

SWAN LAKE FIRST NATION

TREATY LAND ENTITLEMENT

SETTLEMENT AGREEMENT

Initialled and Recommended for Approval by the Negotiators
on January 13, 1995:


Swan Lake First Nation



Canada

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**SWAN LAKE FIRST NATION
TREATY LAND ENTITLEMENT SETTLEMENT AGREEMENT**

THIS AGREEMENT made this *30th* day of *March*, 1995

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

SWAN LAKE INDIAN BAND
(also known as "SWAN LAKE FIRST NATION"), as represented
by its Chief and Councillors

(hereinafter referred to as "the First Nation")

OF THE SECOND PART

WHEREAS Her Majesty the Queen, in right of Great Britain entered into a treaty, known as Treaty No. 1, with certain bands of Chippewa and Swampy Cree Indians on or about August 3, 1871;

AND WHEREAS Canada is the successor of Her Majesty the Queen, in right of Great Britain, for the purposes of the undertakings given by the Crown under the said treaty;

AND WHEREAS the Portage Band was one of the signatories to the said treaty, and Oo-za-we-kwun, also known as Yellow Quill, was Chief of the Portage Band;

AND WHEREAS, in the articles of Treaty No. 1, Canada made certain undertakings including the following:

"And Her Majesty the Queen hereby agrees and undertakes to lay aside and reserve for the sole and exclusive use of the Indians the following tracts of land, that is to say:

...

for the use of the Indians of whom Oo-za-we-kwun is Chief, so much land on the south and east side of the Assiniboine, about twenty miles above the Portage, as will furnish one hundred and sixty acres for each family of five, or in that proportion for larger or smaller families ... it being understood, however, that if, at the date of the execution of this treaty there are any settlers within the bounds of any lands reserved by any band, Her Majesty reserves the right to deal with such settlers as She shall deem just, so as not to diminish the extent of the land allotted to the Indians";

AND WHEREAS as a result of a decision by the members of the Portage Band to split into three separate bands (of which the First Nation was one), the said treaty was revised on or about June 20, 1876 such that the constituent bands agreed, inter alia, to share the benefits promised the Portage Band by Canada under Treaty No. 1 as between themselves, including the undertaking on the part of Canada to establish reserves as therein set out;

AND WHEREAS the said revision further provided, with regard to establishing reserves for the separate band under Yellow Quill, the following:

"...it is hereby agreed with regard to the Reserve promised by the said treaty, that to the band of Yellow Quill, a Reserve shall be assigned by Her Majesty's Commissioner or by a Commissioner appointed for the purpose, to be selected in the region of country they now inhabit, and to be approved of by the said Band, but said Reserve shall not be nearer to the Portage than twenty miles...

... it is hereby agreed that the separate Reserves to be granted to the said three Bands shall contain an amount of land equal to that stipulated to be given to the original Band, and such land shall be assigned to each Band in proportion to their relative numbers so that each Band shall receive their fair and just share of the said land ...";

AND WHEREAS in 1876 a reserve was set aside for the use and benefit of the First Nation on or about the north shore of Swan Lake, but the First Nation claims that there remains an undertaking on the part of Canada to provide lands to establish reserves for the use and benefit of the First Nation, as one of the successor bands to the Portage Band, as provided for in the Per Capita Provision (as that term is hereinafter defined);

AND WHEREAS Canada entered into negotiations with the First Nation with a view to resolving its claim for its remaining land entitlement under the Per Capita Provision;

AND WHEREAS paragraph 11 of Schedule 1 to the *Constitution Act, 1930*, and of the Schedule to *The Manitoba Natural Resources Act*, S.M. 1930, C. 30 provides as follows:

"All lands included in Indian reserves within the province, including those selected and surveyed but not yet confirmed, as well as those confirmed, shall continue to be vested in the Crown and administered by the Government of Canada for the purposes of Canada, and the Province will from time to time, upon the request of the Superintendent General of Indian Affairs, set aside, out of the unoccupied Crown lands hereby transferred to its administration, such further areas as the said Superintendent General may, in agreement with the Minister of Natural Resources of the Province, select as necessary to enable Canada to fulfil its obligations under the treaties with the Indians of the province, and such areas shall thereafter be administered by Canada in the same way in all respects as if they had never passed to the Province under the provisions hereof."

AND WHEREAS Canada has also entered into negotiations with Manitoba with a view to resolving Manitoba's obligations to Canada under the foregoing provision of the *Constitution Act, 1930* insofar as same relates to Canada's obligations to the First Nation under the Per Capita Provision and an agreement in this regard is anticipated to be concluded in the immediate future;

AND WHEREAS the parties recognise that there is minimal unoccupied provincial Crown land in the area in and around the existing reserve of the First Nation or in its traditional territory and that, in the result, the fulfilment of Manitoba's obligation to Canada under paragraph 11 of Schedule 1 to the *Constitution Act, 1930* and of Canada's undertaking and obligations to the First Nation under the Per Capita Provision can only reasonably be addressed by providing the First Nation with sufficient funds to acquire land;

AND WHEREAS it is the intent and purpose of this Agreement to achieve a full and final settlement of the matter of the remaining amount of land to be provided to the First Nation as provided for in the Per Capita Provision and for the actions taken by Canada in setting aside as a reserve approximately 2,403 acres of land at Tramping Lake, Saskatchewan, in 1906 as I.R. No. 7A for the First Nation, and thereafter accepting a surrender of such lands from the First Nation in 1908, to the extent provided for herein but not to affect any other treaty rights or other claims which the First Nation may have;

AND WHEREAS the parties have agreed to fulfil their respective obligations under this Agreement honourably and in good faith;

NOW THEREFORE Canada and the First Nation covenant and agree as follows:

ARTICLE 1: INTERPRETATION

- 1.1 Defined terms used to interpret this Agreement, including the recitals, are set out in Article 19 hereof.

ARTICLE 2: FEDERAL PAYMENT

- 2.1 Subject to the terms of this Agreement, Canada shall provide the First Nation with the Federal Payment in the amount of Ten Million Four Hundred Three Thousand Seventy-Two dollars (\$10,403,072.00).
- 2.2 Within 30 days of this Agreement coming into force, but subject to Article 3.2 and Article 12.3, Canada shall pay the First Nation the cash portion of the Federal Payment in the amount of Nine Million Five Hundred Thousand dollars (\$9,500,000.00). The balance of the Federal Payment shall be dealt with in the manner set forth in Article 6.

ARTICLE 3: USE OF THE CASH PORTION OF THE FEDERAL PAYMENT

- 3.1 The First Nation hereby irrevocably directs Canada to pay the cash portion of the Federal Payment referred to in Article 2.2 into the Trust Capital Account.
- 3.2 The First Nation agrees and undertakes to ensure that the Trust Agreement shall at all times provide that unless and until the total amount of land set apart for its use and benefit as Reserve has been increased by 4,484 acres (including all mines and minerals), no part of the cash portion of the Federal Payment shall be released to the First Nation by the Trustees except for the purposes of permitting the First Nation to purchase or otherwise acquire the said land with the intention of having that land set apart as Reserve by Canada in accordance with Article 4 (including, without limitation, dealing with such Third Party Interests as may affect such lands).

- 3.3 Upon the total amount of land set apart for the use and benefit of the First Nation as Reserve being increased by 4,484 acres (including all mines and minerals), the Federal Payment shall be utilised in accordance with the Trust Agreement, subject to Article 3.4.
- 3.4 The First Nation agrees and undertakes to ensure that the Trust Agreement shall at all times provide that the Trustees shall not make a per capita distribution from the cash portion of the Federal Payment and further, in the event the First Nation receives a payment of the cash portion of the Federal Payment from the Trust Capital Account, no such payment, nor any portion thereof, shall be used either directly or indirectly for a per capita distribution to any member of the First Nation or any other person.
- 3.5 It is expressly agreed by the First Nation and Canada that the Federal Payment shall be conclusively deemed not to be "Indian monies" within the meaning of the *Indian Act*, but not so as to affect the provisions of the *Indian Act* respecting taxation, and it is further expressly acknowledged and agreed by the First Nation that, in making payment of the Federal Payment in the manner hereinbefore set forth, Canada is relieved of any and all obligations or liability, whether fiduciary or otherwise, relating to or arising from the deposit, use, management, withdrawal, administration, or any other dealing with respect to the Federal Payment pursuant to the Trust Agreement.
- 3.6 The First Nation further agrees and undertakes that the Trust Agreement shall not be drafted or varied in any way so as to be inconsistent with Article 3.

ARTICLE 4: RESERVE LANDS

- 4.1 The First Nation undertakes and agrees that it shall acquire and request Canada to set apart for its use and benefit as Reserve a minimum of 4,484 acres of land (including all mines and minerals), which lands shall be acquired from Manitoba or from private owners with advances of the cash portion of the Federal Payment by the Trustees to the First Nation pursuant to the Trust Agreement.
- 4.2 Subject to Article 5, Canada agrees to take all necessary steps to set apart any amount of land to be acquired by the First Nation up to 13,035 acres but in any event not less than 4,484 acres, as Reserve, within the meaning of the *Indian Act*, for the use and benefit of the First Nation, subject to satisfaction of the following conditions:
- (a) such lands are located within Manitoba in the area described in Treaty No. 1;

- (b) the First Nation has delivered to Canada a Band Council Resolution duly executed by the Council advising of such intent together with:
 - (i) a map on which the land has been clearly identified, where the land is under the administration and control of Manitoba or Canada; or
 - (ii) in all other cases, all other First Nation documents necessary to permit Canada to set same apart as a Reserve for the use and benefit of the First Nation;
- (c) the setting apart of such lands as Reserves follows the "Additions to Reserve Policy" established by Canada as that policy (or, if mutually agreed to by the parties, any policy which replaces same) exists on the date this Agreement comes into force or on the date such lands are acquired by the First Nation;
- (d) the Council of the First Nation, the Surveyor General of Canada, and, if required, the Director of Surveys (Manitoba), each approve the survey of such lands;
- (e) all costs of transferring administration and control of such additional lands to Canada are paid for by the First Nation, except to the extent provided in Article 7;
- (f) Manitoba passes the appropriate Order-in-Council transferring administration and control of such lands to Canada, in the event such land is under the administration and control of Manitoba;
- (g) Manitoba transfers administration and control of Crown Reservations to Canada, in the event same have been Reserved to Manitoba on any of the such lands;
- (h) Canada accepts the transfer of administration and control of such lands or the transfer of fee simple title to such lands for the purpose of setting them aside as Reserve for the use and benefit of the First Nation;
- (i) such Third Party Interests as are affected by the setting apart of such lands as Reserve are satisfied in a manner acceptable to Canada and the First Nation, it being understood and agreed that in no event shall Canada be responsible or liable for any costs incurred by the First Nation in connection with removing, discharging, or accommodating such Third Party Interests; and
- (j) the Governor-in-Council passes the appropriate Order-in-Council setting the lands aside as a Reserve for the use and benefit of the First Nation.

- 4.3 Where the First Nation has made an enforceable offer to purchase or acquire land and requested Canada to set same apart as Reserve for its use and benefit, Canada undertakes:
- (a) to consider and to accept, with or without conditions respecting environmental screening, or to reject, the land within the context of the "Additions to Reserve Policy" (or, if mutually agreed to by the parties, such other policy as may replace same) within a reasonable period of time, but in any event not more than 90 days; and
 - (b) to proceed with due diligence and to use its best efforts to set the land apart as Reserve for the use and benefit of the First Nation in the event Canada is thereafter prepared to set the lands apart as Reserve for the First Nation, subject to the conditions set out in Article 4.2 being satisfied in full.
- 4.4 The acquisition of land by the First Nation and the setting apart of same as Reserve by Canada under Article 4.2 may take place over a period of time and may be accomplished by the acquisition of a series of individual parcels. In such case, it is understood and agreed that the provisions of Article 4.2 apply to and must be satisfied in full with respect to each and every such parcel so acquired.
- 4.5 It is understood and agreed that the "Additions to Reserve Policy" is not incorporated by reference as a term in this Agreement and further, for the purposes of the "Additions to Reserve Policy", all lands acquired by the First Nation and which the First Nation requests Canada to set apart as Reserve for its use and benefit up to 13,035 acres shall be deemed to be lands acquired by the First Nation pursuant to a "Treaty Land Entitlement" (as that term is used in section 9.2.1 of chapter 9, part 1, of the "Additions to Reserve Policy" dated November, 1991), provided such lands are acquired within 20 years from the date this Agreement comes into force; however, the First Nation will nevertheless be entitled to apply for Reserve status for lands acquired beyond 20 years in accordance with the procedures in use at the time of application.
- 4.6 The First Nation hereby agrees by and through its Council to execute such Band Council Resolutions as may, from time to time, be required confirming its consent to the Minister issuing such Third Party Interest dispositions pursuant to the *Indian Act* or the *Federal Real Property Act* as may be satisfactory to Canada, Manitoba and the First Nation and as are necessary or required prior to any lands affected by such Third Party Interests being set apart for its use and benefit pursuant to Article 4.2.
- 4.7 Notwithstanding any provision of this Agreement but subject to Article 7, it is understood that Canada will not be responsible for the payment of:

- (a) any costs paid or payable by the First Nation or the Trustees in relation to or arising out of the acquisition of any lands the First Nation desires Canada to set apart as Reserve pursuant to Article 4.2 including, without limitation, the purchase price paid or payable to the vendor of such lands, real estate agent or broker commission, legal fees and disbursements, applicable taxes, land search and transfer costs; and
- (b) any costs associated with the identification of such land and the approval of the acquisition of same by the First Nation or the Trustees; and
- (c) any costs associated with removing, discharging or accommodating Third Party Interests;

other than, in the case of those costs referred to in Article 4.7 (b) and (c), the normal internal administrative costs of Canada.

4.8 Notwithstanding Articles 4.2(c), 4.2(i) and 4.7(c), but subject to Article 5, where the First Nation has made a reasonable offer to settle or accommodate a claim for Municipal Tax Loss and such offer has been rejected, the Minister may, upon review and in the Minister's sole discretion, decide to waive the requirement that such claim be settled or accommodated before the lands to which such claim relates are set apart as Reserve for the use and benefit of the First Nation and seek the appropriate order from the Governor-in-Council notwithstanding such claim is unresolved.

4.9 The First Nation recognises and affirms that nothing in this Agreement constitutes:

- (a) any representation or warranty of any kind or nature whatsoever by Canada that the Federal Payment will provide the First Nation or the Trustees with sufficient funds to acquire 13,035 acres of land, the costs associated therewith and for the other attendant purposes herein; or
- (b) any undertaking or commitment by Canada to provide the First Nation or the Trustees with any funds, other than the amounts which may be expressly payable by Canada under the terms of this Agreement, for the purpose of acquiring land, paying the costs associated therewith and for the other attendant purposes herein, in the event the Federal Payment does not provide the First Nation or the Trustees with sufficient funds to acquire 13,035 acres of land, paying the costs associated therewith and for the other attendant purposes herein.

