) upgraded in accordance with a set of plans entitled: Nelson House Upgrading of Causeway 2 & 3/00188-E-00514/Sheets 01-03 (91-04-09) (Attachment D); and
 - (e) Upstream and downstream Notigi Portage docks and ramps, constructed generally in accordance with plans entitled: U/S Boat Launch Plan, Profile and Sections/00188-E-00515/Sheet 01 (93-04-30) (Attachment E), and D/S Boat Launch Revised Plan and Sections/00188-E-00517/Sheet 01 (93-06-23) (Attachment F).

2. The following plans and drawings are attached to and form part of Schedule 11.1:
 - A. Footprint Lake Residential Dock/Sheets 1-10 (83-08-30)
 - B. Nelson House Community Docks/Sheets S-1, S-4, S-5 and S-6 (1098-03)
 - C. Nelson House Reconstruction of Access Road/0188-E-0486/Sheets 1-4 (March, 1976)
 - D. Nelson House Upgrading of Causeway 2 & 3/00188-E-00514/Sheets 01-03 (91-04-09)
 - E. U/S Boat Launch Plan, Profile and Sections/00188-E-00515/Sheet 01 (93-04-30)
 - F. D/S Boat Launch Revised Plan and Sections/00188-E-00517/Sheet 01 (93-06-23)
 - G. Nelson House Agreement O&M Fund Map/93-10/Fig.1

SCHEDULE 11.2

LIST OF EQUIPMENT FORMING PART OF THE ARENA

1. The equipment listed on Pre-Con Builders Plan No. M5 attached;
2. Chiller Chilcon, Model No. EF161206A, 16" x 120" - 2cct, Serial No. C890675A;
3. Chiller - Bell & Gossett Brine Pump, Model No. 1510-4BC, 15 H.P.;
4. Refrigeration Controls (2), Model No. OVE30VC, Sporlan Thermostatic Exp. Valve;
5. Compressor 1, Model No. C1-08F, Cimco 50 H.P., Serial No. 88069;
6. Compressor 2, Model No. C1-08F, Cimco 50 H.P., Serial No. 88070;
7. Condenser, Model No. DAC051, Cancoil 3-2 H.P. motors, 2 ct 940,000 BTU/HR @ 40' TD;
8. Head Pressure Controls (2), Sporlan OR110-65/225-1 3/8, ORD-4-20-5/8';
9. Filter Head Driers (2), Model No. C489G;
10. Grill, Garland, Model No. E22-36G, Serial No. 819-8;
11. Deep-Fryer, Garland, Model No. E22-14F, Serial No. 879-8;
12. Olympia Ice Resurfacers Model No. ST-95, Serial No. RCA005001;
13. Danby Freezers (2) Model No.sD1270-6 and D1500-A, Serial No.s421098AP and 01865719EU; and
14. Coldstream Stand-up Cooler Model No. RSCP24AL, Serial No. 89M8096.

TABLE OF CONTENTS

ARTICLE 12

12.0	COMPENSATION FOR CLAIMS	1
12.1	INTRODUCTION	1
12.1.1	<u>Introduction</u>	1
12.1.2	<u>Claims</u>	1
12.1.3	<u>Limitation.</u>	2
12.1.4	<u>Programs</u>	2
12.2	CLAIMS OFFICER	2
12.2.1	<u>Appointment.</u>	2
12.2.2	<u>Qualifications</u>	3
12.2.3	<u>Tenure</u>	3
12.2.4	<u>Undertaking</u>	4
12.2.5	Chief and Council	4
12.2.6	<u>Liability</u>	4
12.3	CLAIMS PROCEDURE	4
12.3.1	<u>Form of Claims</u>	4
12.3.2	<u>Investigation Process</u>	4
12.3.3	<u>Notice Period</u>	5
12.3.4	<u>Action on Claims</u>	5
12.3.5	<u>Conflict</u>	5
12.3.6	<u>Investigation.</u>	6
12.3.7	<u>Preliminary Decisions.</u>	6
12.3.8	Hydro Action	7
12.3.9	<u>Further Decision Process</u>	7
12.3.10	<u>Payment Following Decision</u>	8
12.3.11	<u>Rejection of Claim by Delay</u>	8
12.3.12	<u>Reimbursement</u>	8
12.4	CLAIMS ARBITRATION	8
12.4.1	<u>Referral to Arbitration</u>	8
12.4.2	<u>Substantial Compliance</u>	9
12.4.3	<u>Role of Chief and Council in Arbitration</u>	9
12.4.4	<u>Considerations of Arbitrator</u>	9
12.4.5	Arbitrator's Decision	10
12.4.6	<u>Decisions Available for Public Viewing</u>	10
12.4.7	<u>Amend Forms</u>	10

12.5	LEGISLATION	11
12.5.1	<u>Recommendation</u>	11
12.5.2	Hydro Indemnity	11
12.5.3	Hydro Action	11
12.5.4	<u>Arbitration</u>	13
12.5.5	<u>Repayment</u>	14
Schedule 12.1	Claim for Compensation Form	
Schedule 12.2	Notice of Receipt of Claim for Compensation	
Schedule 12.3	Report, Decision and Right to Appeal	
Schedule 12.4	Claimant Acceptance and Release for Compensation for Adverse Effects	
Schedule 12.5	Undertaking	
Schedule 12.6	Referral to Arbitration	
Schedule 12.7	List of Claims Which Will Continue to be Advanced Against Hydro	

ARTICLE 12

12.0 COMPENSATION FOR CLAIMS

12.1 INTRODUCTION

12.1.1 Introduction. Article 12 specifies claims which may be advanced, the procedure for advancing them against the **Claims Account** and their relationship to other programs funded by **Trust Moneys**.

12.1.2 Claims. A claim may be advanced against the **Claims Account** for compensation sufficient to compensate the **Claimant** for loss or damages suffered by that **Claimant** due to **Adverse Effects** but no claim may be advanced:

- (a) by a person who was not a **Member** at the time the **Adverse Effect** occurred;
- (b) by an insurer by way of subrogation; or
- (c) which is an **SIL Claim**.

Notwithstanding the releases and indemnities in Article 14, the individual claims against **Hydro** listed in Schedule 12.7 will continue to be dealt with by **Hydro** and shall not become the responsibility of **Nelson House**. **Hydro** will not be responsible under Schedule 12.7 for any portion of the claim which is broader than the interest of the specified individual making the claim and nothing herein should be read or construed as an admission of liability by **Hydro** in relation to such claims.

12.1.3 Limitation. A right to claim under Article 12.1.2 shall expire four (4) years from the date the loss or damage became evident to the **Claimant** .

12.1.4 Programs. From **Trust Moneys** approved for such purposes under the **Community Approval Process, Nelson House** shall, as it considers appropriate, continue, establish or discontinue programs to address **Adverse Effects** on **Members**. Notwithstanding the foregoing, in accordance with Article 11.2 of the **Indenture** from 1996 to 2001, **Chief and Council** shall pay the amount of one hundred sixty seven thousand six hundred seven (\$167,607.00) dollars to the Nelson House Commercial Fishing Association to continue the Nelson House Commercial Fishing Program during those years. Nothing in Article 12.1.4 authorizes **Nelson House** or **Chief and Council** to amend or discontinue the provisions of Article 12.

12.2 CLAIMS OFFICER

12.2.1 Appointment. **Chief and Council** may appoint, as its designate for investigating and deciding claims under Article 12:

- (a) a **Claims Officer**, and an alternate **Claims Officer** to serve in the absence or incapacity of the **Claims Officer**, to administer and decide claims of not more than two thousand (\$2,000.00) dollars;

- (b) a claims panel consisting of the **Claims Officer** and two (2) **Nelson House Trustees** to administer and decide claims in excess of two thousand (\$2,000.00) dollars;
- (c) such other appropriate claims panel competent to carry out the duties of administering and deciding claims hereunder.

12.2.2 Qualifications. A **Claims Officer** and a member of a claims panel, shall be a **Member** who meets all qualifications and requirements of eligibility for a **Nelson House Trustee**, but a **Nelson House Trustee** may not serve as a **Claims Officer**.

12.2.3 Tenure. The appointment of a **Claims Officer**, or an alternate, or a member of a claims panel, may be revoked at any time at the sole discretion of **Chief and Council** and shall be automatically revoked should such person cease at any time to meet the qualifications and requirements for eligibility. Where a claim is being considered at the time of revocation of appointment of the **Claims Officer**, or an alternate, or a member of a claims panel, the **Claimant** shall be notified by **Chief and Council** and may elect to proceed to arbitration or have the claim decided under Article 12.2.1 by a new appointee.

12.2.4 Undertaking. Prior to assuming office a **Claims Officer**, or alternate, or member of a claims panel including a member who is a **Nelson House Trustee**, shall execute an undertaking in a Schedule 12.5 form and file that executed form with **Chief and Council**.

12.2.5 Chief and Council. If a **Claims Officer** or claims panel are not appointed, their functions under Article 12 shall be undertaken by **Chief and Council** and the provisions of Article 12 shall be read accordingly.

12.2.6 Liability. The **Claims Officer** and members of the claims panel shall be responsible for the fair, prudent and impartial administration of the claims procedures set out in Article 12 and provided they act in good faith they shall incur no liability arising out of their administration of such claims.

12.3 CLAIMS PROCEDURE

12.3.1 Form of Claims. Claims shall be filed with **Chief and Council** and shall contain the information set out in Schedule 12.1.

12.3.2 Investigation Process. Upon receipt of a claim, **Chief and Council** shall:

- (a) if appropriate, send a copy of the claim to the RCMP or other police force responsible for policing the **Reserve**;
- (b) post a copy of the claim and a completed notice under Schedule 12.2 in the Band Office or in some other public place on **Reserve** that is frequented by **Members**; and
- (c) retain a copy and where applicable, forward the original to the **Claims Officer** or members of the claims panel.

12.3.3 Notice Period. Prior to a decision under Article 12.3.7, the notice under Article 12.3.2(b) shall be posted and available to public view for not less than:

- (a) three (3) business days for a claim of two thousand (\$2,000.00) dollars or less; and
- (b) ten (10) business days for a claim over two thousand (\$2,000.00) dollars.

12.3.4 Action on Claims. Upon receipt of the claim the **Claims Officer** or members of the claims panel shall investigate and decide the matter.

12.3.5 Conflict. No **Claims Officer** or member of a claims panel who has an interest in a claim that could affect the impartiality of such person may take part in any deliberations or decisions with respect to that claim.

12.3.6 Investigation. The **Claims Officer** or members of the claims panel shall conduct, or cause to be conducted, such investigation as considered appropriate.

12.3.7 Preliminary Decisions. Upon completion of the investigation carried out pursuant to Article 12.3.6, and after considering any comments from **Members**, the **Claims Officer** or members of the claims panel shall decide if:

- (a) the applicant meets the criteria of a **Claimant**;
- (b) the person advancing the claim was a **Member** at the time the **Adverse Effect** occurred;
- (c) the claim is being brought by an insurer by way of subrogation;
- (d) the claim is an **SIL** claim;
- (e) the claim, or a portion of the claim, must be advanced against **Hydro** under Article 14.4.1 and, if so, provide a copy of such decision and the claim to **Hydro**; and
- (f) the claim has been brought within the time limit imposed under Article 12.1.3.

12.3.8 **Hydro Action.** **Hydro** may dispute the decision under Article 12.3.7(e) by referring it to arbitration under Article 13.5 within, but not later than, thirty (30) days of its receipt of such decision.