ARTICLE 5: IMPLEMENTATION ISSUES

- 5.1 The parties further acknowledge that Canada, Manitoba and the TLE Committee are engaged in a process which, inter alia, is intended to address matters which are necessarily incidental to the implementation of the provisions of Article 4.2 of this Agreement.
- 5.2 While the First Nation is not one of the Indian Bands represented by the TLE Committee, the parties agree that the resolution of any matters which Canada, Manitoba, and the TLE Committee negotiate and agree upon which deal with or are necessarily incidental to the implementation of the provisions of Article 4.2 of this Agreement may with the consent of the parties, be incorporated as and become terms of this Agreement, but only to the extent of those matters which alter or amend the existing policies of Canada or Manitoba.
- 5.3 The parties further agree that:
- (a) until such matters are addressed in the manner hereinbefore set forth; or
 - (b) in the event Canada, Manitoba, and the TLE Committee fail to reach an agreement on such matters; or
 - (c) in the event Canada, Manitoba, and the TLE Committee do not deal with one or more matters relating or necessarily incidental to the implementation of the provisions of Article 4.2 of this Agreement,

the implementation of the provisions of Article 4.2 of this Agreement shall be carried out within the context of the existing land administration policies of Canada and Manitoba such that any lands to be added as Reserve will acquire the same legal status under the *Indian Act* as the present Reserve.

ARTICLE 6: SETTLEMENT COSTS

- 6.1 The First Nation acknowledges and agrees that it has received from Canada the sum of Nine Hundred Three Thousand Seventy-Two Dollars (\$903,072.00) by way of an interest free loan to be expended for the purpose of all negotiation, implementation and legal costs and disbursements incurred by the First Nation and relating to or arising out of the subject matter of this Agreement and the First Nation hereby authorizes and directs Canada to set off from the Federal Payment, such sum for the purpose of repaying such loan.

ARTICLE 7: SURVEY AND ENVIRONMENTAL SCREENING COSTS

- 7.1 Canada agrees that it will pay all reasonable costs incurred in connection with the environmental screening (as required by the "Additions to Reserve Policy", or if mutually agreed to by the parties, any policy which replaces same) and surveying of lands which are to be set apart as Reserve for the First Nation, up to 4,484 acres, pursuant to Articles 4.2 of this Agreement, provided that Canada's obligation hereunder shall expire 20 years from the date this Agreement comes into force.

ARTICLE 8: RELEASES

- 8.1 In consideration of this Agreement and in particular the covenants contained therein, (subject only to, but immediately and fully effective upon, the Federal Payment being provided to the First Nation as set forth in Article 2), the First Nation, on its own behalf and on behalf of all past, present, and future members of the First Nation and their heirs, successors, administrators, and assigns, does hereby:
- (a) release, cede and surrender to Canada all claims, rights, title and interest it ever had, now has or may hereafter have by reason of or in any way arising out of the Per Capita Provision; and
 - (b) release and forever discharge Canada, Her servants, agents and successors from:
 - (i) all obligations imposed on, and promises and undertakings made by Canada relating to land entitlement under the Per Capita Provision; and
 - (ii) without restricting the generality of sub-article (i), all claims of any kind or nature whatsoever the First Nation has had, has now, or may hereafter have relating to or arising from the fact that the Portage Band, the First Nation, and the other successors to the Portage Band did not receive all of the land to which it was or any members of the First Nation were entitled under the Per Capita Provision, including any claims for loss of use with respect thereto; and
 - (iii) further, without restricting the generality of sub-article (i), all claims of any kind or nature whatsoever based on membership of or in the First Nation including past, present, or future members of the First Nation or their descendants with respect to the Per Capita Provision; and

- (iv) further, without restricting the generality of sub-article (i), all claims of any kind or nature whatsoever relating to or arising from the survey, conducted by J. Lestock Reid in 1876, of the lands contemplated to be set aside as reserve for the First Nation and the subsequent amendment to the survey by the removal of approximately 2,400 acres prior to the setting aside of the lands as Swan Lake Reserve I.R. No. 7;

and waives any rights, actions or causes of actions, claims, demands, damages, costs, expenses, liability and entitlements of whatever nature and kind which it or any of its members past, present or future, ever had, now have, or may hereafter have against Canada by reason of or in any way arising out of the Per Capita Provision relating to land entitlement, it being understood, for greater certainty that the "Per Capita Provision" means the following provisions of Treaty No. 1:

"And Her Majesty the Queen hereby agrees and undertakes to lay aside and reserve for the sole and exclusive use of the Indians the following tracts of land, that is to say:

...

for the use of the Indians of whom Oo-za-we-kwun is Chief, so much land on the south and east side of the Assiniboine, about twenty miles above the Portage, as will furnish one hundred and sixty acres for each family of five, or in that proportion for larger or smaller families ... it being understood, however, that if, at the date of the execution of this treaty there are any settlers within the bounds of any lands Reserved by any band, Her Majesty Reserves the right to deal with such settlers as She shall deem just, so as not to diminish the extent of the land allotted to the Indians"

and the following provisions of the revision thereto which was made on or about June 20, 1876:

"...it is hereby agreed with regard to the Reserve promised by the said treaty, that to the band of Yellow Quill, a Reserve shall be assigned by Her Majesty's Commissioner or by a Commissioner appointed for the purpose, to be selected in the region of the country they now inhabit, and to be approved of by the said Band, but said Reserve shall not be nearer to the Portage than twenty miles...

... it is hereby agreed that the separate Reserves to be granted to the said three Bands shall contain an amount of land equal to that stipulated to be given to the original Band, and such land shall be assigned to each Band in proportion to their relative numbers so that each Band shall receive their fair and just share of the said land ...";

- (c) release and forever discharge Canada, Her servants, agents and successors from any and all obligations or liability, whether fiduciary or otherwise, relating to or arising from:
 - (i) the Ratification Procedure used by the First Nation to ratify this Agreement and the Trust Agreement; or
 - (ii) the deposit, use, management, administration, withdrawal, or any other dealing with respect to the Federal Payment pursuant to this Agreement or the Trust Agreement or the operation of the Trust Capital Account or any actions of the Trustees; and

waives any rights, actions or causes of actions, claims, demands, damages, costs, expenses, liability and entitlements of whatever nature and kind which it or any of its members past, present or future, ever had, now have, or may hereafter have against Canada by reason of or in any way arising from the Ratification Procedure or from the deposit, use, management, administration, withdrawal, or any other dealing with respect to the Federal Payment pursuant to this Agreement or the Trust Agreement or the operation of the Trust Capital Account or any actions of the Trustees; and

- (d) release and forever discharge Canada, Her servants, agents and successors from, and absolutely surrender, all claims, rights, titles and interests of any kind or nature whatsoever relating to or arising out of the Tramping Lake Lands Issue and I.R. No. 7A, including any claims for loss of use with respect thereto; and
- (e) release and forever discharge Canada, Her servants, agents and successors from all claims, rights, titles and interests of any kind or nature whatsoever relating to or arising out of the setting aside of Indian Gardens Reserve I. R. No. 8, or any alleged representation by the Treaty Commissioner that lands occupied by members of the First Nation in the area later known as Indian Gardens Reserve I. R. No. 8 prior to the signing of Treaty No. 1, would or would not be counted as reserve lands to be set aside pursuant to the Per Capita Provision.

- 8.2 Furthermore, it is understood and agreed by the parties that this Agreement, and in particular the covenants contained herein, represent full and final satisfaction of all obligations or undertakings of Canada relating to or arising out of the claims or grievances settled by this Agreement, all expenses incurred by the First Nation in dealing with Third

Party Interests as affect lands the First Nation has acquired, or will acquire, and which it desires to have Canada set apart for its use and benefit as Reserve under Article 4, and all manner of costs, legal fees, travel and expenses expended by the First Nation or its representatives in relation thereto.

- 8.3 The First Nation further undertakes and agrees not to assert any cause of action, action for a declaration, claim or demand of whatever kind or nature which it ever had, now has or may hereafter have against Canada relating to or arising out of the Per Capita Provision, the Ratification Procedure, the administration of the Federal Payment pursuant to this Agreement or the Trust Agreement, the operation of the Trust Capital Account or any actions of the Trustees.
- 8.4 It is understood and agreed that the releases herein given are without prejudice to any claims or grievances the First Nation may have regarding Canada's obligations, or the performance or non-performance thereof, other than claims or grievances settled or released by this Agreement, and without limiting the generality of the foregoing, such releases are without prejudice to:

- (a) any claim under the following provision of Treaty No. 1:

"And Her Majesty the Queen hereby agrees and undertakes to lay aside and Reserve for the sole and exclusive use of the Indians the following tracts of land, that is to say:

...
for the use of the Indians of whom Oo-za-we-kwun is Chief, ... reserving also a further tract enclosing said Reserve to comprise an equivalent to twenty-five square miles of equal breadth, to be laid out round the Reserve ..."

and as such provision was amended in the revision of Treaty No. 1 dated July 20, 1876, except to the extent that any such claim has been satisfied as set out in Article 8.5; or

- (b) any claim arising from a verbal exchange between the Lieutenant Governor of Manitoba Adams Archibald and one Wa-sus-koo-koon of the Pembina Band during the negotiations leading up to the signing of Treaty No. 1, reported in The Manitoban newspaper on August 5, 1871 as follows:

"Wa-sus-koo-koon -

'I understand thoroughly that every 20 people get a mile square; but if an Indian with a family of five, settles down, he may have more children. Where is their land?'

"His Excellency -

'Whenever his children get more numerous than they are now, they will be provided for further West. Whenever the reserves are found too small the Government will sell the land, and give the Indians land elsewhere.'

except to the extent set out in Article 8.6; or

- (c) any right, claim, or action in respect of any improper surrender, alienation, or other disposition by Canada of reserve lands set apart for the use and benefit of the Portage Band or the First Nation,

it being understood and agreed that nothing herein constitutes an admission by Canada of the validity of any of the grievances the First Nation alleges it has, as set out above or otherwise.

- 8.5 Notwithstanding Article 8.4, the First Nation acknowledges that 5148 acres of land has been set apart for its use and benefit as Reserve by Canada pursuant to that provision of Treaty No. 1 (and the revision thereto dated July 20, 1876) set out in Article 8.4(a).
- 8.6 In the event the First Nation advances a claim based on the verbal exchange described in Article 8.4(b) which is validated or otherwise accepted by Canada, or Canada should be held liable in respect of same by a court of competent jurisdiction, Canada shall be entitled to set off from any amount which may be agreed or adjudged to be payable to the First Nation in respect of same the amount of the cash portion of the Federal Payment to the extent it is agreed or adjudged that such claim (or any portion thereof):
 - (a) arises out of or by virtue of the Per Capita Provision; or
 - (b) would otherwise result in the First Nation being compensated for such claim (or any portion thereof) twice having regard to the provisions of this Agreement and the basis upon which same was reached.
- 8.7 Upon Article 8.1 becoming effective, Canada releases the First Nation from and undertakes and agrees not to assert any claim or demand of whatever kind or nature which Canada ever had, now has, or may hereafter have against the First Nation related to or arising out of:
 - (a) the payment to the First Nation of the proceeds from the sale of the lands set aside as I.R. No. 7A in 1906 and thereafter surrendered to Canada in 1908 by the First Nation;

- (b) the survey, conducted by J. Lestock Reid in 1876, of the lands contemplated to be set aside as reserve for the First Nation and the subsequent amendment to the survey by the removal of approximately 2,400 acres prior to the setting aside of the lands as Swan Lake Reserve I.R. No. 7;
- (c) the Tramping Lake Lands Issue and I.R. No. 7A; and
- (d) the setting aside of Indian Gardens Reserve I. R. No. 8, or any alleged representation by the Treaty Commissioner that lands occupied by members of the First Nation at or in the vicinity of the area later known as Indian Gardens Reserve I. R. No. 8 prior to the signing of Treaty No. 1, would or would not be counted as reserve lands to be set aside pursuant to the Per Capita Provision.

ARTICLE 9: INDEMNITY

- 9.1 The First Nation hereby agrees to indemnify and forever save harmless Canada from all manner of suits, actions, causes of action, claims, demands, damages, costs or expenses, initiated, made or incurred after this Agreement against Canada made by the First Nation or on behalf of the First Nation by any member of the First Nation, including any heirs, successors or permitted assigns of such member ever had, now has or may hereafter have against Canada and including any past, present or future claims against Canada based on membership in the First Nation of past, present, or future members of the First Nation or their descendants respecting the contents of this Agreement (including, without limitation, the Trust Agreement, the actions of the Trustees, the operation of the Trust Capital Account, and the Ratification Procedure).
- 9.2 If Canada should be held liable as a result of a judgment obtained in a legal action taken by the First Nation or on behalf of the First Nation by any member of the First Nation, Canada shall have recourse to any and all remedies that Canada may have at law for the purpose of recovering from the First Nation any judgment against Canada to satisfy the indemnity provided for in Article 9.1.

ARTICLE 10: FURTHER ASSURANCES

- 10.1 The parties hereto covenant each with the other to do such things and to execute such further documents and take all necessary measures to carry out and implement the terms of this Agreement; and the First Nation hereby authorizes, empowers and directs its respective present Council and succeeding Councils to act for and on its behalf in executing such documents and taking such further necessary measures to carry out and implement the terms, intent and meaning of this Agreement.

ARTICLE 11: ENUREMENT

- 11.1 This Agreement enures to the benefit of and is binding upon Her Majesty the Queen in the Right of Canada, Her heirs, successors and permitted assigns and on the First Nation, its heirs, successors and permitted assigns and on all past, present, and future members of the First Nation and their heirs, successors, and permitted assigns.

ARTICLE 12: APPROVALS

- 12.1 The parties confirm that:

- (a) this Agreement; and
- (b) the Trust Agreement

have each been ratified by the Eligible Members in the Ratification Procedure held in accordance with the process set out in Schedule "B" attached hereto.

- 12.2 The parties further confirm that this Agreement has been approved by the appropriate authorities of Canada.
- 12.3 The parties further confirm and agree that this Agreement and the Trust Agreement must both be approved in accordance with the Ratification Procedure prior to Canada providing the Federal Payment under Article 2. In the event that this Agreement is approved but the Trust Agreement is not, the Trust Agreement may be amended, subject to the provisions of Article 3, and thereafter submitted to a special ratification vote of the First Nation within 60 days of the date on which the Trust Agreement was not approved. The provisions of the Ratification Procedure shall apply, with the necessary changes, to the special ratification vote.

ARTICLE 13: COMING INTO FORCE

13.1 This Agreement shall come into force and be binding upon the parties hereto on the date upon which the last of all of the following events occur:

- (a) execution of the Trust Agreement by the First Nation and establishment of the Trust Capital Account by the Trustees;
- (b) provision by the financial institution at which the Trust Capital Account is established of written confirmation to Canada that:
 - (i) it is in possession of an executed copy of the Trust Agreement, and it is prepared to act in accordance with its terms;
 - (ii) the Trust Capital Account has been established and the agreement between the financial institution and the Trustees governing the operation of same is consistent with the provisions of the Trust Agreement;
 - (iii) it meets the definition of an eligible financial institution as defined in the Trust Agreement;

and advice to Canada as to full particulars as to where Canada should direct payment of the cash portion of the Federal Payment in accordance with the provisions of this Agreement;

- (c) execution of an agreement between Canada and Manitoba, concurrent with the execution of this Agreement, leading to the resolution of Manitoba's obligations to Canada under paragraph 11 of Schedule 1 of the *Constitution Act, 1930* insofar as same relates to Canada's obligations to the First Nation under the Per Capita Provision;
- (d) provision by the First Nation to Canada of a Certificate of Independent Financial Advice executed by a qualified financial advisor certifying that such financial advisor has been retained by and has advised the First Nation of its options, rights and obligations in investing the Federal Payment and in establishing the Trust Agreement and the Trust Capital Account; and
- (e) provision by the First Nation to Canada of a Certificate of Independent Legal Advice executed by the First Nation's solicitor, being a lawyer entitled to practise law in the Province of Manitoba, certifying that such solicitor has been retained by

and has advised the First Nation of its rights and obligations in negotiating and settling of all its claims pursuant to the Per Capita Provision and the Tramping Lake Lands Issue and, without limiting the generality of the foregoing, its rights and obligations under this Agreement and the Trust Agreement.

- 13.2 Notwithstanding any other provision of this Agreement, any obligation on the part of Canada to make any payment to, on behalf of or for the benefit of the First Nation is subject to the appropriation of sufficient funds from Parliament.

ARTICLE 14: SCHEDULES

- 14.1 The following Schedules are attached hereto:

"A" Trust Agreement
"B" Ratification Procedure

ARTICLE 15: ENTIRE AGREEMENT

- 15.1 This Agreement shall, upon execution, replace and supersede all other agreements and recommendations of the parties, whether oral or in writing relating to the subject matter of this Agreement and including, without limitation:
- (a) the letter dated November 5, 1982 signed by the Honourable John Munro which authorized the negotiation of this Agreement;
 - (b) a document executed by the negotiators for each of the parties dated May 31, 1994, captioned "Protocol - Swan Lake Indian Band Treaty Land Negotiation"; and
 - (c) all verbal and written correspondence and offers of settlement exchanged between the parties up to and including the date of the signing of this Agreement.
- 15.2 In the event any provision, or any portion of any provision, of this Agreement should be found to be void, this Agreement shall be read without reference to such provision or part of a provision and the remainder of the Agreement (including the remainder of any provision a portion of which has been declared void, as the case may be) shall remain in full force and effect.

ARTICLE 16: NO PRESUMPTIONS

- 16.1 There shall not be any presumption that doubtful expressions in this Agreement be resolved in favour of either party, provided that this provision shall extend only to the terms of this Agreement.
- 16.2 This Agreement does not create any new treaty rights for the First Nation.
- 16.3 This Agreement shall not be used in the interpretation of any other agreement other than the Trust Agreement, the Ratification Procedure for this Agreement or any other agreement necessarily incidental to implementing the provisions of this Agreement.

ARTICLE 17: PROGRAMS UNAFFECTED

- 17.1 Canada agrees that nothing in this agreement shall affect the ability of the First Nation to access federal programs and services on the same basis as other Indian bands in Canada, in accordance with the criteria established from time to time for such programs and services.

ARTICLE 18: NO BENEFIT

- 18.1 No member of the House of Commons or Senate shall be admitted to any share or part of this Agreement or to any benefit not enjoyed by any other member of the public which may arise out of it.

ARTICLE 19: DEFINITIONS

- 19.1 In this Agreement;
- (a) "Council" means the Council of the First Nation as that term is defined in the *Indian Act*, R.S.C. 1985 c. I-5 and amendments thereto;
 - (b) "Crown Reservations" means all reservations normally reserved to Manitoba out of every disposition of provincial Crown land under *The Crown Lands Act*,

R.S.M. 1987 c. C-340 or under any other statute, which interests include but are not limited to:

- (i) in the case of land extending to the shores of any navigable water or inlet thereof:
 - A. a strip of land one and one-half chains (being 99 feet) in width, measured from the ordinary highwater mark; and
 - B. the public right of landing from, and mooring, boats and vessels so far as is reasonably necessary;
 - (ii) in the case of land bordering a body of water:
 - A. the bed of the body of water below the ordinary high water mark; and
 - B. the public right of passage over a portage, road, or trail in existence at the date of the disposition;
 - (iii) sand, gravel, mines and minerals, together with the right to enter, locate, prospect, mine for, and remove minerals;
 - (iv) the right to, and use of, land necessary for the protection and development of adjacent water power; and
 - (v) the right to raise or lower the levels of a body of water adjacent to the land, regardless of the effect upon the land, but subject to the provisions of section 13 of *The Crown Lands Act*;
- (c) "Eligible Members" means all members of the First Nation who are over the age of 18 years, registered as "Indians" within the meaning of the *Indian Act*, RSC 1985, c. I-5 (as amended), and have not been found mentally incompetent or otherwise unable to manage their own affairs by a court of competent jurisdiction

as of the dates for the ratification referred to in Article 12.1;

- (d) "Federal Payment" means the funds to be provided by Canada to the First Nation pursuant to Article 2, subject to the terms of this Agreement;
- (e) "Manitoba" means Her Majesty the Queen in right of Manitoba;
- (f) "Minister" means the Minister of Indian Affairs and Northern Development of Canada;
- (g) "Municipal Tax Loss" means any claims of any city, town, village, municipality, or local government district for compensation based on the premise that the setting apart of any lands as a reserve for the use and benefit of the First Nation will result in a loss of annual tax revenue (other than school and hospital taxes), net of any replacement revenues, reduced cost of local service delivery, and any contribution or recovery of capital assets;
- (h) "Per Capita Provision" means the following provisions contained in Treaty No. 1:

"And Her Majesty the Queen hereby agrees and undertakes to lay aside and reserve for the sole and exclusive use of the Indians the following tracts of land, that is to say:

...
for the use of the Indians of whom Oo-za-we-kwun is Chief, so much land on the south and east side of the Assiniboine, about twenty miles above the Portage, as will furnish one hundred and sixty acres for each family of five, or in that proportion for larger or smaller families ... it being understood, however, that if, at the date of the execution of this treaty there are any settlers within the bounds of any lands reserved by any band, Her Majesty reserves the right to deal with such settlers as She shall deem just, so as not to diminish the extent of the land allotted to the Indians"

and the following provisions of the revision to Treaty No. 1 made on or about June 20, 1876:

"...it is hereby agreed with regard to the Reserve promised by the said treaty, that to the band of Yellow Quill, a Reserve shall be assigned by Her Majesty's Commissioner or by a Commissioner appointed for the purpose, to be selected in the region of country they now inhabit, and to be approved of by the said Band, but said Reserve shall not be nearer to the Portage than twenty miles...

...it is hereby agreed that the separate Reserves to be granted to the said three Bands shall contain an amount of land equal to that stipulated to be given to the original Band, and such land shall be assigned to each Band in proportion to their relative numbers so that each Band shall receive their fair and just share of the said land ...";

- (i) "Ratification Procedure" means the process to be used by the First Nation to ratify this Agreement and the Trust Agreement as set forth in Schedule "B" attached hereto;
- (j) "Reserve" means a Reserve as that term is used in the *Indian Act*, R.S.C 1985, c. I-5;
- (k) "Third Party Interests" means:
 - (i) any right or interest in respect of lands that have been acquired by the First Nation and which the First Nation wishes Canada to set apart as Reserve pursuant to Article 4 (and includes, without limitation, any agreement to purchase, option to purchase, lease, profit a prendre, option to lease, easement, permit, or license of any kind or nature whatsoever), the holder of which interest is not Canada, Manitoba, or the First Nation; or
 - (ii) any right of access to explore or exploit the mines and minerals under such lands; or
 - (iii) Municipal Tax Loss (if any);
- (l) "TLE Committee" means Treaty Land Committee of Manitoba Inc., which represents certain Indian Bands which signed or adhered to Treaty Nos. 1, 3, 4, 5, 6, and 10;
- (m) "Trust Agreement" means an agreement to be entered into concurrently with this Agreement by the First Nation and the Trustees, the form of which agreement is set out in Schedule "A" attached to this Agreement;
- (n) "Trust Capital Account" means the account to be established by the Trustees pursuant to the Trust Agreement;
- (o) "Trustees" means those persons appointed as such pursuant to the Trust Agreement;

- (p) "Tramping Lake Lands Issue" means all actions and proceedings whatsoever in connection with and taken by Canada, firstly, in setting aside approximately 2,403 acres of land at Tramping Lake, Saskatchewan, in 1906 as I.R. No. 7A as a reserve for the First Nation; thereafter accepting a surrender of such lands from the First Nation in 1908; thereafter selling the surrendered lands; and thereafter paying the sale proceeds to the First Nation.

IN WITNESS WHEREOF the Minister of Indian Affairs and Northern Development on behalf of Her Majesty the Queen in Right of Canada has executed this Swan Lake First Nation Treaty Land Entitlement Settlement Agreement under his hand and seal this 30th day of March, 1995, at Hull, in the Province of Manitoba.

WITNESS

MINISTER OF INDIAN AFFAIRS
AND NORTHERN DEVELOPMNET

AND FURTHERMORE, IN WITNESS WHEREOF the Swan Lake Indian Band, as represented by the duly elected and incumbent Chief and Councillors of the First Nation, as authorized by the Eligible Members on March 15, 1995, pursuant to the Ratification Procedure set out in Schedule "B" attached hereto, for themselves and on behalf of all Indians of the First Nation, have executed this Swan Lake First Nation Treaty Land Entitlement Settlement Agreement under their respective hands this 21st day of March, 1995, at Winnipeg, in the Province of Manitoba.

WITNESS

CHIEF

WITNESS

COUNCILLOR

WITNESS

COUNCILLOR

WITNESS

COUNCILLOR

WITNESS

COUNCILLOR

WITNESS

COUNCILLOR

SCHEDULE "A"

SWAN LAKE FIRST NATION

TREATY LAND ENTITLEMENT

TRUST AGREEMENT

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SCHEDULE "A"

THE AGREEMENT made this day of , AD 1995

BETWEEN:

SWAN LAKE FIRST NATION
as represented by its Chief and Councillors,
(hereinafter referred to as the First Nation)

OF THE FIRST PART

AND:

ELMER SOLDIER, RICHARD CAMERON and JANET SOLDIER

(hereinafter individually referred to as a
"Trustee" and collectively referred to as
the "Trustees")

OF THE SECOND PART

WHEREAS Her Majesty the Queen in Right of Canada, as represented by the Minister of Indian Affairs and Northern Development and the First Nation entered into a Treaty Land Entitlement Settlement Agreement dated the day of , 1995 (hereinafter referred to as the "Settlement Agreement") pursuant to which the terms for the settlement of the remaining amount of land to be provided to the First Nation in fulfilment of the Per Capita Provision (as defined in the Settlement Agreement) were agreed as provided for therein;

AND WHEREAS pursuant to the Settlement Agreement Canada has agreed to provide the First Nation with a Federal Payment of Nine Million, Five Hundred Thousand dollars (\$9,500,000.00) plus setting off of a loan in the amount of Nine Hundred and Three Thousand and Seventy-Two dollars (\$903,072.00).

AND WHEREAS the First Nation, based on its own independent legal and financial advice and after reviewing alternative methods of managing the Federal Payment, has irrevocably directed that Canada deposit same to the Trust Capital Account established at the Institution;

AND WHEREAS the First Nation and the Trustees are desirous of hereby creating the

SWAN LAKE First Nation Trust for the use and benefit of the First Nation;

AND WHEREAS the First Nation and the Trustees acknowledge and agree that the Federal Payment to be so deposited to the Trust Capital Account is a long-term asset for the use and benefit of the First Nation, as Beneficiary, to be administered by the Trustees upon the trusts herein contained and subject to the Settlement Agreement and the terms and conditions hereinafter set out;

AND WHEREAS the First Nation and the Trustees, jointly and severally, recognize Canada's desire to ensure that Entitlement Land (including all Mines and Minerals in respect thereof) with a surface area equal to a minimum of 4484 acres and a maximum of 13,035 acres be purchased utilizing in the Federal Payment and that the same be set apart as Reserve for the use and benefit of the First Nation;

AND WHEREAS the Trustees further recognize the First Nation's desire to use all of the Trust Property for the acquisition of land to be set apart as reserve and as a heritage for future generations subject only to the specific exceptions set out in this Trust Agreement and the Settlement Agreement;

AND WHEREAS by a ratification vote held on the _____, the Eligible Tribal Members of the First Nation have assented to and approved the execution and delivery of this Agreement, and have authorized and directed the Chief and Councillors to sign and deliver this Agreement and all related documentation;

NOW, THEREFORE, in consideration of the premises and of the respective covenants and agreements hereinafter set out, the parties covenant and agree as follows:

ARTICLE 1: INTERPRETATION:

- 1.1 Defined terms used to interpret this Agreement including recitals, are set out in Article 21 hereof.

ARTICLE 2: CREATION OF SWAN LAKE FIRST NATION TRUST

- 2.1 The First Nation hereby establishes the SWAN LAKE First Nation Trust.
- 2.2 The First Nation and the Trustees hereby acknowledge and agree that upon Canada depositing the Federal Payment into the Trust Capital Account, Canada is relieved of any and all obligations or liability, whether fiduciary or otherwise, relating to or arising from the deposit, use, management, settlement, withdrawal, or any other dealing with respect to the Federal Payment pursuant to this Agreement.

- 2.3 The Trustees agree to accept and hold the Federal Payment, in trust for the Beneficiary, upon and subject to the trusts set forth in this Agreement.
- 2.4 All beneficial right, title, interest and benefit in and to the Trust Property shall vest in the Beneficiary.
- 2.5 Subject to the terms hereof, all legal right, title, interest and benefit in and to the Trust Property shall vest in the Trustees and there shall be no power of revocation.
- 2.6 This Agreement may be amended only as expressly provided for herein provided there shall be no amendment regarding the term of the Trust as established in Article 22.3.

ARTICLE 3: APPLICATION AND USE OF THE TRUST PROPERTY

- 3.1 The Trustees shall receive, hold and use the Trust Property upon trust for the benefit of the Beneficiary and the Trust Property shall only be used for the following purposes:
- (a) For the acquisition of Entitlement Land, and the Acquisition Costs associated therewith, in accordance with the terms of this Agreement and the Settlement Agreement;
 - (b) For distribution in each Fiscal Year of the Annual Income from the Trust Capital Account to the Trust Expense Account and the Trust Development Account in accordance with terms of this agreement; and
 - (c) For the purchase of Authorized Investments;
- 3.2 For greater certainty, and without in any way limiting the generality of the foregoing:
- (a) The Trust Property shall not be used, directly or indirectly, for per capita distribution;
 - (b) Except as hereinafter expressly provided, the Trustees shall not mortgage, pledge, hypothecate or in any way encumber the Trust Capital for any purpose whatsoever, and the Trustees shall not lend, invest, release, distribute or advance the Trust Capital except as may be specifically authorized in the Settlement Agreement and this Agreement.