12.3.9 **Further Decision Process.** If the claim is not one referable to **Hydro** under Article 14.4.1; the applicant meets the criteria of a **Claimant**; the application has been brought within the time specified; and it is determined under Article 12.3.7 that the claim meets the requirements of Article 12.1.2; the **Claims Officer** or members of the claims panel shall:

- (a) decide if the claim should be paid ;
- (b) assess the amount of compensation taking into account any prior benefit received by, or compensation or insurance proceeds paid, or payable, to the **Claimant** or any other benefit received by the **Claimant** under the **Agreement**, or under any other agreement with a **Party**, or under the **NFA**;
- (c) deliver a decision in a Schedule 12.3 form to the **Claimant** and any **Member** who provided comments; and
- (d) upon request, or if they determine it is appropriate, deliver the information set out in Schedule 12.3 orally, in a language spoken by the **Claimant** and any **Member** who provided comments.

12.3.10 Payment Following Decision. If compensation is awarded under Article 12.3.9 or 12.4.4, **Chief and Council** shall, upon its receipt of an acceptance and release in a Schedule 12.4 form duly signed by the **Claimant**, promptly pay such compensation and any costs awarded with **Trust Moneys** advanced from the **Claims Account**.

12.3.11 Rejection of Claim by Delay. Except where the preliminary decision under Article 12.3.7 is to refer the claim to **Hydro**, if a decision is not delivered within thirty (30) days of the date the claim is filed with **Chief and Council**, that claim shall be deemed to be rejected and the **Claimant** may refer the claim to arbitration pursuant to Article 13.3 as provided in Article 12.4.

12.3.12 Reimbursement Forthwith, upon receipt of an invoice and all relevant supporting material, **Hydro** will reimburse **Nelson House** for its reasonable expenses incurred in investigating and reaching a preliminary decision under Article 12.3.7 with respect to which **Hydro** has continuing liability under Article 14.4.1.

12.4 CLAIMS ARBITRATION

12.4.1 Referral to Arbitration. Where a **Claimant** or **Chief and Council** disputes the decision under Article 12.3, other than a decision under Article

12.3.7(e) that the claim should be advanced against **Hydro**, either may, within twenty-one (21) days of their receipt of the decision, refer that dispute to arbitration by serving upon the other a Referral to Arbitration in a Schedule 12.6 form. Upon receiving or serving a Referral to Arbitration **Chief and Council** shall forthwith provide to the **Claimant** the list of **Arbitrators** referred to in Article 13.3.1 and refer the matter to arbitration in accordance with Article 13.3.

12.4.2 Substantial Compliance. No claim shall be dismissed for failure on the part of the **Claimant** to use a specified form or procedure, and no reports, notices, decisions, releases or undertakings contemplated in Schedules 12.1 to 12.6 inclusive shall be invalid for failure to follow or be in the specified form, provided there has been substantial compliance and no prejudice results therefrom.

12.4.3 Role of **Chief and Council** in Arbitration. **Chief and Council** may, on notice to the **Arbitrator** selected, appear as an interested party in any arbitration under Article 12.4.

12.4.4 Considerations of **Arbitrator**. The **Arbitrator** shall make the determinations required in Articles 12.3.7 and 12.3.9 (a) and (b) in the manner and within the times specified in Article 13.3.9. Failure to render a decision within the specified time may result in a loss of jurisdiction and the appointment of a new

Arbitrator pursuant to Article 13.6.2. Where there is a dispute as to who is, or is not a **Member**, the **Arbitrator** shall resolve such dispute consistent with the Band Membership Code established by section 10 of the Indian Act (Canada) which has been in force and effect since May 24, 1988, or any successor code established by or pursuant to legislation.

12.4.5 **Arbitrator's Decision.** The **Arbitrator** shall forward the decision to the **Claimant**, **Chief and Council**, the **Nelson House Trustees** and any **Member** who appeared and made representations to the **Arbitrator**.

12.4.6 **Decisions Available for Public Viewing.** All decisions concerning claims for compensation from the **Claims Account** shall be made available by **Chief and Council**, for review by **Members** during normal business hours.

12.4.7 **Amend Forms.** Provided any such amendment is not prejudicial to the other **Parties** and is consistent with the **Agreement**, the forms appended as Schedules 12.1 to 12.6, both inclusive, may be amended by **Chief and Council**.

12.5 LEGISLATION

12.5.1 Recommendation. **Canada** and **Manitoba** shall recommend the enactment of legislation providing that a claim for compensation which may be made under both the **NFA** and this **Agreement** shall be exercised only in accordance with this **Agreement**.

12.5.2 Hydro Indemnity. If, as a result of enacting and proclaiming the legislation contemplated in Article 12.5.1, **Canada** or **Manitoba** become liable to pay compensation arising from an **Adverse Effect** to any **Claimant**, **Hydro** shall promptly indemnify **Canada** and **Manitoba** for such compensation. This indemnity does not cover the costs of the indemnified **Party** in resisting such claim and is conditional upon the indemnified **Party**:

- (a) forthwith, upon becoming aware of such claim, giving notice to **Hydro** and **Nelson House**;
- (b) actively and diligently resisting any such claim; and
- (c) supporting any application by **Hydro** or **Nelson House** to be named as a party thereto.

12.5.3 Hydro Action. If **Hydro** is required to make any payment to **Canada** or **Manitoba** pursuant to Article 12.5.2 and **Nelson House** fails to

indemnify **Hydro** for such payment from **Funds Available** within three (3) years of the date of such payment, then, in addition to any other remedies which it may have at law, **Hydro** may, after giving **Chief and Council** thirty (30) days written notice of its intention to do so:

- (a) reduce the face value of the **Hydro Bond**, if it has not then been delivered to the **Trust** or to **Canada**, by an amount sufficient to cover the amount paid pursuant to the indemnity;
- (b) if **Hydro** has delivered the **Hydro Bond** to the **Trust**, require that the **Trustees** return the **Hydro Bond** to **Hydro** to be cancelled. In such event a new bond, less the amount paid by **Hydro** to **Canada** or **Manitoba** pursuant to the indemnity under Article 12.5.2, will be issued by **Hydro** and delivered to the **Trust**;
- (c) if the **Hydro Bond** has been delivered to **Canada**, request that, subject to the provisions of the Indian Act (Canada), **Canada** return the **Hydro Bond** to **Hydro** to be cancelled. If the bond is returned, a new bond, less the amount paid by **Hydro** to **Canada** or **Manitoba** pursuant to the indemnity under Article 12.5.2, will be issued by **Hydro** and delivered to **Canada**;
- (d) if the **Hydro Bond** has been delivered to **Canada** and has matured or been redeemed, request that, subject to the provisions of the Indian Act (Canada), **Canada** repay **Hydro** from the unexpended

proceeds from the **Hydro Bond** an amount equivalent to the amount paid by **Hydro** to **Canada** or **Manitoba** pursuant to the indemnity under Article 12.5.2.

- (e) if the **Hydro Bond** has been delivered to the **Trust** and has matured or been redeemed, require that the **Trustees** repay **Hydro** from the unexpended proceeds from the **Hydro Bond** an amount equivalent to the amount paid by **Hydro** to **Canada** or **Manitoba** pursuant to the indemnity under Article 12.5.2.

12.5.4 Arbitration. If **Chief and Council** dispute **Hydro's** right to set off against the **Hydro Bond** or the funds realized therefrom under Article 12.5.3, it may, within thirty (30) days of receiving notice under Article 12.5.3, refer the dispute to arbitration under Article 13.4 by serving a Referral to Arbitration in a Schedule 13.1 form on **Hydro** and if relevant **Canada** or the **Corporate Trustee**. If the **Arbitrator** decides in **Hydro's** favour, and **Canada** is in possession of the **Hydro Bond** or unexpended proceeds from the **Hydro Bond**, **Chief and Council** will favourably consider requesting **Canada**, subject to the provisions of the Indian Act (Canada), to honour the indemnity obligations from such funds as provided in Articles 12.5.3(c) and (d) and 12.5.5.

12.5.5 Repayment. Where **Hydro** has made a payment under Article 12.5.2 and **Chief and Council** does not dispute **Hydro's** right of set off, or the **Arbitrator** has ruled in favour of **Hydro** then upon request by **Hydro**, and, upon **Chief and Council's** request and, where relevant, receipt of the decision of the **Arbitrator** to such effect, **Canada** will, subject to approval under clause 64(1)(k) of the Indian Act (Canada) return the **Hydro Bond** pursuant to Article 12.5.3(c) or repay the amount to the extent provided by Article 12.5.3(d) .

SCHEDULE 12.1

CLAIM FOR COMPENSATION FORM

CLAIMANT

Name:

Address:

City/Town:

Commercial Fishing Licence No. (If applicable)

Commercial Trapping Licence No. (If applicable)

DETAILS OF CLAIM

Date & Time of Injury/Loss/Damage:

Activity at time of Injury/Loss/Damage:

Cause of Injury/Loss/Damage:

Compensation Claimed:

Nature of Injury:

Goods or Property Lost or Damaged:

General Description

Make

Model

Serial No.

Year Manufactured

Year Purchased

Purchase Price

Location where Injury/ Loss/ Damage occurred (Attach Sketch or Map):

Names of Witnesses to Injury/Loss/ Damage:

Is the claim covered by insurance in whole or in part: Yes? _____, No? _____.

If yes, give particulars:

If yes, has a claim been made under the insurance policy? Yes? ____ No? ____.

Give particulars:

CLAIMANT'S STATEMENT:

I believe the injury, loss or damage described above was caused by Manitoba Hydro's Project because:

INSERT DETAILS

I hereby certify that the above information is correct.

(Signature of Claimant)

(date)

SCHEDULE 12.2

**NOTICE OF RECEIPT OF
CLAIM FOR COMPENSATION**

_____ IS /ARE CURRENTLY
INVESTIGATING THE ATTACHED CLAIM FOR COMPENSATION,
AND A DECISION ON THIS MATTER WILL BE MADE ON OR
AFTER _____. ANY PERSON WHO WISHES TO COMMENT
ON THIS CLAIM SHOULD DIRECT THEIR COMMENTS TO _____
_____ BEFORE THAT DATE.

SCHEDULE 12.3

REPORT, DECISION AND RIGHT TO APPEAL

A Claim for Compensation from the Claims Account of Nisichawisihk Trust was filed by _____, on _____, __:
(NAME)

I, the Claims Officer, or we, the members of a claims panel or Chief and Council, Report and Decide as follows:

1. From our investigation of the Claim
 - (a) the applicant meets the criteria of a Claimant;
 the applicant does not meet the criteria of a Claimant;
 - (b) the applicant was a Member at the time the Adverse Effect occurred;
 the applicant was not a Member at the time the Adverse Effect occurred;
 - (c) the claim is not an SIL Claim within the meaning of the Agreement;
 the claim is an SIL Claim within the meaning of the Agreement;
 - (d) the applicant is not an insurer claiming by way of subrogation;
 the applicant is an insurer claiming by way of subrogation;
 - (e) the claim has been brought within 4 years of the date the loss or damage became evident to the Claimant;
 the claim has not been brought within 4 years of the date the loss or damage became evident to the Claimant;

- (f) all of the loss or damage is the result of or attributable to an Adverse Effect of the Project;
- part of the loss or damage is the result of or attributable to an Adverse Effect of the Project;
- none of the loss or damage is the result of or attributable to an Adverse Effect of the Project;
- (g) the loss or damage is compensable in full from the Claims Account of the Nisichawasihk Trust;
- the loss or damage is compensable in part from the Claims Account of the Nisichawasihk Trust;
- the loss or damage is not compensable from the Claims Account of the Nisichawasihk Trust;
- (h) the loss or damage is not compensable from the Claims Account of the Nisichawasihk Trust because the claim appears to be one that should be dealt with as an ongoing liability of Hydro, under Article 14.4.1 of the 1996 Nelson House NFA Implementation Agreement and a copy of this claim has been forwarded to Manitoba Hydro;
- the loss or damage is not compensable in part from the Claims Account of the Nisichawasihk Trust because the claim appears to be one that in part should be dealt with as an ongoing liability of Hydro, under Article 14.4.1 of the 1996 Nelson House NFA Implementation

Agreement and a copy of this claim has been forwarded to Manitoba Hydro;

- the loss or damage is not compensable from the Claims Account of the Nisichawisihk Trust because the claimant otherwise has been fully compensated.
 - the loss or damage is not compensable in full from the Claims Account of the Nisichawisihk Trust because the claimant otherwise has been partially compensated by _____.
- (i) the reasonable compensation payable from the Nisichawisihk Trust is \$_____

Additional Reasons:

The Claims Officer or the following member of a claims panel did not take part in this decision, due to an interest in this claim that could have affected their impartiality.