ARTICLE 4: SELECTION AND ACQUISITION OF ENTITLEMENT LAND

4.1 The manner of selection of land to be acquired as Entitlement Land by the Trustees shall be as follows:

- (a) The Council may deliver a written proposal for the acquisition of Entitlement Land setting out sufficient particulars to identify the land, the proposed price of the same and a statement as to how the land, if acquired, would benefit the First Nation, whereupon the Trustees shall make such inquiries as are necessary to satisfy themselves that the proposed Entitlement Land is eligible for acquisition in that:
 - (i) the terms and conditions of Article 4 of the Settlement Agreement could reasonably be expected to be satisfied if the eligible Entitlement Land was acquired by the Trustees; and
 - (ii) the acquisition of the proposed Entitlement Land could reasonably be expected to benefit the First Nation;
- (b) Upon the Trustees satisfying themselves that the proposed Entitlement Land is so eligible (which land shall hereinafter be referred to as "Eligible Entitlement Land") the Trustees shall make such further inquiries as are necessary to fully inform themselves of the actual conditions associated with the acquisition of the Eligible Entitlement Land and the ability to transfer it to Reserve status;
- (c) Within a reasonable time after receiving and assessing the proposal in accordance with paragraph (a), the Trustees shall notify the Eligible Tribal Members of each proposal for the acquisition of Eligible Entitlement Land by notice in writing which notice shall include:
 - (i) a summary of the proposal setting out a description of the Eligible Entitlement Land sufficient to identify it, the assessed value of the land and any improvements thereon, and the potential benefits to the First Nation if it is acquired;
 - (ii) the date, time and place of a meeting of the Eligible Tribal Members to be convened for the purpose of discussing and reviewing the proposal to assist the Trustees in formulating its recommendations regarding the acquisition of the Eligible Entitlement Land; and
 - (iii) stating that each Tribal Member is entitled to express his or her opinion regarding the proposed acquisition by attending the meeting and/or by writing to the Trustees.

- (d) The meeting referred to in paragraph (c) shall be held not less than fourteen (14) days and not more than twenty eight (28) days from the date of the Notice;
- (e) At the meeting, the Trustees shall disclose to the Eligible Tribal Members in attendance the actual costs and benefits associated with the Eligible Entitlement Land and any and all other information which they have received in relation to the said land;
- (f) Within a reasonable period of time following the meeting, the Trustees shall meet and determine whether acquisition of the Eligible Entitlement Land will benefit the First Nation and be in its best interests;
- (g) In making their determination, the Trustees shall consider all of the opinions expressed by the Tribal Members and all the information which they have in relation to the Eligible Entitlement Land;
- (h) If the Trustees determine that the acquisition of the Eligible Entitlement Land will benefit the First Nation and be in its best interests, the Trustees shall deliver a Certificate of Trustees Regarding Eligible Entitlement Land (the form of which certificate appears as Appendix 'A') to the Council requesting the Council's consent to the acquisition;
- (i) Upon receipt of the Certificate referred to in paragraph (h) from the Trustees, the Council shall, by majority vote, determine whether it consents to the acquisition of the Eligible Entitlement Land;
- (j) In the event that the Council consents to the acquisition of the Eligible Entitlement Land, it shall deliver to the Trustees a Band Council Resolution Consenting to the Acquisition of Eligible Entitlement Land (the form of which resolution appears as Appendix 'B') authorizing and directing the Trustees to purchase the Eligible Entitlement Land;
- (k) In the event the Council does not consent to the purchase of the Eligible Entitlement Land, it shall deliver to the Trustees a Band Council Resolution Declining to Consent to the Acquisition of Eligible Entitlement Land (the form of which resolution appears as Appendix 'C') in which the Council shall clearly state its reasons for declining to provide its consent;
- (l) If, after reviewing and considering the Band Council Resolution referred to in paragraph (k) hereof, the Trustees are still of the opinion that the acquisition of the eligible Entitlement Land would benefit the First Nation and be in its best interest, the Council and Trustees shall meet and by a majority vote of the Council and Trustees voting together finally determine the matter;

4.2 The manner of acquiring Eligible Entitlement Land shall be as follows:

- (a) Upon receiving the consent of the Council pursuant to paragraph 4.1(j), or after a vote pursuant to paragraph 4.1(l) in which a majority of those voting favour the acquisition of the Eligible Entitlement Land, the Trustees shall enter into an Agreement to Purchase the approved Eligible Entitlement Land, subject to the condition that title transfers to and vests in the Trustees for and on behalf of the First Nation;
- (b) The Trustees may, with the consent of the First Nation and Canada, assign the Trustees' interest in the Agreement to Purchase to Canada;
- (c) Prior to acquiring Eligible Entitlement Land the Trustees shall ensure that adequate arrangements have been made for the management of the land;
- (d) The Trustees, upon entering into an Agreement to Purchase Eligible Entitlement Land, shall:
 - (i) arrange for the withdrawal of a sum of money from the Trust Capital Account, that is not in excess of the total of the agreed purchase price and Acquisition Costs;
 - (ii) arrange for deposit of such money into the trust account of a practising solicitor in and for the Province of Manitoba, retained by the Trustees to complete the purchase of the Eligible Entitlement Land in accordance with the terms of the Agreement to Purchase and the terms of this Agreement;
 - (iii) arrange to satisfy Third Party Interests and take such other steps as are necessary to fulfil the requirements of Article 4 of the Settlement Agreement; and
 - (iv) deliver a fully executed copy of the Agreement to Purchase to the Council.
- (e) In every instance in which Eligible Entitlement Land is acquired, Council shall make an application to Canada to have such Eligible Entitlement Land set aside as Reserve for the use and benefit of the First Nation by delivering to Canada and to the Trustees a duly authorized Band Council Resolution requesting the same. In the event the conditions set out in Article 4 of the Settlement Agreement are satisfied and Canada agrees to set aside such Eligible Entitlement Land as Reserve, the Trustees shall take all steps and sign all documents necessary to transfer the Eligible Entitlement Land to Canada;
- (f) All Agreements to Purchase Eligible Entitlement Land shall be subject to receipt

within 90 days of Canada's written agreement in accordance with Paragraph 4.3(a) of the Settlement Agreement.

- (g) In the event that land or an interest therein has been acquired by the Trustees but does not comply with or meet the criteria for acquisition of Eligible Entitlement Land set forth in the Settlement Agreement or this Agreement, such Eligible Entitlement Land shall be sold by the Trustees or, if such Eligible Entitlement Land is in the name of Canada shall be sold by Canada, as the case may be, and the net proceeds of such sale shall be returned to, and form part of, the Trust Property and be forthwith redeposited to the Trust Capital Account.

ARTICLE 5: TRUST EXPENSE ACCOUNT

- 5.1 Each year the Trustees may transfer so much of the Annual Income for that year calculated at the end of each month from the Trust Capital Account to the Trust Expense Account to pay the Trust's reasonable and legitimate expenses including, but not limited to, those listed in this article, which total transfers shall not exceed 1.0% of the capital in the Trust Capital Account in that year.
- 5.2 The Trustees are authorized and empowered to retain, dismiss and replace staff, legal counsel, auditors, accountants, bookkeepers, investment advisers, realtors, appraisers, auctioneers, architects, engineers, and other advisors and organizations qualified in the field for which their advice and opinions are sought and required by the Trustees to assist the Trustees in carrying out their responsibilities and obligations under this Agreement, but the Trustees shall not be bound to act upon such advice.
- 5.3 The Trustees may pay reasonable salaries, wages, fees and costs for the services of persons, corporations and proprietorships referred to in paragraph (b) including, but not limited to, salaries, wages, fees and costs associated with the settlement and implementation of this Agreement, the costs associated with any variation of this Agreement, and the reasonable instruction and training in the duties and responsibilities of Trustees. (When reasonable, such instruction and training shall take place at the First Nation Reserve)
- 5.4 The Trustees may incur reasonable costs and expenses in relation to meetings which they are required or empowered to hold pursuant to this agreement including, but not limited to, the printing and posting of notices of such meetings, the printing and distribution of ballots for any vote or election under this agreement and the conduct of such a vote or election.

- 5.5 The Trustees may incur reasonable costs for the investment, acquisition, administration and management of Trust Property and may pay the cost of premiums for the purchase of such insurance as the Trustees, acting reasonably, may determine is advisable.
- 5.6 The Trustees may pay reasonable rent for office space and may pay reasonable compensation to the Trustees for the performance of their duties as defined by this Agreement and may reimburse to the Trustees any personal expenses reasonably incurred by the Trustees in carrying out their duties, which compensation and expenses shall be paid in accordance with the Tariff of Trustees' Honoraria and Disbursements (the form of which tariff appears as Appendix 'D'). The said Tariff may be varied from time to time by the Trustees; provided that no such variation of the Tariff shall be effective until approved by the Council in a vote called by the Council expressly for the purpose. Notwithstanding the aforesaid, after the first year of this Agreement, the Tariff may be varied once annually by the Trustees alone with the approval of Council, which approval shall not be unreasonably withheld, in an amount not to exceed the annual inflation rate calculated by Statistics Canada for the year preceding the proposed adjustment.
- 5.7 The Trustees shall pay the costs of instituting, prosecuting or defending any civil suits or actions or other legal proceedings affecting the Trust or the Trust Property or any part thereof.
- 5.8 The Trustees may make application for advice to the Court of Queen's Bench pursuant to s.84 of The Trustee Act, R.S.M. 1987, C.T160 or The Court of Queens's Bench Act, S.M. 88-89, Cap. 280 and shall pay the costs thereof out of Trust Property, provided that such costs shall be paid from the Trust Expense Account unless same is exhausted.
- 5.9 The Trustees may select criteria for determining and pay the costs associated with an application by any Tribal Member commenced for the purpose of determining an issue of jurisdiction, authority, negligence or breach of trust or fiduciary duty of the Trustees or Council under this Agreement and the Trustees shall pay the costs incurred by a Tribal Member of any legal proceeding commenced by that member which results in a finding that the Trustees or Council have exceeded their power, breached a duty, made an improper or unauthorized expenditure of Trust Property or have acted negligently in the management of Trust Property.
- 5.10 In the event there is a surplus in the Trust Expense Account on the last day of the Year, the Trustees shall pay the surplus into the Trust Development Account.
- 5.11 Each year the Trustees shall submit to and receive approval of their budget for the up-coming year from the Council.

- 5.12 In each year the Trustees shall pay to the Council on behalf of the Beneficiaries from the Annual Income of the Trust an amount equal to two percent (2%) of the Trust Capital Account which amount shall be reinvested by the Council on behalf of the beneficiaries in the Trust Capital Account as a hedge against inflation.

ARTICLE 6: TRUST DEVELOPMENT ACCOUNT

- 6.1 Subject to the provisions of this Article, each Year the Council, on behalf of the Beneficiary may require the Trustees to pay to the Trust Development Account the Annual Income in excess of 3% of the Trust Capital Account calculated at the end of each month which payment may be made in parts advanced monthly after the signing of this agreement.
- 6.2 Requisitions, which may be made each month by the Council to the Trustees to disburse Annual Income into the Trust Development Account pursuant to Article 6.1, shall meet all of the following requirements:
- (a) The expenditure must be identified by the Council and approved by a majority of the Council who shall provide to the Trustees a Resolution confirming its decision.
 - (b) The project to be funded must be fully disclosed in writing by the Council to the Tribal Members and the Council shall provide to the Tribal Members a budget setting out anticipated expenditures and an itemized statement of who will benefit by the expenditures;
 - (c) The Trustees shall, on instructions from Council, certify a Trustees' Certificate of Permitted Withdrawal (the form of which certificate appears as Appendix 'E') indicating that the withdrawal is one permitted under paragraph (a);
 - (d) Every project shall be presented by the Council at a public information meeting of Eligible Tribal Members called by the Council;
 - (e) In accordance with this Agreement and the Settlement Agreement, the Council or the Trustees on behalf of Council may from time to time enter into agreements with Institutions to borrow sums of money for development projects identified as provided for herein.
- 6.3 Notice of the time and place of the meeting shall:
- (a) be not less than fourteen (14) days nor more than twenty eight (28) days in advance of the meeting;

- (b) set out that the meeting is for the purpose of informing Eligible Tribal Members of the intended requisition and expenditure of a specified amount of Annual Income for a specified project;
 - (c) describe the project in reasonable detail; and
 - (d) set out the proposed budget of expenditures.
- 6.4 Subject to Paragraphs 6.1 and 6.2 the Trustees shall deposit to the Trust Development Account amounts of the Annual Income not more than the amounts-requisitioned provided that amount requisitioned in combination with all other payouts do not exceed the amount available in accordance with paragraph 6.1 hereof.
- 6.5 On receipt of any amount of the Annual Income under this Article, the Council shall become a trustee and fiduciary of the First Nation for the purpose of the expenditure of same.
- 6.6 The Beneficiary hereby directs that, where under this Article any payment is required to be made by the Trustees to the Beneficiary, the Trustees shall make such payment to the Beneficiary in care of the Council.

ARTICLE 7: ANNUAL INCOME SURPLUS

- 7.1 The Trustees shall manage and pay out the Annual Income before the last day of each Year, firstly, by paying Trust expenses and the hedge against inflation in accordance with Article 5, secondly, by delivering to the Beneficiary such amounts as may be required to be paid out by Council in accordance with Article 6, and thirdly by payment into the Trust Development Account any balance of the Annual Income in accordance with this Agreement.
- 7.2 In the event it is determined in the future by Revenue Canada or a court of competent jurisdiction that the Trust is not liable to pay income tax on Annual Income if kept in the Trust and not paid to the Beneficiary in accordance with this Article by reason of s. 90 of the Indian Act or for any other reason, any such untaxed and unexpended Annual Income shall be deposited to the Trust Development Account.

ARTICLE 8: FINANCIAL ADMINISTRATION AND ACCOUNT OPERATION AGREEMENT

- 8.1 No monies shall be withdrawn from the Trust Capital Account, the Trust Expense

Account or the Trust Development Account by the Trustees or by the Council expect by means of the appropriate Trust Capital Account direction, Trust Expense Account direction, Trust Development Account direction, or duly executed Resolution of Council with respect to the Trust Development Account.

- 8.2 Monies to be withdrawn from the Trust Capital Account for the purchase of Eligible Entitlement Land may only be withdrawn by means of a Trust Capital Account Land Acquisition Direction (the form of which direction appears as Appendix 'F') which has been executed by a majority of the Trustees named in the most recent Trustees Certificate in the possession of the Institution.
- 8.3 Monies to be withdrawn from the Trust Capital Account as Annual Income for distribution from the Trust Capital Account to the Trust Expense Account or the Trust Development Account may only be withdrawn by means of a Trust Capital Account Annual Income Direction (the form of which direction appears as Appendix 'G') which has been executed by a majority of the Trustees named in the most recent Trustees Certificate in the possession of the Institution.
- 8.4 Monies to be withdrawn from the Trust Capital Account for the purchase of Authorized Investments may only be withdrawn by means of a Trust Capital Account Investment Direction (the form of which direction appears as Appendix 'H') which has been executed by a majority of the Trustees named in the most recent Trustees Certificate in the possession of the Institution.
- 8.5 Monies to be withdrawn from the Trust Development Account may only be withdrawn by means of a Trust Development Account Direction (the form of which direction appears as Appendix 'I') which has been executed by a quorum of the Council.
- 8.6 Monies to be withdrawn from the Trust Expense Account may only be withdrawn by means of a Trust Expense Account Direction (the form of which direction appears as Appendix 'J') to be delivered to the Institution and which has been executed by a majority of the Trustees named in the most recent Trustees Certificate in the possession of the Institution.
- 8.7 Monies to be withdrawn from the Trust Expense Account for the purchase of Authorized Investments may only be withdrawn by means of a Trust Expense Account Investment Direction (the form of which direction appears as Appendix 'K') which has been executed by a majority of the Trustees named in the most recent Trustees Certificate delivered to the Institution.
- 8.8 The Trustees shall maintain a chronological register of all original resolutions authorizing disbursement of Trust Property at the offices of the administration of the Trust, which register shall be available for examination by any Tribal

Member and by the auditor.

- 8.9 Subject to Articles 8.1 through 8.8 inclusive, the Trustees and the Council shall execute and deliver to the Institution any document in writing requested by the Institution which is necessary or appropriate in the opinion of the Institution for the administration of the Trust Property or the operation of the Trust Capital Account, Trust Expense Account or Trust Development Account in particular, and notwithstanding the generality of the foregoing, the Trustees shall provide to the Institution a Trustees Certificate (the form of which certificate appears as Appendix 'L') immediately following any election or replacement of one or more Trustees.
- 8.10 The Trustees and the Council shall enter into agreements with the Institution regarding the operation of the Trust Capital Account, Trust Expense Account and Trust Development Account respectively, which agreements shall contain at least the provisions of this Article and a copy of this Agreement shall be attached for identification purposes.

ARTICLE 9: POWERS OF TRUSTEES

- 9.1 In addition to such other duties and powers of the Trustees as are set out in this Agreement and subject to the restrictions herein the Trustees are authorized and empowered:
- (a) To make any investment, acquisition, expenditure, disposition, contract, arrangement or transaction whatsoever, which a person absolutely and beneficially entitled to the Trust Property would have had power or right to effect or to concur in effecting, to the extent that the Trustees shall have, in relation to the Trust Property, all the powers and rights of a beneficial owner, but subject always to the dispositive provisions and trusts created hereunder and provided that the Trustees shall always exercise such powers and rights in good faith in what the Trustees believe are in the best interests of the First Nation;
 - (b) Without in any way restricting the generality of the foregoing powers and rights conferred on the Trustees, which powers and rights shall be interpreted according to the widest generality of which the words describing them shall be capable, the Trustees shall have, subject to Paragraph 10.1(a) of this agreement, the following powers:
 - (i) to make investments as are authorized by the law for Trustees, and the Trustees may make any investments, without regard for diversification, which in their uncontrolled discretion they consider advisable and the Trustees shall not be liable for any loss that may happen in connection

with any such investment made by them in good faith;

- (ii) to sell, exchange, call in, convert, any or all of the investments which the Trustees may originally make and invest and reinvest them as the Trustees in their uncontrolled discretion consider advisable;
- (iii) to borrow money for the purposes of the Trust at such time, in such amounts and at such rates of interest and upon such terms and conditions as they may consider advisable;
- (iv) in connection with any company or corporation in which the Trustees may at any time hold shares or obligation, the Trustees are authorized to take up the proportion of any increased capital to which as holders of such shares or obligations they may be entitled and also to purchase any additional shares or obligations in such company or corporation; to concur in any arrangement for the release, modification or variation of any rights, privileges or liabilities attached to the shares or obligations; to join in any plan for the reconstruction or reorganization of such company or corporation or for the amalgamation of such company or corporation with any other company or corporation or for the sale of the assets of such company or corporation or any part thereof and in pursuant of such plan, to accept any shares or obligations of such company or corporation or any other company or corporation in lieu of or in exchange for the shares or obligations held by the Trustees in such company or corporation; to concur in any arrangement for the winding up or dissolution and distribution of the assets of such company or corporation; and to enter into any pooling or other agreement in connection with shares or obligations held by the Trustees in such company or corporation and in case of sale thereof, to give any options they consider advisable; the Trustees may cause to be elected any person, including the Trustees themselves and including the beneficiary hereof to any office or directorship of any corporation in which the Trust is interested and in the event that any Trustee shall serve on any such office or directorship and be paid remuneration for such services, such remuneration shall not reduce the compensation to which they are otherwise entitled as Trustees; and where the Trustees hold sufficient shares which directly or indirectly give them control of such company or corporation, they may in their uncontrolled discretion as they consider advisable cause and bring about any plan or arrangement or transaction hereinbefore described in this Article or authorized by the corporate legislation governing such company or corporation; and
- (vi) to make, or refrain from making in their uncontrolled discretion, any election, determination or designation permitted by statute or regulation

of Canada or a legislature, and such exercise of discretion by the Trustee shall be final and binding upon the Beneficiary, provided that the Trustees shall not act so as to confer a tax advantage upon a Tribal Member, or a Corporation owned by the First Nation at the expense of the Beneficiary;

- (c) To establish the Trust Capital Account, Trust Expense Account and the Trust Development Account with the Institution and make such arrangements governing banking procedures as are consistent with this Agreement;
- (d) To make, and amend from time to time, such rules as they deem appropriate and reasonable to govern their procedures, provided that such rules shall not be inconsistent with this Agreement, the Settlement Agreement or any laws which govern Trustees generally;
- (e) To maintain the Resolution register referred to in Paragraph 8.8 and a written record of all decisions taken and certificates issued by the Trustees and to make these records available to Council and Tribal Members on request;
- (f) To maintain adequate records of all transactions through the Trust Capital Account and the Trust Expense Account;
- (g) To execute all documents required by the Institution for the purpose of its administration of the Trust Property;

ARTICLE 10: PURCHASE OF AUTHORIZED INVESTMENTS:

- 10.1 (a)** The Trustees are authorized and empowered to invest monies on deposit in the Trust Capital Account or the Trust Expense Account to purchase Authorized Investments only of the following types;
- (i) debt instruments issued or guaranteed by the Government of Canada, a province of Canada or a municipality of Canada;
 - (ii) debt instruments including Bankers' acceptance issued or guaranteed by any of Canada's chartered banks or licensed trust companies;
 - (iii) commercial paper issued by a corporation rated R-1 or A-1 by the Dominion Bond Rating Services or Canada Bond Rating Services up to a maximum of fifteen (15%) percent of the value of the Trust Capital; or
 - (iv) corporate bonds rated A or better by the Dominion Bond Rating

Service or the Canada Bond Rating Services up to a maximum of fifteen (15%) percent of the value of the Trust Capital.

- (b) The Trustees may direct the Institution to transfer funds from the Trust Capital Account for the Purchase of Authorized Investments by means of a Trust Capital Account Investment Direction (executed in the manner contemplated by Article 8.4) or from the Trust Expense Account for the purchase of Authorized Investments by means of a Trust Expense Account Investment Direction (executed in the manner contemplated by Article 8.7);
- (c) On receipt by the Institution of a duly executed Trust Capital Account Investment Direction or a Trust Expense Account Investment Direction, as the case may be, the Institution shall, subject to the terms of any governing banking arrangements, permit the withdrawal of funds necessary to purchase the Authorized Investments, by means of a cheque or bank draft made payable to the issuer of, or agent handling the sale of, the Authorized Investment;
- (d) The Trustees shall ensure that all Investment Instruments are delivered for safekeeping to the Institution, to be held by the Institution or its agent for the Trustees as a common depository for the same;
- (e) Authorized Investments may be disposed of by the Trustees providing to the Institution a Release Direction from the Trustees (the form of which direction appears as Appendix 'M'). Upon receipt thereof, the Institution shall release and transfer the Investment Instruments in accordance with said Release Direction. The Trustees shall ensure all funds received from the disposition of the Authorized Investments shall be deposited by the Institution on behalf of the Trustees to the Trust Capital Account or the Trust Expense Account, as the case may be.

ARTICLE 11: APPOINTMENT OF INITIAL TRUSTEES

11.1 The First Nation hereby appoints:

- a. Elmer Soldier
- b. Richard Cameron
- c. Janet Soldier

as initial Trustees.

11.2 The initial Trustees shall hold office until the election of Trustees set out in Paragraph 11.3(f) and 11.3(g).

- 11.3 Subject to Article 11.4, during the said period, the initial Trustees shall exercise the powers conferred on Trustees pursuant to Article 9 and in particular shall:
- (a) Establish the Trust's Accounts at the Institution and make arrangements governing banking procedures pursuant to paragraph 9.1 (c);
 - (b) Establish rules and procedures pursuant to paragraph 9.1 (d);
 - (c) Establish a register as required in paragraph 9.1 (e);
 - (d) Do all such other things and execute such documents as may be required by the Institution for the purpose of administering the Trust which are consistent with this agreement;
 - (e) Establish a procedure for the selection of the Independent Trustees pursuant to Paragraphs 12.2 and 12.5 hereof;
 - (f) Establish a procedure for the election of Trustees pursuant to Article 12.3; and
 - (g) Cause an election to be held in accordance with that procedure within ninety (90) days of the date on which the Settlement Agreement comes into force.
- 11.4 Notwithstanding the generality of Article 11.3, the initial Trustees shall not select or acquire Eligible Entitlement Land and the operation of Article 4 herein shall be suspended until the election of Trustees pursuant to paragraph 11.3(g) has occurred.

ARTICLE 12: ELECTION AND TERM OF OFFICE OF TRUSTEES

- 12.1 Subject to Article 11 and Paragraph 12.5, each Trustee shall serve a term of four (4) years.
- 12.2 Except for the period pending the filling of a vacancy and subject to Article 11.1, there shall be at all times five (5) Trustees in office of which at least three (3) must reside on the SWAN LAKE Indian Reserve and one (1) shall be an Independent Trustee selected by the other four (4) Trustees jointly with the Chief and Council and all except the Independent Trustee shall be Eligible Tribal Members.
- 12.3 The procedure for the election of Trustees other than the Independent Trustee by the Eligible Tribal Members shall be consistent with the procedure followed by the First Nation for election of its Council except that all Eligible Tribal Members are eligible to vote in an election of Trustees and those nominees receiving the

most votes in an election of trustees shall fill the available positions. Further, in the case of the first election the two receiving the most votes shall be those elected for four (4) year terms. Notwithstanding the aforesaid, non-resident Eligible Tribal Members may seek and hold office subject to the requirements of Paragraph 12.2 and where more than one non-resident Eligible Tribal Member seeks office and would otherwise be elected, the one receiving the most votes shall be the one elected.

- 12.4 The Independent Trustee's term will be one year and the Council jointly with the four (4) other Trustees will appoint the Independent Trustee each year.

ARTICLE 13: REPLACEMENT OF TRUSTEES

13.1 A Trustee shall serve until his or her term expires or until he or she:

- (a) Dies;
- (b) Resigns;
- (c) Is bankrupt or is convicted of an offence involving the Trust Property or the exercise of his or her responsibilities as a Trustee or any of the offences set out in Paragraph 12.4 hereof;
- (d) Is declared by a court to be mentally incompetent;
- (e) Fails to attend three consecutive meetings of the Trustees of which meetings he or she has received notice;
- (f) Fails to disclose his or her interest in a material contract in accordance with Article 16 hereof and, without restricting the generality of the aforesaid,

Paragraphs 16.1 and 16.2 of this Agreement or votes on any resolution contrary to Paragraph 16.3 of this Agreement;

- (g) Resigns by delivery of a notice in writing to the other Trustees indicating an effective resignation date no less than fourteen (14) days next following delivery in which case a Trustee affected shall automatically cease to be a Trustee on the date indicated in the said resignation.
- 13.2 If a vacancy among the Trustees occurs, other than by expiration of the term of a Trustee, it shall be filled by the Council as soon as reasonably possible, but in any event within thirty (30) days of the date the vacancy occurs except that in the event that 2 or more Trustees cease to be Trustees within a 6 month period there shall be an election to fill the vacancies of both resigning Trustees notwithstanding the appointment to replace the first resignation and such election shall be for the remainder of each resigning Trustee's term and conducted in accordance with the election procedures herein.
- 13.3 Any Trustee appointed after the execution hereof, whether in substitution or replacement of a Trustee shall, prior to such appointment being effective, agree to become a party to, and be bound by, the terms and conditions hereof.
- 13.4 The Trustees may make and adopt special rules governing residence and disqualification due to residence of the Trustees for tax purposes and where a Trustee fails to meet these special rules, such Trustee may be replaced or denied office as the case may be.

ARTICLE 14: CONDUCT OF MEETINGS

- 14.1 The conduct of all meetings of Trustees shall be governed by the following:
 - (a) The quorum for meetings of Trustees shall be three (3) Trustees except for meetings of initial Trustees for which a quorum shall be two (2);
 - (b) A Trustee may be present or attend by telephone or other communication facility which permits each Trustee to communicate with all other Trustees at the meeting;
 - (c) At the first meeting held in each year the Trustees shall select a Chairman from among themselves but not including the Independent Trustee, who shall serve as Chairman for that year;
 - (d) All decisions and actions of the Trustees, except as otherwise specifically provided in this agreement, shall require three (3) votes of the Trustees at a duly convened meeting except for decisions and action of the initial Trustees which

shall require two (2) votes of the Trustees;

- (e) Minutes of decisions taken at all Trustees meetings shall be recorded in writing and signed by those Trustees present at the meeting or participating by conference telephone;
- (f) Meetings of the Trustees can be open or closed to Tribal Members as the Trustees in their discretion may decide provided that no less than two (2) meetings of the Trustees each Year shall be open to Tribal Members, the first of which shall be held within one hundred and twenty (120) days of the last day of each Year, at which meeting the Trustees shall table and discuss the annual consolidated trust audit;
- (g) Meetings of the Trustees shall be held at such place or places as the Trustees may determine provided that the Trustees must meet at least four (4) times per year and must hold not less than two (2) meetings on the Swan Lake First Nation Reserve;
- (h) All Trustees shall be given fourteen (14) days advance written notice of the place, date and time of every meeting, unless all Trustees agree to shorter notice and, with respect to meetings of the Trustees open to Tribal Members, fourteen (14) days notice shall be posted in the office of administration of the Trust and the Council;
- (i) All Trustees shall maintain notice of a current residence address at the place of administration of the Trust and notice to that address shall be good and sufficient notice for all purposes of this Agreement;

ARTICLE 15: AUDIT REQUIREMENTS

- 15.1 Each year the Trustees shall appoint an auditor with qualification as a chartered accountant, certified general accountant or certified management accountant licensed in Manitoba or another jurisdiction with equivalent licensing requirements and cause to be conducted a once annual consolidated trust audit of the Trust Capital Account, the Trust Expense Account and the Trust Development Account in accordance with generally accepted accounting principles, and the auditor so appointed shall also certify, or state clearly in writing the reason(s) why he or she can not so certify, that all expenditures in all three (3) accounts were for purposes approved by this Agreement and were properly authorized in accordance with the requirements of this Agreement.
- 15.2 The Trustees shall engage the auditor to submit his written report on the financial statements for each Year for all three accounts to the Trustees and the Council

within ninety (90) days of the last day of each Year End.