Signed at Nelson House, Manitoba, this _____ day of _____, ____.

NOTICE: THE CLAIMANT MAY APPEAL THIS MATTER TO THE ARBITRATOR, BY MAKING A WRITTEN REQUEST IN THE FOLLOWING FORM TO CHIEF AND COUNCIL WITHIN 21 DAYS OF THE DELIVERY OF THIS DECISION.

NOTICE OF REFERRAL

TO: Chief & Council
Band Office
Nelson House, Manitoba

TAKE NOTICE that the decision dated _____, 19__ of Chief and Council, the Claims Officer or the claims panel under Article 12 of the 1996 Nelson House NFA Implementation Agreement is not acceptable to the undersigned and is referred to the Arbitrator under Article 13 of such Agreement.

DATED at Nelson House the _____ day of _____, 19 .

SCHEDULE 12.4

**CLAIMANT ACCEPTANCE AND RELEASE
FOR COMPENSATION FOR ADVERSE EFFECTS**

I, _____ (name of Claimant, or "on behalf of _____ Association or Corporation") _____, filed a claim dated _____, under Article 12 of the 1996 Nelson House NFA Implementation Agreement in respect of damage or loss that I was aware of at the date of filing the claim, arising from an adverse effect caused by the development or operation of works by Manitoba Hydro.

A decision on the claim was made by (Chief and Council, the Claims Officer, a claims panel or the Arbitrator appointed under the Nelson House NFA Implementation Agreement, or the Manitoba Court of Appeal), dated _____, a copy of which is attached.

That decision is a fully satisfactory settlement of the damage or loss referenced in the claim dated _____.

In consideration of the payment of (amount) _____, I hereby fully and finally release the Nelson House First Nation, Chief and Council, the Nisichawasihk Trust, the Claims Officer and the Nelson House Trustees with respect to this claim, and I will bring no further claim for the same damage or loss against any other person.

I have been advised by _____, the Claims Officer, a member of Chief and Council or a Nelson House Trustee, that I have the right to obtain legal counsel in connection with the execution of this release.

(I have obtained) or (I hereby waive my right to) the advice of legal counsel in connection with this release.

Dated at _____, Manitoba this _____ day of _____, _____.

Witness

Claimant

SCHEDULE 12.5

UNDERTAKING

I, _____, being an appointee of the Chief and Council of the Nelson House First Nation to serve as a Claims Officer or alternate Claims Officer or a member of a Claims Panel, state and undertake as follows:

1. I have read, or had explained to me, the terms of the 1996 Nelson House NFA Implementation Agreement and Trust Indenture with particular reference to the provisions relating to the processes for administering and deciding claims for compensation.

2. I hereby accept and will honestly and faithfully discharge the duties and responsibilities of a Claims Officer or alternate Claims Officer, or a member of a Claims Panel, during my term in such office.

3. I have been advised by _____, a member of Chief and Council, that I have the right to obtain legal counsel in connection with the execution of this undertaking.

4. (I have obtained,) or (I hereby waive my right to) the advice of legal counsel in making this undertaking.

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

SCHEDULE 12.6

REFERRAL TO ARBITRATION

TO: Chief and Council
Band Office
Nelson House, MB

Take Notice that the decision of the Claims Officer or the claims panel, or Chief and Council dated _____ under Article 12 of the 1996 Nelson House NFA Implementation Agreement is not acceptable to the undersigned and the issue is referred to the Arbitrator under Article 13 of such Agreement.

DATED at the of , .

SCHEDULE 12.7

**LIST OF CLAIMS WHICH WILL CONTINUE TO BE ADVANCED AGAINST
HYDRO**

Hydro Claim No.

- 68. Claim by Joe Linklater for travel expenses.
- 283. Claim by Nelson House Band for Eric Taylor Monument.
- 289. Claim by George C. R. Spence for dog food.
- 379. Claim by Darcy Linklater in relation to shoreline clearing.
- 391. Claim by Derek Linklater for lost equipment.
- 414. Claim by Clark Buck for use of Lund boat.
- 417. Claim by George J. Linklater for damage to the lower unit of a 25 hp motor.
- 419. Claim by Mary Jane Hart for a warehouse which was disassembled and destroyed.
- 421. Claim by Joshua Flett in relation to a 30 hp Johnson motor.

TABLE OF CONTENTS

ARTICLE 13

13.0	ARBITRATION	1
13.1	INTRODUCTION	1
13.1.1	<u>Introduction</u>	1
13.2	ARBITRATION	1
13.2.1	<u>Nelson House Disputes</u>	1
13.2.2	<u>Disputes Involving the Parties</u>	2
13.2.3	<u>Easement Resolution</u>	2
13.2.4	<u>Arbitration Act Applies</u>	3
13.2.5	<u>Reference to Courts</u>	3
13.2.6	<u>No Substantive Rights</u>	3
13.3	NELSON HOUSE ARBITRATION	3
13.3.1	<u>List of Arbitrators</u>	3
13.3.2	<u>Referral to Arbitration</u>	4
13.3.3	<u>Notification</u>	4
13.3.4	<u>Appointment of Arbitrator</u>	5
13.3.5	<u>Jurisdiction and Powers</u>	5
13.3.6	<u>Costs</u>	6
13.3.7	<u>Finality</u>	7
13.3.8	<u>Onus</u>	7
13.3.9	<u>Expedited Arbitrations</u>	7
13.3.10	<u>Practice and Procedure</u>	8
13.3.11	<u>Representation by Counsel</u>	8
13.3.12	<u>Evidence</u>	8
13.3.13	<u>Transcripts</u>	8
13.3.14	<u>Hearing Location</u>	9
13.3.15	<u>Arbitrator's Fees</u>	9
13.3.16	<u>Interim Orders</u>	9
13.3.17	<u>Relationship Between Mitigatory Measures and Claimant</u> <u>Compensation</u>	9
13.3.18	<u>Liability to Compensate</u>	10
13.4	PARTIES' ARBITRATION	10
13.4.1	<u>Referral to Arbitration</u>	10
13.4.2	<u>Participation by Parties to the Agreement</u>	10
13.4.3	<u>Appointment of Arbitrator</u>	11
13.4.4	<u>Application to Judge</u>	12

13.4.5	<u>Jurisdiction</u>	12
13.4.6	<u>Procedure</u>	14
13.4.7	<u>Representation by Counsel</u>	14
13.4.8	<u>Evidence</u>	15
13.4.9	<u>Transcripts</u>	15
13.4.10	<u>Hearing Location</u>	15
13.4.11	<u>Arbitrator's Fees</u>	15
13.4.12	<u>Disclosure and Distribution</u>	16
13.4.13	<u>Costs</u>	16
13.4.14	<u>Inclusions</u>	16
13.5	DISPUTES UNDER ARTICLE 14.4.1	16
13.5.1	<u>Disputes with Nelson House Alone.</u>	16
13.5.2	<u>Disputes Involving Claims by Members</u>	17
13.5.3	<u>Appointment of Arbitrator</u>	17
13.5.4	<u>Arbitration Process</u>	17
13.5.5	<u>NFA Process</u>	18
13.5.6	<u>Referral Back</u>	18
13.6	REVIEW AND APPEAL OF DECISIONS	18
13.6.1	<u>Finality of Decision</u>	18
13.6.2	<u>Remedy for Late Decisions</u>	19
13.6.3	<u>Valid Decision</u>	19
13.7	GENERAL PROVISIONS	19
13.7.1	<u>Applicability.</u>	19
13.7.2	<u>Undertaking</u>	20
13.7.3	<u>Vacancy</u>	20
13.7.4	<u>Amendments</u>	20
13.7.5	<u>Public Hearings</u>	20
13.7.6	<u>No Amendment</u>	21
13.7.7	<u>Relief</u>	21
13.7.8	<u>Disqualification</u>	21
13.7.9	<u>No Derogation.</u>	21
13.7.10	<u>Canada</u>	22
Schedule 13.1:	Referral to Arbitration	
Schedule 13.2:	Undertaking of Arbitrator	

ARTICLE 13

13.0 ARBITRATION

13.1 INTRODUCTION

13.1.1 Introduction. Article 13 establishes procedures for arbitrating disputes under this **Agreement**, in relation to:

- (a) matters involving **Members, Nelson House, Chief and Council**, members of **Chief and Council**, beneficiaries of the **Trust**, **Claimants, Nelson House Trustees** or the **Corporate Trustee**, which matters shall proceed as prescribed under Article 13.3;
- (b) matters involving the **Parties**, which matters shall proceed as prescribed under Article 13.4; and
- (c) matters involving the potential liability of **Hydro** under Article 14.4.1, arising out of claims for compensation by beneficiaries of the **Trust**, which matters shall proceed as prescribed under Article 13.5.

13.2 ARBITRATION

13.2.1 Nelson House Disputes. Any decision referred to arbitration under Article 12.4.1 and any dispute which involves the interpretation or administration

of the **Agreement** or the **Indenture**, or which involves the use or administration of **Assets** or **Trust Moneys**, and which involves only **Members, Nelson House, Chief and Council**, members of **Chief and Council**, beneficiaries of the **Trust**, **Claimants**, the **Nelson House Trustees**, or the **Corporate Trustee** may be referred to arbitration in accordance with Article 13.3.

13.2.2 Disputes Involving the Parties. Subject to Articles 8.3.6 and 13.2.3 any dispute or difference between the **Parties** as to the meaning, application, implementation or breach of any part of this **Agreement**, may be referred to arbitration by any of the **Parties** to that dispute in accordance with the terms of the **Agreement** and Article 13.4. Except for claims proceeding under Article 13.5 against **Hydro**, only a **Party** may refer to arbitration a matter which involves **Canada, Manitoba or Hydro**.

13.2.3 Easement Resolution. Unless the **Easement Agreement** otherwise provides, a dispute relating to the **Easement Agreement** and involving **Nelson House** may, at the sole option of **Nelson House** be referred to arbitration under Article 13.4. Notwithstanding the foregoing, if **Canada** and either **Manitoba** or **Hydro** is a party to such dispute and it concerns an interest in land, the dispute shall be referred to court.

13.2.4 Arbitration Act Applies. The Arbitration Act (Manitoba) shall govern any arbitration under this **Agreement**, except where that Act conflicts with any express term of this **Agreement** in which case the provisions of this **Agreement** shall prevail.

13.2.5 Reference to Courts. Any constitutional issue arising out of, or in respect to, this **Agreement**, or the matters implemented or settled by this **Agreement**, shall be referred to court and not arbitration under Article 13.

13.2.6 No Substantive Rights. Nothing in Article 13 grants any substantive rights to any person except the right to refer and have matters arbitrated under Article 13.

13.3 NELSON HOUSE ARBITRATION

13.3.1 List of Arbitrators. After consultation with persons it considers advisable, **Chief and Council** shall establish and maintain an up-dated list of not more than ten (10), or fewer than five (5), persons who have qualities and experience suitable to be an arbitrator appointed in relation to any matter under Article 13.3, and who are willing to so act. **Chief and Council** shall make the list available to any person referring a matter to arbitration under Article 13.3 and on

request, any person to whom the provisions of Article 13.3 apply .