15.3 The Trustees shall provide the First Nation through its Council with:

- (a) A certified copy of the minutes of each meeting of the Trustees; and
- (b) A copy of all ledgers, registers and documents or recordings of transactions affecting the Trust Property as and when requested by Council from time to time.

15.4 Not less than two (2) Trustees shall attend meetings of the Tribal Members, Eligible Tribal Members and Council meetings when requested by Council and shall report on the administration of the Trust Property in relation to the purposes of the Trust.

15.5 Any Tribal Member shall be entitled to review of the annual consolidated trust audit on request from the Trustees without charge.

ARTICLE 16: CONFLICT OF INTEREST

16.1 A Trustee who:

- (a) Is a Party or is related by blood or marriage to a party to a material contract or proposed material contract of the Trustees entered into or to be entered into in accordance with this Agreement; or
- (b) Is a director, an officer or a principal or is related by blood or marriage to a person who is a director, officer or principal in any corporation, sole proprietorship or partnership which is a party to a material contract or proposed material contract with the Trustees entered into or to be entered into in accordance with this Agreement, shall disclose in writing to the Trustees or request to have entered into the minutes of a meeting or meetings of Trustees the nature and extent of his interest.

16.2 The said disclosure required of a Trustee shall be made in writing:

- (a) At the meeting at which a proposed contract is first considered by the Trustees.
- (b) If the Trustee was not then interested in a proposed contract, at the first meeting after he becomes so interested.
- (c) If the Trustee becomes interested after a contract is made, at the first

meeting after he becomes so interested; or

- (d) If a person who is interested in a contract later becomes a Trustee, at the first meeting after he becomes a Trustee.

- 16.3 A Trustee described in Article 16.1 may not vote on any resolution to approve the contract but may participate in any discussion of the contract.
- 16.4 For purpose of this Article a general notice to the Trustees by a Trustee declaring his or her interest in a material contract as provided for in Article 16.1 is a sufficient declaration of interest in relation to any contract so made.
- 16.5 A material contract involving this Agreement between the Trustees and one (1) or more of the Trustees, or between the Trustees and a company or organization of which one or more of the Trustees is a partner, shareholder, director or officer or in which one or more of the Trustees has a material interest, is neither void nor voidable by reason of that relationship or by reason only that a Trustee with an interest in the contract is present at or is counted to determine the presence of a quorum at a meeting of Trustees that authorized the contract if the Trustee disclosed his interest as required above and the contract was approved by the Trustees and is reasonable and fair to members of the Band at the time it was approved.

ARTICLE 17: AMENDMENT

- 17.1 Subject to Article 3.2, this Agreement may be amended by written agreement between the Council and the Trustees, provided that:
 - (a) There shall be no amendment of this Agreement except for conditions inconsistent with the spirit and terms of this agreement and the Settlement Agreement for a period of ten (10) years from the date hereof; and
 - (b) The signing and delivery of any such amending agreement shall not be effective until ratified by the Eligible Tribal Members in accordance with Article 18.
- 17.2 Such ratification shall be conducted in accordance with the voting procedures established in Article 18 hereof.

ARTICLE 18: VOTING PROCEDURE

18.1 The Trustees shall establish a procedure for the taking of any vote of the Eligible Tribal Members required or authorized under this Agreement which procedure shall be consistent with the Ratification Procedure which is attached as Schedule 'B' to the Settlement Agreement but shall provide:

- (a) That all votes shall be by secret ballot;
- (b) For reasonable written notice to all Eligible Tribal Members of the date, time and place of the vote and the question to be voted on;
- (c) That each Eligible Tribal Member entitled to vote shall have a reasonable opportunity to vote; and
- (d) That the question voted upon shall be determined by a majority of those casting their vote, provided that in the case of a vote taken with respect to a proposed amendment to this Agreement as required by Article 17 hereof, and as required in the Ratification Procedure, the question shall be determined by not less than a majority of a majority of the Eligible Tribal Members entitled to vote.

ARTICLE 19: NOTICE

19.1 Whenever in this Agreement it is required that notice be given or served by any party to or on the others such notice shall be given or served in writing by delivering it personally or by forwarding it by Registered Mail to:

- (a) the First Nation at the following address:
- (b) The Trustees in care of the current address of each Trustee as recorded pursuant to paragraph 14.1(i);

19.2 Any notice or communication shall be sufficient if delivered personally, or if delivered by registered mail, postage prepaid, addressed as set forth above, and shall be effective on delivery if delivered personally or on the fourth business day

after mailing, if mailed. In the event of an anticipated or actual stopping of postal service, registered mail shall not be used.

ARTICLE 20: LIMITATION ON LIABILITY

20.1 Without limiting the powers herein granted, the Trustees shall not be liable or accountable for:

- (a) Any loss or damage resulting from the exercise of the discretion or the refusal to exercise a discretion either alone or together with the other Trustees; or
- (b) Any loss of Trust Property provided that every Trustee in exercising his or her powers and discharging his or her duties
 - (i) Acts honestly and in good faith with a view to the best interest of the Trust and its Beneficiary;
 - (ii) Exercises the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstance; and
 - (iii) Does not act for his or her own personal benefit.

20.2 Without limiting the generality of Article 20.1, no Trustee shall be in breach of any duty in respect of the Trust whether fiduciary or otherwise or be held liable, answerable or accountable whether for a private profit, or damages or otherwise if the Trustee in his own right directly or indirectly owned, acquired, disposed of or failed to acquire or dispose of shares or other securities in any corporation or venture in which the Trust also owned shares or other securities.

ARTICLE 21: DEFINITIONS

21.1 In this Agreement, the following capitalized terms in quotation marks shall have the following meanings, namely:

- (a) "Acquisition Costs" means the costs incurred in relation to the Purchase of Land, Minerals or Improvements by or on behalf of the First Nation (other than the Price paid to the vendor in respect thereof), and includes, without limitation, legal fees, applicable taxes and tax adjustments, appraisal costs, surveyor certificate costs and real estate commissions and all reasonable costs associated directly with and incurred by the First Nation or the Trustees in relation to site identification and approval in

relation to Entitlement Land.

- (b) "Agreement", "this Agreement", "hereto", "hereof", "herein", "hereunder", "hereby" and similar expressions refer, unless otherwise expressly stated, to this agreement, including the recitals and the Appendices attached hereto, and not any particular article, section, subsection, paragraph or other subdivision hereof or thereof;
- (c) "Annual Income" means all the income derived from the Trust Property for the year including any capital and currency gains within the meaning of the Income Tax Act, RSC 1985, c.I48, as amended;
- (d) "Authorized Investments" means any of those instruments, notes, bonds or other securities which the Trustees are authorized to purchase, in accordance with the terms hereof, with funds from the Trust Capital Account or Trust Expense Account;
- (e) "Beneficiary" means the First Nation;
- (f) "Canada" means Her Majesty the Queen in Right of Canada, as represented by the Minister of Indian Affairs and Northern Development;
- (g) "Council" means, in respect of the First Nation, the "council of the band" within the meaning of the Act;
- (h) "Eligible Tribal Members" means all SWAN LAKE Tribal Members who are over the age of eighteen (18) years, registered as "Indians" within the meaning of the Indian Act, RSC 1985, c.I-5 (as amended), and have not been found mentally incompetent or otherwise unable to manage their own affairs by a court of competent jurisdiction as of the date of any vote authorized by this Agreement;
- (i) "Entitlement Land" means Lands, Minerals or Improvements in Manitoba hereafter Purchased and which are intended to be set apart as an Entitlement Reserve pursuant to the provisions of the Settlement Agreement and this Agreement;
- (j) "Federal Payment" means those monies to be paid to the First Nation by Canada pursuant to the Settlement Agreement in accordance with Article 2 thereof;
- (k) "Improvements" means all buildings or structures erected or placed on, over or under land and, unless otherwise expressly provided herein, includes, without limitation, anything affixed to or incorporated therein, the plant and equipment of any oil or gas well or mine, any pipeline on or under land, fencing, and any dugouts or other alterations to land designed to facilitate the collection and

retention of water;

- (l) "Independent Trustee" means a Trustee who is not a Tribal Member or an individual related by blood, marriage or adoption to a Tribal Member of the First Nation;
- (m) "Indian Act" or "Act" means the Indian Act, R.S.C. 1985, c. I-5 and the regulations made thereunder, as the same may be amended or replaced from time to time, and any reference herein to a section of or regulation under the Indian Act shall include that section or regulation as amended or replaced from time to time except where such amendment(s) or replacement(s) are inconsistent herewith or the Act is rescinded in which case reference to the Act shall be interpreted as the Act as it was at the signing hereof;
- (n) "Institution" means the chartered bank or licensed trust company at which the Trust Capital Account, the Trust Expense Account and the Trust Development Account are maintained;
- (o) "Investment Instruments" means, collectively, those certificates, instruments, documents or other written materials which evidence Authorized Investments;
- (p) "SWAN LAKE First Nation Trust" means the trust created pursuant to the terms of this Agreement to be administered by the Trustees for the benefit of the First Nation as Beneficiary;
- (q) "Reserve" means a reserve as that term is used in the Act;
- (r) "Reserve Resident" means an Eligible Tribal Member who resides on SWAN LAKE Reserve No. 7 and has, in the opinion of Council confirmed by resolution done so continuously for at least 1 year prior to the date of nomination for the position of trustee;
- (s) "Third Party Interest" means:
 - (i) any right or interest in respect of lands that have been acquired by the First Nation and which the First Nation wishes Canada to set apart as Reserve pursuant to Article 4 and includes, without limitation, any agreement to purchase, option to purchase, lease, profit a prendre, option to lease, easement, permit, or license of any kind or nature whatsoever the holder of which interest is not Canada, Manitoba, or the First Nation; or
 - (ii) any right of access to explore or exploit the mines and minerals under such lands; or
 - (iii) any claims of any city, town, village, municipality, or local government

district for compensation based on the premise that the setting apart of any lands as a Reserve for the use and benefit of the First Nation will result in a loss of annual tax revenue (other than school and hospital taxes), net of any replacement revenues, reduced cost of local service delivery, and any contribution or recovery of capital assets;

- (t) "Tribal Member" means those persons registered from time to time as members of the First Nation on the Band list maintained pursuant to the Act;
- (u) "Trust Property" means the Federal Payment and includes all monies now or hereafter on deposit in the Trust Capital Account or Trust Expense Account (which for greater certainty includes any and all investment instruments in which the monies in the Trust Capital Account or Trust Expense Account may from time to time be invested hereunder by the Trustees as specified herein) as well as any additions or accruals thereto and also includes, without limitation, all interest revenue and other income realized thereon, and the net proceeds of sale of all Entitlement Land sold pursuant to paragraph 4.2(g) of this Agreement;
- (v) "Trustees" means collectively those individuals appointed to act as Trustees on behalf of the First Nation pursuant to this Agreement, and any individuals from time to time thereafter appointed or substituted therefor, and "Trustee" means any one of such Trustees;
- (w) "Trustees Certificate" means the certificate to be provided by the Trustees from time to time to the Institution, certifying the names of the then current Trustees and evidencing their signatures;
- (x) "Year" means the calendar year.

ARTICLE 22: OTHER PROVISIONS

22.1 Wherever this Agreement requires that notice of a meeting be given to the Eligible Tribal Members:

- (a) Such notice shall be in writing and shall be posted and displayed clearly both inside and outside the Council Office and the place of administration of the Trust not less than fourteen (14) days before the day on which the meeting is to be held and throughout the notice period; and
- (b) Mailed by ordinary mail or delivered to each Eligible Tribal Member at his or her last known address at least fourteen (14) days before the day on which the meeting is to be held.

- 22.2 This Agreement shall in all respects be construed under and regulated by the laws of the Province of Manitoba, and the parties agree that at all times the principal place of administration of the Trust created by this Agreement shall be Indian Reserve #7 in the Province of Manitoba.
- 22.3 This Agreement shall commence on the date of execution of this Agreement and shall not terminate unless exhausted in accordance with the provisions of the Settlement Agreement and this Agreement.
- 22.4 The First Nation hereby nominates, appoints, and authorises the Council to do all things, make all decisions and receive and lend all monies on behalf of the First Nation as called for by this Agreement.
- 22.5 The headings are inserted solely for convenience and shall not control or affect the meaning or construction of any part of this Agreement.
- 22.6 Words herein in the singular include the plural and words herein in the plural include the singular.
- 22.7 Words importing male persons include female persons and corporations.
- 22.8 Any resolution of the Council required for the purposes of this Agreement shall be passed at a meeting of the Council held in accordance with the procedures prescribed by the Indian Act and the regulations made thereunder.
- 22.9 No member of the House of Commons or the Senate may be admitted to any share of this Agreement or any benefit to arise therefrom.
- 22.10 The following Appendices form part of the Agreement:
- Appendix 'A' Certificate of Trustees Regarding Eligible Entitlement Land;
 - Appendix 'B' Band Council Resolution Consenting to the Acquisition of Eligible Entitlement Land;
 - Appendix 'C' Band Council Resolution Declining to Consent to the Acquisition of Eligible Entitlement Land;
 - Appendix 'D' Tariff of Trustees' Honoraria and Disbursements;
 - Appendix 'E' Trustees' Certificate of Permitted Purpose;

Appendix 'F' Trust Capital Account Land Acquisition Direction;

Appendix 'G' Trust Capital Account Annual Income Direction;

Appendix 'H' Trust Capital Account Investment Direction;

Appendix 'I' Trust Development Account Direction;

Appendix 'J' Trust Expense Account Direction;

Appendix 'K' Trust Expense Account Investment Direction;

Appendix 'L' Trustees Certificate;

Appendix 'M' Release Direction.

IN WITNESS WHEREOF the parties hereto have executed these presents as of the date and year first above written.

DATED at _____ this _____ day of

_____, 199 ____.

First Nation
as represented by Chief
Council

Witness

Chief

Witness

Councillor

Witness

Councillor

Witness

Councillor

Witness

Councillor

DATED at _____ this _____ day of
_____, 199 ____.

Trustees of the First Nation
Entitlement Trust Agreement:

Witness

Witness

Witness

DATED at _____ this _____ day of
_____, 199 ____.

APPENDICES

APPENDIX "A"

CERTIFICATE OF TRUSTEES REGARDING
ELIGIBLE ENTITLEMENT LAND

TO: The Council

RE: SWAN LAKE First Nation Trust Agreement made _____, 1995, between the
SWAN LAKE First Nation, as the "First Nation", OF THE FIRST PART, and
_____, _____, _____, _____, and _____, as
"Trustees", OF THE SECOND PART, (the "Agreement")

REFERENCE is made to the Agreement. Capitalized terms used herein and not
otherwise defined shall have the meanings set out in the Agreement.