13.3.2 Referral to Arbitration. Disputes may be referred to arbitration under Article 13.3:

- (a) by a **Claimant**, or by **Chief and Council**, serving a referral to arbitration pursuant to Article 12.4.1; or
- (b) by a **Member, Nelson House, Chief and Council, the Nelson House Trustees**, a member of **Chief and Council**, a beneficiary of the **Trust** or the **Corporate Trustee** which involve interpretation of the **Indenture** or use or administration of **Assets** or **Trust Moneys**, but which does not involve **Canada, Manitoba** or **Hydro**, by serving a written referral to arbitration in a Schedules 12.6 or 13.1 form, upon any person against whom any relief, remedy, redress or order may be sought under Article 13.3.

13.3.3 Notification. **Chief and Council** shall, upon receipt of a referral under Article 13.3.2, forthwith:

- (a) provide a copy to the **Nelson House Trustees** and the **Corporate Trustee**; and
- (b) provide a list of potential arbitrators to the **Claimant**.

13.3.4 Appointment of Arbitrator. Subject to approval of any named respondent, a person referring a matter to arbitration under Article 13.3 may select the **Arbitrator** from the current list of arbitrators. A respondent who objects to an appointment must do so in writing delivered to the **Chief and Council** within fourteen (14) days of receipt of the notice of referral to arbitration. No person shall accept appointment or act as the **Arbitrator** in relation to any matter being arbitrated in which such person has a personal, pecuniary or other conflict of interest which could affect their impartiality with respect to the matter. If none of the persons named on the list of arbitrators is acceptable or able to act, and the person referring the matter, **Chief and Council** and any respondent are unable otherwise to agree upon an acceptable **Arbitrator**, any one of them may request the **Arbitrator** be appointed by a Judge of the Court of Queen's Bench of Manitoba in accordance with the provisions of The Arbitration Act (Manitoba).

13.3.5 Jurisdiction and Powers. From the date of acceptance of the appointment, the **Arbitrator** shall have jurisdiction over the conduct of the proceedings and may make such orders as are necessary to ensure that the dispute is dealt with fairly and expeditiously, with regard to the real substance of the matter in dispute. Subject to Article 13, the **Arbitrator** shall have power to:

- (a) resolve any dispute as to facts;
- (b) decide whether any **Claimant** is entitled to receive compensation

pursuant to this **Agreement**;

- (c) award compensation, which will place the **Claimant** in no worse position than the **Claimant** would have been in, in the absence of the **Adverse Effect**;
- (d) interpret this **Agreement** ;
- (e) declare the rights and obligations of **Nelson House, Chief and Council**, the **Nelson House Trustees**, a member of **Chief and Council**, a beneficiary of the **Trust**, the **Corporate Trustee**, a **Claimant**, or any **Member** under this **Agreement**;
- (f) cause an audit to be undertaken;
- (g) conduct a **Meeting of Members** pursuant to Article 19.5 of the **Indenture**;
- (h) award compensation from the **Claims Account**;
- (i) award damages or restitution in relation to the use and administration of **Assets** or **Trust Moneys**;
- (j) award interest; and
- (k) subject to Articles 13.3.6, 13.3.15 and 13.3.16, award costs, including costs from the **Claims Account**.

13.3.6 Costs. Any award of costs under Article 13.3.5(k) may include reasonable fees, travelling allowances and other ancillary expenses for lawyers,

consultants, experts or other witnesses participating in such arbitration as well as the reasonable fees of the **Arbitrator** under Article 13.3.15.

13.3.7 Finality. Any person referring a matter to arbitration under Article 13.3 may apply in writing to the **Arbitrator**, within thirty (30) days after the receipt of the decision, to amend or vary it in respect of anything that was raised before the **Arbitrator** or in the application or interpretation of such decision. Thereafter the **Arbitrator** shall have no jurisdiction with respect to the matter that was the subject of the arbitration.

13.3.8 Onus. Any party to an arbitration under Article 13.3 taking the position that the **Project** did not cause or contribute to any loss or damage suffered by a potential **Claimant** bears the onus of proof on that issue.

13.3.9 Expedited Arbitrations. The **Arbitrator** shall fix the date on which the matter will be considered, which shall fall within twenty-eight (28) days of the date the appointment is accepted. A decision, in written form, shall be delivered within twenty-eight (28) days of the receipt of all evidence and final argument. Where requested to do so by all parties to the arbitration, the **Arbitrator** shall issue an oral decision within one (1) day after conclusion of the hearing with written reasons to follow within the twenty-eight (28) day period.

13.3.10 Practice and Procedure. Subject to the rules of natural justice, the **Arbitrator** shall establish the practice and procedure for conducting the arbitration. The **Arbitrator** shall determine the matter based on a hearing, unless all of the **Parties** to the arbitration under Article 13.3 request a determination on documentary evidence and written referrals only, in which case the **Arbitrator** may direct a hearing or proceed as requested.

13.3.11 Representation by Counsel. Any person involved in an arbitration under Article 13.3 may be represented by counsel and the **Arbitrator** may order that payment for counsel of the **Claimant's** choice be made from the **Claims Account.**

13.3.12 Evidence. Evidence may be presented in writing or orally. The **Arbitrator** shall not be bound by the strict rules of evidence and may accept hearsay and any other evidence considered relevant.

13.3.13 Transcripts. If a hearing is held, the **Arbitrator** shall maintain a record of the proceedings. A party may request that the proceedings be transcribed, in which case a transcript shall be provided upon such terms as the **Arbitrator** may impose, including, without limitation, the costs thereof.

13.3.14 Hearing Location. Any hearing shall be held on the **Reserve** unless the parties to the dispute consent to it being held elsewhere in Manitoba.

13.3.15 Arbitrator's Fees. The **Arbitrator** shall not be restricted to the fee schedule appended to The Arbitration Act (Manitoba) but shall be paid a reasonable fee and expenses from the **Claims Account**, unless the **Arbitrator** orders a party to the arbitration to pay all or part of same. Any reasonable fees of the **Arbitrator** not paid by a party are to be paid from the **Claims Account**.

13.3.16 Interim Orders. The **Arbitrator** shall have the right to make interim orders, including orders for compensation and costs, prior to the final determination of any dispute.

13.3.17 Relationship Between Mitigatory Measures and Claimant Compensation. The **Parties** recognize that mitigatory or remedial measures are more likely to have a lasting, beneficial effect on the viability of a community or on individual residents, than monetary compensation. Accordingly, any evidence that such measures which have been implemented on a group or community basis in relation to the matters claimed, and their mitigatory effect when they have been implemented, shall be considered by the **Arbitrator**, as provided by Article 12.4.4,

in assessing the quantum of compensation to which any **Claimant** shall be entitled from the **Claims Account**.

13.3.18 Liability to Compensate. When a matter has been referred to arbitration pursuant to Article 12, the **Arbitrator** shall deal with the matter on the basis that the liability to compensate shall be solely and exclusively funded from the **Trust**.

13.4 PARTIES' ARBITRATION

13.4.1 Referral to Arbitration. Disputes may be referred to arbitration by any **Party** serving upon the other **Parties**, a written referral to arbitration, which shall contain the following:

- (a) the names of the respondents;
- (b) the nature of the dispute; and
- (c) the relief, remedy, redress or declaratory order sought.

13.4.2 Participation by Parties to the Agreement. Any **Party** whether named as a respondent or not, has the right to participate by notifying the participating **Parties** within twenty-one (21) days of receiving the referral. Any **Party** not identified as a respondent, and who elects not to participate, may not

participate in choosing the **Arbitrator**. Notwithstanding that a **Party** elects not to participate, such **Party** may, at any subsequent time, with leave of, and subject to any conditions imposed by the **Arbitrator**, including an award of costs, be added as a **Party** to the arbitration on its own application.

13.4.3 Appointment of **Arbitrator**. An **Arbitrator** agreed upon by the **Parties** to a dispute shall be appointed to adjudicate the dispute, using the following procedure:

- (a) the **Party** referring the issue to arbitration shall, with service of the written referral, also refer the names, addresses and occupations of not more than three (3) individuals, any one of whom may be selected by the participants to act as **Arbitrator**;
- (b) each **Party** identified as a respondent or which has indicated it will participate in the arbitration shall, within twenty-one (21) days of the receipt of the list of proposed arbitrators:
 - (i) select one (1) or more of the persons named on the list, or
 - (ii) reject all of the persons named on the list and so advise the other **Parties** in writing.

If a **Party** identified as a respondent, or which has requested to participate, does not respond to the list of proposed Arbitrators within

the twenty-one (21) days, it shall be deemed to have accepted any selection made by the other **Parties** involved in the dispute; and

- (c) if any one (1) of the persons on the list of proposed arbitrators is acceptable to all **Parties** and is willing and able to act as the **Arbitrator**, then that person shall be appointed as the **Arbitrator** forthwith. If more than one (1) person is unanimously selected, the **Arbitrator** shall be chosen from those persons by the **Party** referring the issue to arbitration within seven (7) days of receiving the responses referred to in Article 13.4.3(b), and the person chosen, if willing and able to act, shall be appointed the **Arbitrator** forthwith.

13.4.4 Application to Judge. If the **Parties** involved in the dispute can not agree upon a person to act as **Arbitrator**, any **Party** to the dispute may request that the **Arbitrator** be appointed by a Judge of the Court of Queen's Bench of Manitoba by applying within fourteen (14) days of the expiration of the time set out in Article 13.4.3(b). For the purposes of Article 6(2) of The Arbitration Act (Manitoba), the procedures set forth in Articles 13.4.4 and 13.4.5 shall govern and are in lieu of the procedures in Article 6(1) of that Act.

13.4.5 Jurisdiction. From the date of appointment, the **Arbitrator** shall have jurisdiction over the conduct of the proceedings and may make such orders as are

necessary to ensure that the dispute is dealt with fairly and expeditiously, with regard to the real substance of the matter in dispute. Subject to Article 13, and except as expressly provided elsewhere in the **Agreement**, the **Arbitrator** shall have the power to:

- (a) determine any dispute as to facts and the application of this **Agreement** thereto;
- (b) interpret all provisions of this **Agreement**;
- (c) declare the rights or obligations under this **Agreement** of any **Party**;
- (d) award damages, restitution or other compensation;
- (e) award interest;
- (f) award costs subject to the provisions set forth in Articles 13.4.13 and 13.4.14; and
- (g) carry out duties specifically assigned to the **Arbitrator** by the **Agreement** or the **Indenture**, including, without limitation, the authority to:
 - (i) amend Schedule 2.2 pursuant to Article 2.5.10 or as part of an approved compensation proposal under Article 8,
 - (ii) award additional compensation in extraordinary circumstances pursuant to Article 2.5.13,
 - (iii) review and revise safety measures under Articles 2.7.2

and 2.7.4,

- (iv) set the budget for the **Arena** pursuant to Article 11.7,
- (v) determine the appropriate capital value for the **Operation, Maintenance and Replacement** of the **Arena** pursuant to Article 11,
- (vi) determine disputes as to whether **Normal Programming and Funding** has been affected by the expenditure of **Settlement Proceeds** pursuant to Article 10.
- (vii) relieve **Hydro** from certain obligations and undertakings under Article 8 as provided in Article 8.3.8, and
- (viii) make recommendations and select a compensation proposal for **Future Development** pursuant to Articles 8.4.3, 8.4.4 and 8.4.5.

13.4.6 Procedure. Subject to the provisions of this **Agreement** and the rules of natural justice, the **Arbitrator** may establish the procedure for conducting the arbitration and may decide the matter based on a written record unless any **Party** involved in the dispute requests a hearing.

13.4.7 Representation by Counsel. Any **Party** involved in an arbitration

may be represented by counsel.

13.4.8 Evidence. Evidence submitted in an arbitration may be presented in writing or orally. Subject to Articles 13.4.12 and 13.7.5, the **Arbitrator** and any **Party** may request relevant information from any of the **Parties**. The **Arbitrator** shall not be bound by the strict rules of evidence and may accept hearsay and any other evidence considered relevant.

13.4.9 Transcripts. If a hearing is held, the **Arbitrator** shall maintain a record of the proceedings. A party may request that the proceedings be transcribed in which case a transcript shall be provided upon such terms as the **Arbitrator** may impose, including, without limitation, the costs thereof.