REFERENCE is further made to Article 4 of the Agreement.

PURSUANT TO PARAGRAPH 4.1(h), this is to certify that the acquisition of
the within described Eligible Entitlement Land will benefit the First Nation and be in its
best interests:

(set out description using attachments if necessary)

We therefore request your consent to the acquisition of the said Eligible Entitlement
Land.

Dated this _____ day of _____, 19____.

The Trustees:

Trustee

Trustee

Trustee

Trustee

Trustee

APPENDIX "B"

**BAND COUNCIL RESOLUTION CONSENTING TO THE
ACQUISITION OF ELIGIBLE ENTITLEMENT LAND**

TO: The Trustees

RE: SWAN LAKE First Nation Trust Agreement made _____, 1995, between the SWAN LAKE First Nation, as the "First Nation", OF THE FIRST PART, and _____, _____, _____, and _____, as "Trustees", OF THE SECOND PART, (the "Agreement")

REFERENCE is made to the Agreement. Capitalized terms used herein and not otherwise defined shall have the meanings set out in the Agreement.

REFERENCE is further made to Paragraph 4.1(j) of the Agreement.

WHEREAS the Trustees have certified that the acquisition of the Eligible Entitlement Land described herein would benefit the First Nation and be in its best interests;

THE COUNCIL HEREBY RESOLVES AS FOLLOWS:

BE IT RESOLVED THAT THE COUNCIL DOES HEREBY CONSENT TO THE ACQUISITION OF THE ELIGIBLE ENTITLEMENT LAND.

Dated this _____ day of _____, 19____.

The Council:

Chief

Councillor

Councillor

Councillor

Councillor

APPENDIX "C"

**BAND COUNCIL RESOLUTION DECLINING TO CONSENT
TO THE ACQUISITION OF
ELIGIBLE ENTITLEMENT LAND**

TO: The Trustees

RE: SWAN LAKE First Nation Trust Agreement made _____, 1995, between the SWAN LAKE First Nation, as the "First Nation", OF THE FIRST PART, and _____, _____, _____, _____, and _____, as "Trustees", OF THE SECOND PART, (the "Agreement")

REFERENCE is made to the Agreement. Capitalized terms used herein and not otherwise defined shall have the meanings set out in the Agreement.

REFERENCE is further made to Paragraph 4.1(k) of the Agreement.

WHEREAS the Trustees have certified that the acquisition of the Eligible Entitlement Land described herein would benefit the First Nation and be in its best interests;

THE COUNCIL HEREBY RESOLVES AS FOLLOWS:

**BE IT RESOLVED THAT THE COUNCIL DOES HEREBY DECLINE TO
CONSENT TO THE ACQUISITION OF THE ELIGIBLE ENTITLEMENT LAND
FOR THE FOLLOWING REASONS:**

(use attachment if necessary)

Dated this _____ day of _____, 19____.

The Council:

Chief

Councillor

Councillor

Councillor

Councillor

APPENDIX "D"

TARIFF OF TRUSTEES' HONORARIA AND DISBURSEMENTS

Trustees shall, in accordance with paragraph 5.6 of this Agreement, be entitled to an honorarium and compensation for disbursements in an amount to be established by the Trustees subject to the approval of the Council at a meeting called by the Trustees for that purpose within sixty (60) days of the signing of this Agreement.

Trustees shall be entitled to be compensated for reasonable expenses reasonably incurred in the discharge of their duties herein based upon the following criteria:

- (a) Automobile mileage: \$ per kilometre
- (b) Meals:
 - (i) Breakfast: \$
 - (ii) Lunch: \$
 - (iii) Supper: \$
- (c) Other reasonable expenses which were reasonably incurred from time to time.

Receipts shall be provided by each Trustee to substantiate each expense and no compensation shall be provided without such receipts.

Approved by Council:

The Council:

Chief

Councillor

Councillor

Councillor

Councillor

Approved by Trustees:

The Trustees:

Trustee

Trustee

Trustee

Trustee

Trustee

APPENDIX "E"

TRUSTEES' CERTIFICATE OF PERMITTED WITHDRAWAL

TO: The SWAN LAKE First Nation

RE: SWAN LAKE First Nation Trust Agreement made _____, 1995, between the SWAN LAKE First Nation, as the "First Nation", OF THE FIRST PART, and _____, _____, _____, _____, and _____, as "Trustees", OF THE SECOND PART, (the "Agreement")

REFERENCE is made to the Agreement. Capitalized terms used herein and not otherwise defined shall have the meanings set out in the Agreement.

REFERENCE is further made to Paragraph 6.2(c) of the Agreement.

PURSUANT TO PARAGRAPH 6.2(c), this is to certify that the proposed withdrawal described herein is one permitted under Paragraph 6.2(a) according to the attached Resolution of Council.

DESCRIPTION OF THE WITHDRAWAL: (attach document setting out withdrawal if insufficient space)

The Trustees

Per: _____
Trustee

Per: _____
Trustee

Per: _____
Trustee

Per: _____
Trustee

Per: _____
Trustee

APPENDIX "F"

TRUST CAPITAL ACCOUNT LAND ACQUISITION DIRECTION

TO: The Institution

RE: SWAN LAKE First Nation Trust Agreement made _____, 1995, between the SWAN LAKE First Nation, as the "First Nation", OF THE FIRST PART, and _____, _____, _____, _____, and _____, as "Trustees", OF THE SECOND PART, (the "Agreement")

REFERENCE is made to the Agreement. Capitalized terms used herein and not otherwise defined shall have the meanings set out in the Agreement.

REFERENCE is further made to Paragraph 8.2 and Clauses 4.2(d)(i) and (ii) of the Agreement and to the Trust Capital Account of the Trustees.

PURSUANT TO PARAGRAPH 8.2 AND CLAUSES 4.2(d)(i) and (ii), YOU ARE HEREBY AUTHORIZED AND DIRECTED to make the payment as described below from the Trust Capital Account of the Trustees subject to the requirements of Paragraph 8.2 and Clauses 4.2d(i) and (ii), namely:

Amount: Cdn. \$ _____

Name of Solicitor: _____

Method of Payment: _____

Description of Land: _____

The Trustees:

Trustee

Trustee

Trustee

Trustee

Trustee

APPENDIX "G"

TRUST CAPITAL ACCOUNT ANNUAL INCOME DIRECTION

TO: The Institution

RE: SWAN LAKE First Nation Trust Agreement made _____, 1995, between the SWAN LAKE First Nation, as the "First Nation", OF THE FIRST PART, and _____, _____, _____, _____, and _____, as "Trustees", OF THE SECOND PART, (the "Agreement")

REFERENCE is made to the Agreement. Capitalized terms used herein and not otherwise defined shall have the meanings set out in the Agreement.

REFERENCE is further made to Articles 5 and 6 of the Agreement and to the Trust Capital Account of the Trustees.

PURSUANT TO ARTICLES 5 AND 6, AS THE CASE MAY BE, YOU ARE HEREBY AUTHORIZED AND DIRECTED to make the transfer as described below from the Trust Capital Account of the Trustees subject to the requirements of Articles 5 and 6, as the case may be of the Agreement, namely:

Amount: Cdn. \$ _____

To the Trust Expense Account: _____

To the Trust Development Account: _____

AND FOR SO DOING this shall be your good, sufficient and irrevocable authority.

DATED this _____ day of _____, 19____.

The Trustees:

Trustee

Trustee

Trustee

Trustee

Trustee

APPENDIX "H"

TRUST CAPITAL ACCOUNT INVESTMENT DIRECTION

TO: The Institution

RE: SWAN LAKE First Nation Trust Agreement made _____, 1995, between the SWAN LAKE First Nation, as the "First Nation", OF THE FIRST PART, and _____, _____, _____, and _____, as "Trustees", OF THE SECOND PART, (the "Agreement")

REFERENCE is made to the Agreement. Capitalized terms used herein and not otherwise defined shall have the meanings set out in the Agreement.

REFERENCE is further made to Paragraph 8.4 and Article 9 of the Agreement and to the Trust Capital Account of the Trustees.

PURSUANT TO PARAGRAPH 8.4 AND ARTICLE 9, YOU ARE HEREBY AUTHORIZED AND DIRECTED to make the payment as described below from the Trust Capital Account of the Trustees subject to the requirements of Paragraph 8.4 and Article 9, as the case may be of the Agreement, namely:

Amount:	Cdn. \$ _____
To or for the Credit of:	_____
Method of Payment:	_____
Description of Authorized Investment:	_____ _____ _____

AND FOR SO DOING this shall be your good, sufficient and irrevocable authority.

DATED this _____ day of _____, 19____.

The Trustees

Per: _____
Trustee

Per: _____
Trustee

Per: _____
Trustee

Per: _____
Trustee

Per: _____
Trustee

APPENDIX "I"

TRUST DEVELOPMENT ACCOUNT DIRECTION

TO: The Institution

RE: SWAN LAKE First Nation Trust Agreement made _____, 1995, between the SWAN LAKE First Nation, as the "First Nation", OF THE FIRST PART, and _____, _____, _____, and _____, as "Trustees", OF THE SECOND PART, (the "Agreement")

REFERENCE is made to the Agreement. Capitalized terms used herein and not otherwise defined shall have the meanings set out in the Agreement.

REFERENCE is further made to Paragraph 8.5 of the Agreement and to the Trust Development Account of the Council.

PURSUANT TO PARAGRAPH 8.5, YOU ARE HEREBY AUTHORIZED AND DIRECTED to make the payment as described below from the Trust Development Account of the Council subject to the requirements of Paragraph 8.5 of the Agreement, namely:

Amount:	Cdn. \$ _____
To or for the Credit of:	_____
Method of Payment:	_____
Description of Permitted Purpose:	_____ _____ _____

AND FOR SO DOING this shall be your good, sufficient and irrevocable authority.

DATED this _____ day of _____, 19__.

The Council:

Chief

Councillor

Councillor

Councillor

Councillor

APPENDIX "J"

TRUST EXPENSE ACCOUNT DIRECTION

TO: The Institution

RE: SWAN LAKE First Nation Trust Agreement made _____, 1995, between the SWAN LAKE First Nation, as the "First Nation", OF THE FIRST PART, and _____, _____, _____, _____, and _____, as "Trustees", OF THE SECOND PART, (the "Agreement")

REFERENCE is made to the Agreement. Capitalized terms used herein and not otherwise defined shall have the meanings set out in the Agreement.

REFERENCE is further made to Paragraph 8.6 of the Agreement and to the Trust Expense Account of the Trustees.

PURSUANT TO PARAGRAPH 8.6, YOU ARE HEREBY AUTHORIZED AND DIRECTED to make the payment as described below from the Trust Expense Account of the Trustees subject to the requirements of Paragraph 8.6 of the Agreement, namely:

Amount:	Cdn. \$ _____
To or for the Credit of:	_____
Method of Payment:	_____
Description of Authorized Expense:	_____ _____ _____

AND FOR SO DOING this shall be your good, sufficient and irrevocable authority.

DATED this _____ day of _____, 19____.

The Trustees

Per: _____
Trustee

Per: _____
Trustee

Per: _____
Trustee

Per: _____
Trustee

Per: _____
Trustee

APPENDIX "K"

TRUST EXPENSE ACCOUNT INVESTMENT DIRECTION

TO: The Institution

RE: SWAN LAKE First Nation Trust Agreement made _____, 1995, between the SWAN LAKE First Nation, as the "First Nation", OF THE FIRST PART, and _____, _____, _____, _____, and _____, as "Trustees", OF THE SECOND PART, (the "Agreement")

REFERENCE is made to the Agreement. Capitalized terms used herein and not otherwise defined shall have the meanings set out in the Agreement.

REFERENCE is further made to Paragraph 8.7 of the Agreement and to the Trust Expense Account of the Trustees.

PURSUANT TO PARAGRAPH 8.7, YOU ARE HEREBY AUTHORIZED AND DIRECTED to make the payment as described below from the Trust Expense Account of the Trustees subject to the requirements of Paragraph 8.7 of the Agreement, namely:

Amount:	Cdn. \$ _____
To or for the Credit of:	_____
Method of Payment:	_____
Description of Authorized Investment:	_____ _____ _____

AND FOR SO DOING this shall be your good, sufficient and irrevocable authority.

DATED this _____ day of _____, 19____.

The Trustees

Per: _____
Trustee

Per: _____
Trustee

Per: _____
Trustee

Per: _____
Trustee

Per: _____
Trustee

APPENDIX "L"

TRUSTEES CERTIFICATE

TO: The Institution

RE: SWAN LAKE First Nation Trust Agreement made _____, 1995, between the SWAN LAKE First Nation, as the "First Nation", OF THE FIRST PART, and _____, _____, _____, _____, and _____, as "Trustees", OF THE SECOND PART, (the "Agreement")

REFERENCE is made to the Agreement. Capitalized terms used herein and not otherwise defined shall have the meanings set out in the Agreement.

REFERENCE is further made to Paragraphs 8.9 and 8.10 of the Agreement.

PURSUANT TO PARAGRAPHS 8.9 AND/OR 8.10 YOU ARE HEREBY ADVISED THAT EFFECTIVE THE _____ DAY OF _____ 19____, THE FOLLOWING PEOPLE ARE THE TRUSTEES OF THE SWAN LAKE FIRST NATION TRUST:

Certified by: _____
Trustees

APPENDIX "M"

RELEASE DIRECTION

TO: The Institution

RE: SWAN LAKE First Nation Trust Agreement made _____, 1995, between the SWAN LAKE First Nation, as the "First Nation", OF THE FIRST PART, and _____, _____, _____, _____, and _____, as "Trustees", OF THE SECOND PART, (the "Agreement")

REFERENCE is made to the Agreement. Capitalized terms used herein and not otherwise defined shall have the meanings set out in the Agreement.

REFERENCE is further made to certain Investment Instruments held by the Institution pursuant to the Agreement in respect of purchases made from the Trust Capital Account or the Trust Expense Account of the Trustees and Paragraph 10.1(e).

PURSUANT TO Paragraph 10.1(e), YOU ARE HEREBY AUTHORIZED AND DIRECTED to release, transfer and deliver the following Investment Instruments as indicated below against receipt from the indicated person of a bank draft or a certified cheque, or upon confirmed receipt by a direct deposit, wire transfer or otherwise to the relevant account, in the amount set forth below:

Description of Investment Instrument:	_____
Method of Transfer or Delivery:	_____
Effective Date (if not immediately effective):	_____
Amount of Bank Draft, Certified Cheque or Wire Transfer:	_____
Other Directions:	_____ _____ _____

AND FOR SO DOING this shall be your good, sufficient and irrevocable authority.

DATED this _____ day of _____, 19__.