13.4.10 Hearing Location. A hearing shall be held in Winnipeg unless the parties to the dispute consent to a site elsewhere in Manitoba.

13.4.11 Arbitrator's Fees. The **Arbitrator** shall not be restricted to the fee schedule appended to The Arbitration Act (Manitoba) but shall be paid a reasonable fee and each party to the arbitration will bear the costs of the **Arbitrator's** remuneration and expenses equally unless the **Arbitrator** orders otherwise.

13.4.12 Disclosure and Distribution. Subject to Article 13.7.5, each **Party** to the arbitration agrees that it shall disclose and produce any documents or information which may reasonably be required by the **Arbitrator** or any **Party**, except such documents as would not be compellable if the action were brought in a court of law. All documents or information supplied to the **Arbitrator** by any **Party** shall concurrently be provided to every **Party** participating in the arbitration. All documents so disclosed shall be treated as though disclosed on discovery in a matter before the Court of Queen's Bench.

13.4.13 Costs. The **Arbitrator** shall award the costs of the arbitration on a fair and equitable basis. In the absence of an order as to costs, each **Party** to the dispute shall pay its own.

13.4.14 Inclusions. Any award of costs may include reasonable fees, travelling allowances and other ancillary expenses for not more than one representative of any **Party** to the arbitration and for lawyers, consultants, experts or other witnesses participating in the arbitration.

13.5 DISPUTES UNDER ARTICLE 14.4.1

13.5.1 Disputes with Nelson House Alone. If, in the absence of a claim

under Article 12, a dispute arises as to the continuing liability of **Hydro** under Article 14.4.1, that dispute shall be resolved as a dispute between **Parties** other than **Canada** and **Manitoba** pursuant to the provisions of Article 13.4.

13.5.2 Disputes Involving Claims by **Members**. If, pursuant to Article 12.3.8, **Hydro** disputes a preliminary decision under Article 12.3.7(e) that dispute shall be resolved pursuant to Article 13.5.

13.5.3 Appointment of **Arbitrator**. The **Arbitrator** shall be selected in the same manner as set forth in Articles 13.4.3 and 13.4.4 except that, for the purposes of Article 13.5.3, **Nelson House** shall be required to provide the initial list of persons to act as **Arbitrator** as contemplated under Article 13.4.3(a) and the term **Party**, as it is used in Articles 13.4.3 and 13.4.4, shall include a **Claimant** under Article 12 .

13.5.4 Arbitration Process. The preliminary issue of the continuing liability of **Hydro** under Article 14.4.1 in relation to the claim or part of the claim shall be decided by the **Arbitrator** as if it were a dispute between the **Parties** other than **Canada** and **Manitoba** and the process and provisions set forth in Articles 13.4.5 to and including 13.4.14 shall apply to such determination. In such an arbitration the onus shall be on **Hydro** to establish that the **Project** or the operation of the **Project**

by **Hydro** did not cause or contribute to any loss or damage suffered by a **Member**.

13.5.5 NFA Process. If the **Arbitrator** or, if the decision of the **Arbitrator** is appealed, the Court of Appeal, determines that **Hydro** has continuing liability under Article 14.4.1 in relation to the claim or part of the claim, the **Arbitrator** shall proceed to resolve such claim, or part thereof, applying the definitions, procedures, onus and other relevant provisions of articles 1, 23 and 24 of the **NFA**.

13.5.6 Referral Back. If the **Arbitrator** or, if the decision of the **Arbitrator** is appealed, the Court of Appeal, determines that **Hydro** has no continuing liability under Article 14.4.1 in relation to any part of the claim then the claim shall be referred back for determination under Article 12.3.9.

13.6 REVIEW AND APPEAL OF DECISIONS

13.6.1 Finality of Decision. Subject to Article 13.3.7 the decision of the **Arbitrator** under Articles 13.3, 13.4 or 13.5 shall be final and binding on all of the parties to the dispute subject to the right to appeal on a point of law or jurisdiction, within thirty (30) days of the appealing party's receipt of the **Arbitrator's** decision, to the Court of Appeal for Manitoba. Following delivery of an award, the **Arbitrator**

shall be functus officio on the issue decided which issue shall be res judicata between the parties to the arbitration. By agreement, confirmed in writing by all parties to the arbitration, the **Arbitrator** may retain jurisdiction to resolve outstanding issues arising from the matter in dispute.

13.6.2 Remedy for Late Decisions. Where an **Arbitrator** fails to issue the decision within the time prescribed in Articles 13.3, 13.4 or 13.5 any party to such arbitration may proceed to have a new arbitrator appointed, in the same manner as the original arbitrator was appointed, and upon appointment of the new arbitrator the original arbitrator shall lose jurisdiction and the new arbitrator shall resume the arbitration as the **Arbitrator**.

13.6.3 Valid Decision. Notwithstanding Article 13.6.2, until a new arbitrator is appointed the jurisdiction of the **Arbitrator** is not affected and if the **Arbitrator** renders the decision prior to the appointment of the new arbitrator, that decision is valid and binding and the process to choose the new arbitrator shall cease.

13.7 GENERAL PROVISIONS

13.7.1 Applicability. The provisions of Article 13.7 are applicable to

arbitrations under Articles 13.3, 13.4 and 13.5.

13.7.2 Undertaking. Upon appointment every **Arbitrator** shall swear or affirm an undertaking in a Schedule 13.2 form.

13.7.3 Vacancy. Where a vacancy occurs in the office of the **Arbitrator** after the commencement of proceedings, the proceedings need not recommence but may, with the unanimous consent of the parties to that arbitration, continue before a replacement arbitrator. In the absence of such unanimous consent the arbitration must recommence as if it were a new matter before a new arbitrator.

13.7.4 Amendments. Upon notice to all **Parties**, a referral may be amended at any time prior to the conclusion of the arbitration on such terms as the **Arbitrator** considers just.

13.7.5 Public Hearings. If the **Arbitrator** decides to hold a hearing, it shall be open to the public. The **Arbitrator** may hold the hearing or a portion thereof in private if sensitive financial or other like information is to be disclosed and the legitimate interest in avoiding disclosure of that information outweighs the principle that hearings be open to the public. No arbitration arising out of Articles 8 or 2.3.2 shall be open to the public and all documents, information and evidence provided

in connection with such arbitration shall be treated as confidential by the party receiving same.

13.7.6 No Amendment. Except as otherwise expressly provided, the **Arbitrator** shall not have the authority or jurisdiction to change, alter, or amend this **Agreement** or any term or provision contained therein.

13.7.7 Relief. The **Arbitrator** may relieve, on just and equitable terms, against breaches of time limits or procedural requirements set out in this **Agreement** provided no prejudice results therefrom.

13.7.8 Disqualification. No person who has a personal or pecuniary interest in a matter referred to arbitration or is otherwise in a conflict of interest which could affect that person's impartiality with respect to such matter, shall act, or continue to act as **Arbitrator** in relation to that matter.

13.7.9 No Derogation. The provisions of Article 13 do not apply to actions of the Governor in Council or Lieutenant Governor in Council, Ministers or other servants of Her Majesty in Right of Canada or of Manitoba, where such actions are taken specifically pursuant to federal or provincial statute, but remedies or judicial review available at law shall not be affected. Nothing in Article 13 shall

derogate from specific obligations of **Canada** and **Manitoba** pursuant to this **Agreement**.

13.7.10 Canada. Notwithstanding section 2 of The Arbitration Act, (Manitoba), that Act does not, by its own force, apply to **Canada**, but **Canada** shall recommend to the Parliament of Canada, legislation providing that the legislation of Manitoba relating to arbitration applies in respect of any dispute between the **Parties** which is submitted to arbitration under the terms of the **Agreement**. Unless or until such legislation is enacted an arbitration involving **Canada** will be governed by common law rules.

SCHEDULE 13.1

REFERRAL TO ARBITRATION

To: (names of respondents)

Take Notice that the following matter is being referred to arbitration under Article 13 of the 1996 Nelson House NFA Implementation Agreement :

(describe matter in dispute)

Further take notice that the following relief, remedy, redress or order is being sought:

(describe relief, remedy, redress or order sought)

Further take notice that the following person from the list prepared by Chief and Council under Article 13.3.1 of such Agreement has been selected to act as **Arbitrator**:

(name of person selected)

If you have any objection to the person selected you must advise in writing within 14 days of your receipt of this referral to arbitration.

DATED at Nelson House the of , 19 .

TABLE OF CONTENTS

Page

ARTICLE 14

14.0 RECIPROCITY 1

14.1 INTRODUCTION 1

14.1.1 Introduction 1

14.2 RELEASES 1

14.2.1 Release - Canada. 1

14.2.2 Release - Manitoba. 2

14.2.3 Release - Hydro. 2

14.2.4 Satisfaction. 3

14.2.5 Covenant. 3

14.3 INDEMNITIES 4

14.3.1 Indemnity 4

14.3.2 Exceptions 4

14.4 CONTINUING LIABILITY OF HYDRO 5

14.4.1 Liability 5

14.4.2 Limitation 6

14.4.3 Notice 6

14.4.4 Disputes 6

14.4.5 SIL Claims Not Settled 7

14.4.6 Indemnity 7

14.5 ADDITIONAL PROVISIONS 7

14.5.1 Inter Party Release. 7

14.5.2 Agreement Not to Affect NFA Article 6. 8

14.5.3 Future Acts or Omissions. 8

14.5.4 Liability for Acts or Omissions of Other Parties. 9

14.5.5 Prior Settlements 9

14.5.6 Order 9

14.5.7 Other Agreements 10

Schedule 14.1: Nelson House: List of NFA Claims to be Released

ARTICLE 14

14.0 RECIPROCITY

14.1 INTRODUCTION

14.1.1 Introduction. Article 14 sets forth the general releases and indemnities, and the exceptions to both the general and specific releases contained in this **Agreement**.

14.2 RELEASES

14.2.1 Release - Canada. **Nelson House** hereby releases and forever discharges **Canada** of and from any and all actions, causes of action, suits, claims, demands, losses or damages of any nature or kind whatsoever, at law or in equity, which **Nelson House**, or **Nelson House** on behalf of any **Member**, their respective successors, assigns, heirs, executors or administrators, have had, now have or hereafter can, shall or may have, for, or by reason of, any cause, matter or thing whatsoever to the extent attributable to **Existing Development** or arising out of, or under, the **NFA**, save and except as set forth in this **Agreement**; and including claims, if any, of a fiduciary nature which may have arisen in respect of **Canada's** obligations to **Nelson House** for anything done or omitted to be done by **Canada**

to the **Date of this Agreement**.

14.2.2 Release - Manitoba. **Nelson House** hereby releases and forever discharges **Manitoba** of and from any and all actions, causes of action, suits, claims, demands, losses or damages of any nature or kind whatsoever, at law or in equity, which **Nelson House**, or **Nelson House** on behalf of any **Member**, their respective successors, assigns, heirs, executors or administrators, have had, now have or hereafter can, shall or may have, for, or by reason of, any cause, matter or thing whatsoever to the extent attributable to **Existing Development** or arising out of, or under, the **NFA**, save and except as set forth in this **Agreement**; and including claims, if any, of a fiduciary nature which may have arisen in respect of **Manitoba's** obligations to **Nelson House** for anything done or omitted to be done by **Manitoba** to the **Date of this Agreement**.

14.2.3 Release - Hydro. **Nelson House** hereby releases and forever discharges **Hydro** of and from any and all actions, causes of action, suits, claims, demands, losses or damages of any nature or kind whatsoever, at law or in equity, which **Nelson House**, or **Nelson House** on behalf of any **Member**, their respective successors, assigns, heirs, executors, or administrators, have had, now have or hereafter can, shall or may have, for, or by reason of, any cause, matter or thing whatsoever to the extent attributable to **Existing Development** or arising out of, or

under, the **NFA**, save and except as set forth in this **Agreement**; and including claims, if any, of a fiduciary nature which may have arisen in respect of **Hydro's** obligations to **Nelson House** for anything done or omitted to be done by **Hydro** to the **Date of this Agreement**.

14.2.4 Satisfaction. Except as otherwise specifically provided in this **Agreement**, all existing and future rights of action and claims of **Nelson House**, and of **Nelson House** on behalf of each and every past, present and future **Claimant** and their respective estates, and of **Nelson House** on behalf of any other person whose action or claim arises from the participation of **Nelson House** in the **NFA**, in respect of any claims or causes of action relating to or arising out of **Existing Development** or the **NFA**, as against **Canada, Manitoba** and **Hydro** are fully and finally satisfied and concluded.

14.2.5 Covenant. **Nelson House** covenants and agrees not to commence or prosecute any action, claim, demand or proceeding on its own behalf or on behalf of any other person or entity against any or all of **Canada, Hydro** or **Manitoba** with respect to any action, cause of action, suit, claim, demand, loss or damage which has been fully and finally concluded or with respect to which **Nelson House** has released or indemnified **Canada, Hydro** or **Manitoba**.

14.3 INDEMNITIES

14.3.1 Indemnity. Except as set out in Article 14.3.2, **Nelson House** hereby undertakes and agrees to indemnify and save harmless **Manitoba, Canada** and **Hydro** in respect of any and all actions, causes of action, suits, claims, demands, losses or damages of any nature or kind whatsoever, at law or in equity, brought or instituted, directly or indirectly, by any **Claimant** or **Member** by reason of any cause, matter or thing whatsoever attributable to **Existing Development** or arising out of, or under, the **NFA**. This indemnity does not cover the costs of the indemnified **Party** in resisting such claim and is conditional upon the indemnified **Party**:

- (a) forthwith, upon becoming aware of such claim, giving notice to **Nelson House**; and
- (b) supporting any application by **Nelson House** to be named as a party thereto.

14.3.2 Exceptions. Nothing in this **Agreement** shall require **Nelson House** to indemnify **Canada, Manitoba** or **Hydro** for:

- (a) an amount, in aggregate, greater than the face value of the portion of the **Settlement Proceeds** paid by the **Party** demanding indemnity;
- (b) matters for which **Hydro** remains liable under Article 14.4.1;
- (c) obligations related to Article 6 of the **NFA** as referred to in Article

14.5.2;

- (d) breaches of this **Agreement** or future wrongful acts or omissions;
- (e) an **SIL Claim**;
- (f) that portion of any settlement made in respect of claims referred to in Article 14.3.1, without the consent of **Nelson House**, which is unreasonable or excessive in the circumstances of the case; or
- (g) claims or actions settled by the **Party** seeking indemnity prior to the **Date of this Agreement**.

14.4 CONTINUING LIABILITY OF HYDRO

14.4.1 Liability. It is understood and agreed that **Nelson House** does not waive, release, or indemnify **Hydro** with respect to the following:

- (a) liability and claims for personal injury and death, past and future, caused by or attributable to the **Project**;
- (b) liability and claims for **Adverse Effects** of the **Project**, as further defined by Article 14.4.2, that were, at the **Date of this Agreement**, unknown or unforeseen and not discernible or foreseeable with the exercise of due diligence;
- (c) liability and claims for human disabilities, illness or death resulting from the ingestion of methyl mercury caused by or attributable to the

Project; or

- (d) liability and claims for the recovery and re-interment of human remains disinterred by flooding or shoreline deterioration caused by or attributable to the **Project**.

14.4.2 Limitation. The **Adverse Effects** referred to in Article 14.4.1(b) are further limited to chemical, biological and physical impacts causing material damage to the adversely affected person, and attributable to the **Project**. Alleged socio-economic damages to the adversely affected person, if any, are understood to be compensable only to the extent that they are caused by or attributable to such chemical, biological and physical impacts.

14.4.3 Notice. **Nelson House** shall give prompt notice of any occurrence which is alleged to have caused an **Adverse Effect** as referred to in Article 14.4.1(b), together with all particulars and evidence in support of such occurrence and of any damages which are alleged to have resulted therefrom.

14.4.4 Disputes. If there is a dispute as to whether **Hydro** continues to be liable under Article 14.4.1, with respect to any particular occurrence, that dispute shall be resolved as a preliminary issue under Articles 13.4 or 13.5.

14.4.5 **SIL Claims Not Settled.** This **Agreement** does not settle or conclude **SIL Claims**, if any, against any of **Canada, Manitoba or Hydro**.

14.4.6 **Indemnity.** If **Nelson House** becomes liable to pay compensation in respect of an **SIL Claim** for loss or damage for which, in the absence of this **Agreement, Manitoba or Hydro** would be liable, **Manitoba or Hydro**, as the case may be, shall indemnify **Nelson House** with respect to such compensation. This indemnity is conditional upon **Nelson House**:

- (a) forthwith, upon becoming aware of a claim for such compensation, giving notice to **Manitoba or Hydro** as the case may be;
- (b) actively and diligently resisting any such claim for compensation; and
- (c) supporting any application by **Manitoba or Hydro**, as the case may be to be named as a party thereto.

14.5 **ADDITIONAL PROVISIONS**

14.5.1 **Inter Party Release.** Except as otherwise provided in this **Agreement**, each of **Canada, Manitoba and Hydro** hereby releases and forever discharges each other, of and from any and all actions, causes of action, suits, claims, demands, losses or damages of any nature or kind whatsoever, at law or in equity, which any one or more of **Canada, Manitoba or Hydro** have had, now have

or hereafter can, shall or may have against one or more of the other, for, or by reason of, any cause, matter or thing whatsoever, up to the **Date of this Agreement**, or at any future time, attributable to **Existing Development** or arising out of, or under, the **NFA** to the extent such actions, causes of action, suits, claims, demands, losses or damages of any nature or kind whatsoever relate to **Nelson House**. This release does not apply to actions, causes of action, suits, claims, demands, losses or damages of any nature or kind whatsoever arising from **SIL Claims**.

14.5.2 **Agreement Not to Affect NFA Article 6.** Nothing in this **Agreement** shall settle or amend, or be deemed to settle or amend, any claim or obligation arising under Article 6 of the **NFA** or the agreement dated May 10, 1988 to which **Canada, Nelson House, the NFC, the Northern Flood Capital Reconstruction Committee Inc.** and others are parties.

14.5.3 **Future Acts or Omissions.** Nothing in this **Agreement** shall relieve any **Party** of liability for breaches of this **Agreement**, future breaches of fiduciary obligations, future negligent or unlawful acts or omissions, or future wilful misconduct, on their own part, or on the part of those for whom they are responsible at law.

14.5.4 Liability for Acts or Omissions of Other Parties. Except where otherwise provided, no **Party** shall be liable or responsible for things done, or omitted to be done, by any other **Party**.

14.5.5 Prior Settlements. This **Agreement** subsumes all compensation agreements including those which are the subject of orders of the **NFA** arbitrator and all orders of the **NFA** arbitrator for payment, to the extent such agreements and orders pertain to **Nelson House** and relate to **Existing Development** or arise out of, or under, the **NFA** except the Domestic Fishing Agreement between **Hydro** and **Nelson House** which will be in effect until September 30, 1995 and any agreement related to Article 6 of the **NFA**. Subject to those exceptions, this **Agreement** releases and discharges any action, cause of action or claim arising under any such agreement or order. Nothing in this **Agreement** shall affect any agreement between **Canada** and **Nelson House** for the provision of financial resources.

14.5.6 Order. The **Parties** agree that within one hundred and eighty (180) days following the **Date of this Agreement**, application will be made jointly by all of the **Parties** to the arbitrator under the **NFA** for a final order dismissing all outstanding claims except those specifically excluded by this **Agreement** and including, without limitation, those claims detailed in Schedule 14.1 to this **Agreement**, as those claims relate to **Nelson House**. The **Parties** will apply for,

consent to and take all necessary steps to obtain an order which will render the matters involved in such claims res judicata among the **Parties**. No **Party** shall thereafter have standing to bring a claim to which such order applies.

14.5.7 Other Agreements. Nothing in this **Agreement** shall release or discharge any action, cause of action or claim arising from any agreement matter or thing unrelated to **Existing Development** and not arising out of, or under, the **NFA**.

SCHEDULE 14.1

NELSON HOUSE

LIST OF NFA CLAIMS TO BE RELEASED

Claim No.

Issues

12	Compensation for mercury contamination except to the extent such claim relates to the liability of Hydro for human disabilities, illness or death resulting from the ingestion of methyl mercury caused by or attributable to the Project
14	Footprint River causeway - obstructions to navigation
17	Notigi Dam construction - obstructions to navigation
18	Failure to submit reports to LWC & NR study Board, and to analyze ongoing socio-economic changes
19	Fund for maintenance and replacement of remedial and permanent works on the reserves

20	Providing reports on effects of Project on residents' lifestyle
23	Article 3 provisions for determination of severance lines
27	Training residents to become conservation officers
28	NFC administrative funding
33	Trapline Program, adverse effects on traplines and recreation
34	Opportunities for education and employment in the Project
36	Adverse effects on traplines and recreation, deterioration of traditional way-of-life
38	Community Development Plans
38B	Community Development Plans (revised Claim 38)
41	Community Liaison Committee, discussion of future development plans and their effects

43	Article 3 - land transfer, hold areas, exclusive use permits
93	Wildlife Advisory Planning Board - expenses, resources, and information
94	Recreational use of waterways
98	LWC and NR Management Board - comprehensive management plan
99	Damage to native cultural heritage
102	Loss of use of buildings at R.C. Point
103	Adverse effects on fishery
105	Adverse effects on shorelines, docks, roads, houses, structures and infrastructure; education and training; remedial works and community development
107	Purchase of land at R.C. Point

108	Geodetic datum
110	Compensation for adverse effects on fishing
113	Plans for Rat, Burntwood, Lower Churchill and Nelson Rivers, Burntwood River power plants
114	Maps for effected lands, static inundation levels
116	Coordination of programs and activities; training opportunities; comprehensive development plans; Study Board recommendations; trapline program review; fisheries negotiations
126	Clearing inundated trees; effects on shorelines
129	Requirements for decision-making and problem-solving, lack of technical assistance
130	Loss of land use and value; shoreline deterioration

131	Maps, loss of personal property; costs of alternative travel; clearing debris impeding navigation; debris-control programs; life insurance policy
132	Resource areas; destruction of wildlife; Cross Lake outlet control structure; Article 17 Study Board recommendation
133	Failure to fulfill NFA obligations
133A	Anxiety and stress re NFA benefits
135	Implementing Article 3 & 4
136	Community development assistance and plans
137	Steps necessary to implement all provisions of the NFA
139	Capitalizing funding for remedial works maintenance and depreciation
140	Houses demolished below the setback line

144	Breach of certain NFA provisions
146	Housing upgrading program
150	Costs for technical, consulting and legal services
165	Costs of technical, consulting and legal services

TABLE OF CONTENTS

ARTICLE 15

15.0	GENERAL PROVISIONS	1
15.1	INTRODUCTION	1
15.1.1	<u>Introduction</u>	1
15.2	INTERPRETATION	1
15.2.1	<u>Headings</u>	1
15.2.2	<u>Numbers, Plural</u>	1
15.2.3	<u>Metric Measure</u>	1
15.2.4	<u>Interpretation Aids</u>	2
15.3	PRESUMPTIONS	2
15.3.1	<u>No Presumptions</u>	2
15.4	VALIDITY OF PROVISIONS	3
15.4.1	<u>Powers and Prerogatives</u>	3
15.4.2	<u>Statutory Requirements</u>	3
15.4.3	<u>No Contingency</u>	3
15.5	PARTIES	4
15.5.1	<u>Binding on Parties</u>	4
15.5.2	<u>Not to Share</u>	4
15.6	NOTICE	4
15.6.1	<u>Notices</u>	4
15.7	ENTIRE AGREEMENT	6
15.7.1	<u>Agreement Supersedes</u>	6
15.7.2	<u>No Merger</u>	7
15.7.3	<u>Assignment</u>	7
15.7.4	<u>Further Action</u>	7
15.8	GOVERNING LAW	7
15.8.1	<u>Laws in Manitoba</u>	7
15.8.2	<u>Citations</u>	7
15.8.3	<u>Enforceable by Parties</u>	8
15.8.4	<u>Licences</u>	8
15.8.5	<u>Federal Licences</u>	8
15.9	NO ADMISSION, PRECEDENT OR PREJUDICE	9
15.9.1	<u>No Precedent</u>	9

15.9.2	<u>No Admission</u>	9
15.9.3	<u>Without Prejudice</u>	9
15.10	WARRANTY	9
15.10.1	<u>Independent Advice</u>	9
15.10.2	<u>Acknowledgment</u>	10
15.10.3	<u>Disclosure - Canada</u>	11
15.10.4	<u>Disclosure - Manitoba</u>	12
15.10.5	<u>Disclosure - Hydro</u>	12
15.10.6	<u>Disclosure - Nelson House</u>	12
15.11	INDEPENDENT LEGAL ADVICE	13
15.11.1	<u>Independent Legal Advice</u>	13
15.12	APPROPRIATION	13
15.12.1	<u>Appropriation.</u>	13
15.13	SUNDRY	13
15.13.1	<u>Amendment</u>	13
15.13.2	<u>Acknowledgment</u>	14
15.13.3	<u>Treaty Rights</u>	14
15.13.4	<u>Rights of Other First Nations Not Affected</u>	15
15.13.5	<u>Warranty</u>	15
15.13.6	<u>Assumption of Liability</u>	15
15.13.7	<u>Dispute.</u>	16
15.13.8	<u>Limitation.</u>	17
15.13.9	<u>Reasonable Efforts.</u>	17
15.13.10	<u>Four Party Meeting.</u>	17
15.13.11	<u>Indexing</u>	17
Schedule 15.1:	Community Consultation Report	
Schedule 15.2:	List of Federal Departments Consulted	
Schedule 15.3:	List of Provincial Departments Consulted	
Schedule 15.4:	Certificate of Independent Legal Advice	

ARTICLE 15

15.0 GENERAL PROVISIONS

15.1 INTRODUCTION

15.1.1 Introduction. Article 15 contains provisions of a general nature relating to this **Agreement**.

15.2 INTERPRETATION

15.2.1 Headings. The Article and section headings, and the introductory provision in each Article of this **Agreement** are for reference and information purposes only, and shall not affect in any way the meaning or interpretation of this **Agreement**.

15.2.2 Numbers, Plural. Words importing the singular number only shall include the plural, and vice versa, as the context may require; and words importing persons shall include firms, governments and corporations, and vice versa, as the context may require.

15.2.3 Metric Measure. Subject to any legislative requirement, in the

event of a conflict between metric and Imperial measure, metric measure shall prevail, except, where the original document, data or measuring device was in Imperial, the Imperial measure shall prevail. The **Parties** agree that the metric conversion rate to be used for purposes of this **Agreement** shall be 1 foot equals 0.3048 meters and 1 meter equals 3.28084 feet .

15.2.4 Interpretation Aids. In any interpretation of this **Agreement**, only the **Agreement** itself shall be considered and no other documents, notes, memoranda, electronic record, et cetera shall be referred to or considered as evidence of the agreement among the Parties.

15.3 **PRESUMPTIONS**

15.3.1 No Presumptions. The **Parties** have endeavoured to ensure that the terms of this **Agreement** are as clear as possible and in interpreting this **Agreement** and except where expressly provided there shall be no presumption in favour of or against any **Party**.

15.4 VALIDITY OF PROVISIONS

15.4.1 Powers and Prerogatives. Nothing in this **Agreement** shall be deemed to bind or infringe upon the powers and prerogatives of the Parliament of Canada or the Legislative Assembly of Manitoba or any legislative powers of **Chief and Council**.

15.4.2 Statutory Requirements. Nothing in this **Agreement** shall require any **Party** to take any actions not otherwise provided for in this **Agreement**, or required by statute or regulation, or exempt any **Party** from, or be deemed to modify, any requirement arising under statute or regulation.

15.4.3 No Contingency. No portion of the **Settlement Proceeds** shall be used to pay a contingency fee or bonus to any member of **Chief and Council**, or to any advisor or legal counsel acting on behalf of **Nelson House** in relation to, or as payment for, work done in negotiating, finalizing or documenting this **Agreement**.

15.5 PARTIES

15.5.1 Binding on Parties. This **Agreement** shall be binding upon and enure to the benefit of the **Parties** and their respective successors and permitted assigns. Except for **Members** in their capacity as beneficiaries of the **Trust**, nothing in this **Agreement** is intended to confer upon any person not a **Party** to this **Agreement** nor a party to the **Indenture** any rights or remedies under or by reason of this **Agreement** or the **Indenture**.

15.5.2 Not to Share. No member of the House of Commons of Canada or the Legislative Assembly of Manitoba, and no employee or servant of **Canada** or **Manitoba** may share in any part of this **Agreement**, or of any contract or agreement made pursuant to this **Agreement**, or to any benefit to arise from this **Agreement**, except, as permitted by law, where such employee or servant is a **Member** and then only to the extent of a benefit which is available to **Members**, or a group of **Members**, generally.

15.6 NOTICE

15.6.1 Notices. All notices and other communications provided for in this

Agreement shall be in writing, and shall be given by personal delivery or sent by registered mail or tele-facsimile, charges pre-paid and confirmed by telephone, to the applicable addresses set out in Article 15.6.1, or to addresses or telefacsimile numbers which a **Party** may from time to time designate to the other **Parties**. Any such communication shall be deemed to have been validly and effectively given on the date of such delivery, if such date is a business day and such delivery has been made during the normal business hours of the recipient; otherwise, it shall be deemed to have been validly and effectively given on the business day next following such date of delivery. The addresses for the **Parties** are:

To **Canada**:

The Regional Director General
The Department of Indian Affairs Northern Development
Suite 1100, 275 Portage Avenue
Winnipeg, Manitoba
R3B 3A3

To **Nelson House**:

Chief and Council
Nelson House First Nation
General Delivery
Nelson House, Manitoba
R0B 1A0

To **Hydro**:

Manitoba Hydro
General Counsel
3rd Floor, 820 Taylor Ave.
Winnipeg, Manitoba
R3C 2P4

To **Manitoba**:

Deputy Minister of Northern Affairs
Legislative Bldg.
Winnipeg, Manitoba
R3C 0V8

15.7 ENTIRE AGREEMENT

15.7.1 Agreement Supersedes. This **Agreement** constitutes the entire agreement between the **Parties** and, except for the Domestic Fishing Agreement between **Hydro** and **Nelson House** which will run until September 30, 1995 and any prior agreements or arrangements between **Hydro** and **Manitoba** that do not affect the rights of any other **Party** under this **Agreement**, supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, between the **Parties** in relation to the matters dealt with herein. There are no representations, warranties, collateral agreements or conditions to this **Agreement** except as expressly stated in this **Agreement**.

15.7.2 No Merger. Except as expressly provided in this **Agreement**, or in any other agreement between the **Parties**, no provisions of any other agreement shall merge with this **Agreement**.

15.7.3 Assignment. Except as expressly provided in this **Agreement**, neither this **Agreement** nor any portion or provision of this **Agreement**, may be assigned without prior written permission of all of the **Parties**.

15.7.4 Further Action. Each of the **Parties** to this **Agreement** will, from time to time, and without further consideration, execute and deliver such other instruments of transfer, conveyance and assignment, and take such further action as required, to more effectively complete any matter provided for in this **Agreement**.

15.8 GOVERNING LAW

15.8.1 Laws in Manitoba. This **Agreement** shall be governed by, and construed in accordance with, the federal and provincial laws from time to time in force in the Province of Manitoba.

15.8.2 Citations. Any reference to legislation shall include amendments

thereto or successor legislation, except where the statute or regulation is identified in this **Agreement** as that in force at the **Date of this Agreement**.

15.8.3 Enforceable by Parties. This **Agreement** may only be enforced by a **Party**, however, **Members** shall have the right of enforcement established by the **Indenture**. No claim under this **Agreement** or the **Indenture** may be brought against **Canada, Manitoba** or **Hydro** except by a **Party**.

15.8.4 Licences. Nothing in this **Agreement** is intended to detract from, or relieve any **Party** from, obligations incurred pursuant to any legislation, approvals, licences or authorities under which such **Party** operates. Each **Party** expressly reserves the right to raise any issue relating to such licences or authorities.

15.8.5 Federal Licences. Nothing in this **Agreement** is intended to qualify or amend approvals, licences or permits of any kind, granted by **Canada** pursuant to any statute other than the Indian Act (Canada).

15.9 NO ADMISSION, PRECEDENT OR PREJUDICE

15.9.1 No Precedent. Neither this **Agreement** nor any provision of this **Agreement**, shall constitute a precedent for interpreting the rights and obligations, or identifying the intention of any **Party** in relation to any matter involving any person who is not a party to this **Agreement** or a beneficiary under the **Indenture** or an agent of **Chief and Council** or a person claiming through, under or by **Nelson House**.

15.9.2 No Admission. Nothing in this **Agreement** shall constitute an admission of liability on the part of any **Party**.

15.9.3 Without Prejudice. This **Agreement** is without prejudice to the position of any **Party** with respect to the provisions of the **NFA**, as those provisions may apply to any person who is not a party to this **Agreement**.

15.10 WARRANTY

15.10.1 Independent Advice. In addition to the representations and warranties contained in the Community Consultation Report attached as Schedule

15.1 to this **Agreement**, **Nelson House** warrants that, throughout the negotiations leading to this **Agreement**:

- (a) it has been independently advised by legal counsel, technical advisors and consultants of its choice with respect to all matters arising in connection with or dealt with in this **Agreement**;
- (b) this **Agreement** has been jointly drafted, considered and revised by representatives of all of the **Parties**, and duly authorized **Nelson House** representatives have participated fully in the preparation of this **Agreement**; and
- (c) as set forth in the Community Consultation Report outlined as Schedule 15.1, it has caused the nature and significance of all major aspects of this **Agreement** to be explained at community meetings, which were open to all **Members**, in order that all **Members** could have the opportunity to discuss all relevant matters under negotiation and thereafter make an informed decision at ratification.

15.10.2 Acknowledgment. The **Parties** acknowledge that there has been extensive information gathered and exchanged between the **Parties**, regarding the impacts of the **Project** and the implementation of the provisions of the **NFA**. This has included information gathered or commissioned by each of the

Parties; information jointly obtained by two (2) or more **Parties**; information obtained by or on behalf of **Nelson House** but funded by another **Party**; and information obtained by **Nelson House** for its own purposes in the conduct of these negotiations. The **Parties** acknowledge that additional information could have been gathered; but that the gathering of additional information should not further delay the implementation of the **NFA** and other measures provided for in this **Agreement**; and each of the **Parties**, based on the information available to them, has independently determined that it is sufficiently informed to conclude this **Agreement**.

15.10.3 Disclosure - Canada. Based upon information received from inquiries made in or about April, 1995 to the Assistant Deputy Ministers of the departments of the government of **Canada** listed in Schedule 15.2, **Canada** warrants that none of the said departments of the government of **Canada** have made a decision to withhold information or documentation from **Nelson House**, which information or documentation a department could reasonably have known was material to the implementation of the **NFA** for the benefit of **Nelson House**, except such information or documentation as would not be accessible under the Access to Information Act (Canada).

15.10.4 Disclosure - Manitoba. Based upon information received from inquiries made in or about March, 1995 to the Assistant Deputy Ministers of the departments of the government of **Manitoba** listed in Schedule 15.3 **Manitoba** warrants that none of the said departments of the government of **Manitoba** have made a decision to withhold information or documentation from **Nelson House**, which information or documentation a department could reasonably have known was material to the implementation of the **NFA** for the benefit of **Nelson House**, except such information or documentation as would not be accessible under The Freedom of Information Act (Manitoba).

15.10.5 Disclosure - Hydro. **Hydro** warrants that it has not, at any time made a decision to withhold information or documentation from **Nelson House**, which information or documentation **Hydro** could reasonably have known was material to the implementation of the **NFA** for the benefit of **Nelson House**, except such information or documentation as would not be accessible under The Freedom of Information Act (Manitoba).

15.10.6 Disclosure - Nelson House. **Nelson House** warrants that it has not, at any time, made a decision to withhold information or documentation from **Canada, Manitoba or Hydro**, which information or documentation **Nelson House**

could reasonably have known would have been material to the decision of the other **Parties** in entering into this **Agreement**, except such information or documentation as is, or was, of a privileged or confidential character, or is, or was, prepared for the purposes of presenting recommendations to **Chief and Council**.

15.11 INDEPENDENT LEGAL ADVICE

15.11.1 Independent Legal Advice. This **Agreement** shall be accompanied by an executed certificate of independent legal advice in the form and content of Schedule 15.4.

15.12 APPROPRIATION

15.12.1 Appropriation. The amounts payable by **Canada** and **Manitoba** pursuant to this **Agreement** are subject to appropriation by the Parliament of Canada and the Legislative Assembly of the Province of Manitoba, respectively.

15.13 SUNDRY

15.13.1 Amendment. This **Agreement** may be amended:

- (a) by the **Parties** acting unanimously;
- (b) where expressly provided, by two (2) or more of the **Parties**;
or
- (c) with respect to Schedule 2.2, by the **Arbitrator**.

15.13.2 Acknowledgment. **Nelson House** acknowledges that except as specifically provided in this **Agreement**, none of **Manitoba**, **Hydro** or **Canada** shall be responsible for the effectiveness of the implementation arrangements in this **Agreement**, and **Nelson House** acknowledges that there is no representation or warranty, either express or implied, by any of **Manitoba**, **Hydro**, or **Canada**, that the arrangements in this **Agreement** will result in the attainment of the goals of **Nelson House**.

15.13.3 Treaty Rights. Nothing in this **Agreement** is intended to alter aboriginal or treaty rights of **Nelson House** or other aboriginal peoples recognized and affirmed under section 35 of the Constitution Act, 1982. The **Parties** are, pursuant to the terms of this **Agreement**, implementing the **NFA** by compensating and making provision for future compensation:

- (a) in cash or kind; and
- (b) through the implementation of compensatory and mitigatory

arrangements to address **Adverse Effects** on **Nelson House**, any **Member**, or group of **Members**, their respective property, resources, assets and exercise of their rights.

15.13.4 Rights of Other First Nations Not Affected. Nothing in this **Agreement** affects any rights or obligations of any First Nation other than **Nelson House**.

15.13.5 Warranty. **Nelson House** warrants that from at least June 30, 1992, up to and including the **Date of this Agreement**, the **NFC** has not been, for any purpose, the agent or representative of **Nelson House** in relation to the **NFA**, or any claim thereunder, except for Claims 38, 38B, 159, and 165, and that such agency in relation to those claims shall not affect the validity of the releases given by **Nelson House** in this **Agreement** with respect to those claims.

15.13.6 Assumption of Liability. If **Hydro** ceases:

- (a) to be an agent of Her Majesty the Queen in Right of Manitoba;
- (b) to have legal authority and control over the operation of the **Project**;
- or
- (c) to have legal authority and control over the operation of any major

work or structure constituting part of the **Project**, the operation of which could affect inundation or storage of water on a waterbody within the **Resource Management Area**;

then **Manitoba** shall:

- (d) in the circumstances to which paragraph 15.13.6(a) or paragraph 15.13.6(b) of this Article applies, assume all of the rights and obligations of **Hydro** under this **Agreement**; and
- (e) in the circumstances to which paragraph 15.13.6(c) of this Article applies, assume the rights and obligations of **Hydro** under this **Agreement**, as such rights and obligations relate to the works or structures over which **Hydro** no longer has effective authority and control.

In all such events, the provisions of this **Agreement** shall be read with the necessary changes to reflect the assumption by **Manitoba** of rights and obligations of **Hydro** under this **Agreement**, but such assumption shall not relieve **Hydro**, or any successor of **Hydro**, of its obligations under this **Agreement**.

15.13.7 Dispute. If **Manitoba** disputes that it has assumed the rights and obligations of **Hydro** under Article 15.13.6, that dispute may only be referred to arbitration or to court by a **Party**.

15.13.8 Limitation. Unless Manitoba has assumed the rights and obligations of **Hydro** under Article 15.13.6, no arbitration or court proceeding shall be brought against **Manitoba** under Articles 15.13.6 for any alleged misfeasance, malfeasance or non-feasance of **Hydro**, except by a **Party**.

15.13.9 Reasonable Efforts. In the circumstances to which Article 15.13.6 applies, **Nelson House** shall make reasonable efforts (but shall not be obliged to incur excessive or unusual costs) to have any dispute or matter resolved by **Hydro**, or its successor before having recourse to **Manitoba**, in accordance with the obligations which **Manitoba** will have assumed under this **Easement Agreement**.

15.13.10 Four Party Meeting. Any **Party** may, at any time, convene a meeting of the **Parties** for purposes relating to the **Agreement** by providing not less than thirty (30) days written notice setting forth the purpose, date, time, and place in Winnipeg or any other agreed place in Manitoba, for such meeting.

15.13.11 Indexing. Except for amounts set out in the **Financial Schedule**, where any amount of money is specified in dollars in this **Agreement** it will where appropriate in the context be read as if it had been adjusted over time from the **Date**

of the Agreement based upon the **Consumer Price Index**.

SCHEDULE 15.2

LIST OF FEDERAL DEPARTMENTS CONSULTED

Department of Indian Affairs & Northern Development

Department of Transport

Department of the Environment

Department of Fisheries & Oceans

Department of Health & Welfare

SCHEDULE 15.3

LIST OF PROVINCIAL DEPARTMENTS CONSULTED

Department of Highways and Transportation

Department of Natural Resources

Department of Environment

Department of Finance

Department of Energy and Mines

Department of Urban Affairs

Department of Industry Trade and Tourism

Department of Health

Clerk of the Executive Council

TABLE OF CONTENTS

ARTICLE 16

16.0	RATIFICATION AND EXECUTION	1
16.1	INTRODUCTION	1
16.1.1	<u>Introduction</u>	1
16.2	RATIFICATION AND EXECUTION	1
16.2.1	<u>Condition Precedent</u>	1
16.2.2	<u>Agreement of No Force and Effect</u>	5

ARTICLE 16

16.0 RATIFICATION AND EXECUTION

16.1 INTRODUCTION

16.1.1 Introduction. This Article sets forth the ratification and execution process for this **Agreement**.

16.2 RATIFICATION AND EXECUTION

16.2.1 Condition Precedent. The ratification and execution process required as a condition precedent to the execution of this **Agreement** is set out below:

- (a) prior to the advance poll referenced in Article 16.2.1(f)(iii), **Nelson House** shall:
 - (i) make available at the Band office on the **Reserve**, the Community Council Building in South Indian Lake, the offices of the MKO in Thompson, and the offices of the Department of Indian Affairs and Northern Development in Winnipeg, as many

copies of the **Agreement** as may reasonably be required,

- (ii) conduct at least one (1) public meeting of **Members on Reserve**, and at South Indian Lake, Thompson, Brandon and Winnipeg and at each such meeting fully explain the nature and significance of this **Agreement**, and
 - (iii) have its principal consultants and legal advisors present at the meetings specified in Article 16.2.1(a)(ii),
- (b) notice of each meeting shall be posted in not less than five (5) prominent, public locations on **Reserve**, including the Band offices, for meetings on **Reserve**, and in the Community Council Hall in South Indian Lake, for meetings at South Indian Lake, and announced at least once per week in each of the 2 weeks prior to the meeting, in the following media:
- i) The Winnipeg Free Press,
 - ii) The Winnipeg Sun,
 - iii) The Thompson Citizen,
 - iv) The Thompson Nickel Belt,
 - v) Native Communications Inc., Mikisew Morning, CBC North

- (radio), or any replacement programs on Radio and Television, and
- vi) the public television channel operating on **Reserve**,
- (c) in each notice **Nelson House** shall:
- i) give notice of the time, date and place of each meeting,
 - ii) advise where **Members** can review or obtain copies of this **Agreement** and related information, and
 - iii) advise **Members** of the time, date and polling places for the referendum and the advance poll,
- (d) prior to the date of the Referendum, **Chief and Council** shall provide to **Canada, Manitoba** and **Hydro** a **Council Resolution** with a copy of the newspaper notices attached, certifying that the provisions of Article 16.2.1(a) to 16.2.1(d) have been fulfilled;
- (e) a Referendum shall be conducted on **Reserve** with polls for voting at the Community Council Hall in South Indian Lake, 50 Selkirk Avenue in Thompson (formerly the Thompson Doughnut Shop), and the Department of Indian Affairs and Northern Development in Winnipeg, from 9:00 am to

8:00 pm on or about September 14, 1995 in accordance with the secret ballot procedures prescribed by sections 4 to 20 of the Indian Referendum Regulations, C.R.C. 1978, c. 957, (the "Referendum"), excepting that:

- i) the term "elector" as used in that Regulation shall be read as "**Member**" eighteen (18) years of age or older,
 - ii) the date of the Referendum shall be deemed to be "the date of the voting" for the purpose of subsection 4(1) of the said Regulations,
 - iii) there shall be an advance poll to be held on **Reserve**, at South Indian Lake and in Brandon, on a Saturday at least two (2) weeks prior to the date of the Referendum,
 - iv) the day of the advance poll shall be set forth in the notice posted by the electoral officer under subsection 4(1) of the said Regulations, and
 - v) the advance poll shall be conducted substantially in accordance with the procedures for voting on the date of the Referendum with such modifications as may be reasonably necessary,
- (f) all **Members** eighteen (18) years of age or older shall be entitled to vote

in the Referendum. A list of "electors" within the meaning of the Indian Act (Canada) shall be compiled separately from the list of other **Members** and the votes of each list of voters shall be separately tabulated and reported;

- (g) this **Agreement** shall be approved by the Referendum if:
 - i) a majority of those **Members** eligible to vote, vote,
 - ii) a majority of votes cast approve this **Agreement**,
and
 - iii) a majority of the "electors" within the meaning of the Indian Act (Canada) approve this **Agreement**,
- (h) the Referendum will be conducted by **Canada**, who shall provide to **Nelson House, Manitoba** and **Hydro** a statement in a form similar to that required under Section 19 of the Indian Referendum Regulations, C.R.C. 1978, c.957, with the votes of each list of voters separately tabulated and reported; and
- (i) any appeals associated with the Referendum shall be dealt with in accordance with Sections 31 and 32 of the Indian Referendum Regulations, C.R.C. 1978, c.957.

16.2.2 **Agreement of No Force and Effect.** This **Agreement** shall be without

force and effect and without prejudice to any of the **Parties**, unless and until it has been duly ratified and executed by all of the **Parties**, and the **Indenture**, which is to be concurrently executed, has been likewise executed.

IN WITNESS WHEREOF the **Parties** have executed this **Agreement** on the dates indicated below.

Signed, sealed and delivered)
in the presence of:)

Nelson House First Nation

Chief

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

on the day of , 1996

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

Per:

on the day of , 1996

The Manitoba Hydro-Electric Board

Per:

Per:

on the day of , 1996

**Her Majesty the Queen in Right of
Canada**

Per:

on the day of , 1996