The Trustees

Per: _____
Trustee

Per: _____
Trustee

Per: _____
Trustee

Per: _____
Trustee

Per: _____
Trustee

SCHEDULE "B"

SWAN LAKE FIRST NATION

TREATY LAND ENTITLEMENT

RATIFICATION PROCEDURE

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RATIFICATION PROCEDURE

ARTICLE 1: DEFINITIONS

1.1 In this Ratification Procedure:

- a) "Advance Poll" means a poll which is open to permit voting prior to the Voting Day;
- b) "Assistant Deputy Minister" means the Assistant Deputy Minister, Claims and Indian Government, of the Department;
- c) "Ballot" means the instrument by which a Voter casts his vote on the Ballot Question;
- d) "Ballot Question" means the question set out in Appendix "A" to this Ratification Procedure, which is the question upon which the Voters shall cast their Ballots in the Ratification Vote;
- e) "Band List" means the list of persons who are members of the First Nation maintained by the Department pursuant to section 8 of the Indian Act, RSC 1985 c. I-5;
- f) "Council" means the Council of the First Nation, as that term is defined in the Indian Act, RSC 1985, c. I-5;
- g) "Department" means the Department of Indian Affairs and Northern Development;
- h) "Director" means the Director of Lands and Trusts Services, of the Manitoba region of the Department;
- i) "Eligible Member(s)" means a (all) person(s):
 - i) whose name(s) appear(s) on the Band List or does (do) not appear but who has (have) submitted an application to the Department to have his or her (their) name(s) entered on the Band List and such application(s) has (have) been approved;
 - ii) is (are) over the age of 18 years; and
 - iii) has (have) not been found mentally incompetent or otherwise unable to manage his or her (their) own affairs by a court of competent jurisdiction as of the Voting Day;

- j) "First Nation" means the Swan Lake Indian Band (also known as the Swan Lake First Nation);
- k) "List of Voters" means either the preliminary list containing the names of the Voters for the purpose of the Ratification Vote or the revised list of Voters as the context may require;
- l) "Mail In Ballot Package" means the package of materials consisting of those items set out in Article 6.3 to be provided to such Voters as are entitled or request to receive same pursuant to Articles 6.1;
- m) "Minister" means the Minister of Indian Affairs and Northern Development;
- n) "Ordinary Residence" means the place which has always been, or which has been adopted as, the place of habitation or home of a Voter, whereto, when away therefrom, he or she intends to return;
- o) "Poll(s)" means the place(s) at which the Voters vote and includes, where appropriate, any Advance Poll(s);
- p) "Ratification Officer" means the person appointed by the Minister to oversee the conduct of the Ratification Vote and includes, where applicable, any Assistant(s) appointed by the Ratification Officer pursuant to Article 3;
- q) "Ratification Vote" means the vote by the Voters on the Ballot Question;
- r) "Settlement Agreement" means the proposed agreement between Her Majesty the Queen in right of Canada and the First Nation (including all Schedules attached thereto) pursuant to which terms for the settlement of the Treaty Land Entitlement Claim are set out;
- s) "Spoiled Ballot" means a Ballot which:
 - i) in the opinion of the Ratification Officer, cannot be used by a Voter to vote whether owing to a printing error or otherwise; or
 - ii) on which a Voter has incorrectly or improperly cast his or her vote and in exchange for which the Voter is issued a replacement Ballot at the time of voting and prior to such Ballot being deposited into the Ballot box; or
 - iii) in the case of Ballot which has been mailed in by a Voter who has received a Mail In Ballot Package, is rejected by the Ratification Officer pursuant to Article 15.1(d);

- t) "Treaty Land Entitlement Claim" means the claims of the First Nation relating to land entitlement under the Per Capita Provisions of Treaty No. 1 and the revision thereto executed by the Portage Band as described in the Settlement Agreement;
- u) "Trust Agreement" means the proposed agreement between the First Nation and the Trustees named therein pursuant to which terms for the administration and management of the payment to be made by Canada to the First Nation (as provided for in the Settlement Agreement) are set out;
- v) "Voter(s)" means any one (all) of the Eligible Members who appear on the List of Voters; and
- x) "Voting Day" means the date set for the Ratification Vote.

ARTICLE 2: PRELIMINARY MATTERS

- 2.1 By Band Council Resolution, in the form attached as Appendix "B", the Council shall resolve to:
 - a) call the Ratification Vote, to be conducted pursuant to this Ratification Procedure including setting the date, time, and place of the vote;
 - b) set the date, time, and place of all Information Meetings in accordance with Article 5.1; and
 - c) set the date, time, and place of any Advance Polls in accordance with Article 9.1; and
 - d) request the Minister to designate a Ratification Officer and order that the Ratification Vote be taken by secret Ballot.
- 2.2 An original, executed copy of such Band Council Resolution shall be provided to the Minister by the Council at least 35 days before the Voting Day.
- 2.3 Concurrent with the delivery of such Band Council Resolution Council Resolution, the Council shall further:
 - a) provide the Minister with a list of the mailing address of each Eligible Member whose ordinary residence is not on the reserve of the First Nation; and
 - b) advise the Minister whether, in the opinion of the Council, it is anticipated that an interpreter will be required at any Information Meetings (and if so, which such meetings) or at the Poll(s) for the purpose of providing translation services to Eligible Members.

- 2.4 In the event the Council is not aware of the mailing address of an Eligible Member whose ordinary residence is not on the reserve of the First Nation, the Council shall provide to the Minister:
- a) the mailing address of the parent(s) of such Eligible Member; or
 - b) if the parent(s) of such Eligible Member is (are) unknown or not living or the mailing address of such parent(s) is unknown, the mailing address of a sibling or adult offspring of such Eligible Member; or
 - c) if the Council cannot provide a mailing address for a sibling or adult offspring of such Eligible Member, a mailing address where the Council reasonably believes such Eligible Member may be contacted, if any

and shall further advise the Minister that such address is one given in substitution for the mailing address of the such Eligible Member.

- 2.5 In the event the Council is not aware of the mailing address of an Eligible Member whose ordinary residence is not on the reserve of the First Nation and the Council is unable to provide a substitutional address for such Eligible Member as provided for in Article 2.4, the Council shall advise the Minister that the whereabouts of such Eligible Member is unknown.
- 2.6 The Council shall ensure that a sufficient number of copies of the Settlement Agreement (including all Schedules attached thereto) are available for Eligible Members ordinarily resident on the reserve of the First Nation who may request same and shall ensure that each Eligible Member who requests a copy of the Settlement Agreement receives same.

ARTICLE 3: DESIGNATION AND DUTIES OF RATIFICATION OFFICER

- 3.1 Prior to any posting of the "Notice of Vote" as herein provided, the Minister shall designate a Ratification Officer to oversee the conduct of the Ratification Vote and advise the Council of same.
- 3.2 The Ratification Officer, with the cooperation of the Council, shall:
- a) prepare the List of Voters from the list of Eligible Members to be provided to the Minister by the Council and make any required revisions to same pursuant to Article 6;
 - b) designate the location of the Poll(s), in consultation with the Council;

- c) appoint and empower such Assistant(s) as he or she determines appropriate, provided that there shall be at least one Assistant who has been identified by the Council (and which Assistant is hereinafter referred to as "the First Nation Assistant Ratification Officer");
- d) appoint such Interpreter(s) as the Council has advised may be required to provide translation services for Eligible Members at any Information Meeting or at the Poll(s) and, in such case the Ratification Officer shall complete and execute and have the Interpreter(s) execute an "Appointment of Interpreter" in the form attached as Appendix "I";
- e) post the Notice of Vote in accordance with Article 4;
- f) ensure the Mail In Ballot Packages provided for in Article 8 are prepared and sent out in accordance with the provisions therein set forth;
- g) attend all Information Sessions, take reasonable efforts to keep minutes of same, and circulate such minutes as provided in Article 5.6;
- h) prepare or cause to be prepared Ballots in accordance with Article 7.1 and ensure there are a sufficient number of same to permit each Voter to vote;
- i) obtain a sufficient number of Ballot boxes;
- j) arrange to provide a polling booth or booths at the Poll(s) where a Voter can mark his or her Ballot free from observation;
- k) arrange to provide at the Poll(s) a sufficient number of lead pencils for marking the Ballots;
- l) ensure that samples of the Ballot Question are posted or available for examination by Voters at the Poll(s);
- m) conduct any Advance Polls in accordance with Article 9;
- n) subject to Article 17.3, ensure that a Commissioner for Taking Oaths, Notary Public or Magistrate or Justice of the Peace in and for the Province of Manitoba will be available when and as required at any Advance Poll and on the Voting Day;
- o) conduct the Ratification Vote in accordance with this Ratification Procedure or as amended pursuant to Article 17.1; and
- p) respond to any objections to the conduct of the Ratification Vote as may be filed with the Assistant Deputy Minister, in accordance with Article 18.4.

- 3.3 Where the Ratification Officer determines it appropriate to appoint (an) Assistant(s), the Ratification Officer and such Assistant(s) as appointed shall complete and execute an "Appointment of Assistant" in the form attached as Appendix "J".
- 3.4 The Ratification Officer may delegate to the Assistant(s) such of his or her duties under this Ratification Procedure as he or she determines appropriate or necessary.

ARTICLE 4: NOTICE OF VOTE

- 4.1 The Ratification Officer:
- a) shall post a copy of the Notice of Vote in a prominent location in the First Nation's Administrative Offices at least 30 days prior to Voting Day and at least 13 days prior to the first Advance Poll (if any);
 - b) may post other copies of the Notice of Vote in such other places as he or she determines (in consultation with the Council) as will provide the maximum exposure of same to the Voters at least 21 days prior to the Voting Day and at least 7 days prior to the first Advance Poll (if any).
- 4.2 The Notice of Vote shall be in the form set out in Appendix "C".
- 4.3 The following shall be attached to the "Notice of Vote":
- a) a copy of the Settlement Agreement with all Schedules attached (including, without limitation, the Trust Agreement and this Ratification Procedure); and
 - b) a copy of the List of Voters.

ARTICLE 5: INFORMATION MEETINGS

- 5.1 Information Meetings shall be held at such time and place as the Council determines, provided that:
- a) at least one Information Meeting must be held;
 - b) the date, time, and place of all Information Meetings must be stated in the Notice of Vote; and
 - c) no Information Meeting shall be held earlier than 13 days prior to the Voting Day or later than two days prior to the Voting Day.

- 5.2 The purpose of each Information Meeting is to provide an opportunity for the Council, the First Nation's legal counsel, financial advisor and any other persons as requested by the Council to explain the Treaty Land Entitlement Claim and its proposed settlement as set out in the Settlement Agreement and the Trust Agreement to all Eligible Members in attendance, with a view to ensuring that they are fully informed prior to casting their votes on the Ballot Question in the Ratification Vote.
- 5.3 Each Information Meeting shall be open to all Eligible Members to attend and shall be attended by a quorum of the Council, the Ratification Officer, and any Interpreter(s) as may be required.
- 5.4 The Interpreter(s) shall be the means of communicating the information disseminated at the Information Meeting to those Eligible Members who require translation services.
- 5.6 The Ratification Officer shall make reasonable efforts to:
- a) keep or cause to be kept minutes of each Information Meeting, including questions asked and answers given; and
 - b) provide a copy of the minutes so kept to the Council and to the Director no more than 14 days after the Voting Day.

ARTICLE 6: REVISIONS TO THE LIST OF VOTERS

- 6.1 Any Eligible Member may apply to the Ratification Officer at least 14 days prior to the Voting Day to have the List of Voters revised if such Eligible Member believes that:
- a) the name of a Voter has been omitted from the List of Voters; or
 - b) the name of a Voter is incorrectly set out or should not be included on the List of Voters.
- 6.2 An Eligible Member may, up to and including the Voting Day, apply to the Ratification Officer to have his or her name added to the List of Voters if that Eligible Member can:
- a) produce adequate and current identification;
 - b) provide adequate proof of age;
 - c) provide evidence that he or she is on the Band List or has submitted an application to the Department to have his or her name entered on the Band List

and such application has been approved; and

- d) if required, obtain corroborating testimony from another Voter who is willing to make oath in the form of an Declaration as to the identity of the applicant.

6.3 Where the Ratification Officer is satisfied that a revision is necessary to the List of Voters, he or she shall make the revision and such revision shall be final.

6.4 Where the Ratification Officer revises the List of Voters such that the name of a person who appears on such list is removed therefrom, the Ratification Officer shall draw a line through the name of such person where same appears on the List of Voters and make a notation that such person's name has been removed.

ARTICLE 7: BALLOTS

7.1 The Ballots to be used in the Ratification Vote shall:

- a) be printed on paper of a quality, weight, and size determined and supplied by the Ratification Officer;
- b) be of similar description, one to another;
- c) contain a stub on the top edge which shall be one half inch in width, with a perforation lying immediately beneath such stub so as to separate the stub from the rest of the Ballot;
- d) be consecutively numbered on the back of each Ballot;
- e) contain the Ballot Question in the area beneath the stub; and
- f) contain a statement immediately beneath the Ballot Question instructing the Voter to mark his or her Ballot with a cross in the box beneath the word "Yes" or "No", or other reasonable mark which indicates a vote being cast as described in Article 11.6, as he or she considers appropriate for each part of the Ballot Question.

ARTICLE 8: MAIL IN BALLOTS

- 8.1 At least 21 days prior to the Voting Day, the Ratification Officer shall send or cause to be sent by registered mail, with a request for confirmation of receipt, a Mail In Ballot Package to each Voter who does not have his or her ordinary residence on the First Nation's reserve other than those Voters whose whereabouts the Council has advised the Minister are unknown.
- 8.2 In addition, any Voter who has his or her ordinary residence on the First Nation's reserve but informs the Ratification Officer at least two days prior to the Voting Day that, due to a planned absence or for medical reasons, he or she will not be available to vote in person at any Advance Poll or on the Voting Day shall be entitled to request a Mail In Ballot Package, and upon such request being made, the Ratification Officer shall:
- a) satisfied himself or herself that such Voter has not already voted in person at any Advance Poll; and
 - b) thereafter either:
 - i) deliver a Mail In Ballot Package by hand to such Voter and obtain a signed receipt therefor; or
 - ii) provided the request is made at least seven days before the Voting Day, send or cause to be sent by registered mail, with a request for confirmation of receipt, a Mail In Ballot Package to such Voter at such address as the Voter may advise the Ratification Officer at the time the request is made.
- 8.3 The Ratification Vote shall be held notwithstanding and may not be impinged on the grounds that:
- a) the Ratification Officer having sent or causing to be sent the Mail In Ballot Package to a Voter who is entitled to receive same under Article 8.1 at the address given for such Voter on the list of Eligible Members provided by the Council under Article 2.3(a) or to a Voter who requested same under Article 8.2 at such address as the Voter provided to him or her::
 - i) such Voter does not receive the Mail In Ballot Package sent to him or her;
 - ii) no confirmation of receipt is received confirming such Voter received the Mail In Ballot Package sent to him or her; or
 - iii) no Ballot is received from such Voter; or

- b) the Ratification Officer having delivered by hand a Mail In Ballot Package to a Voter who requested same under Article 8.2, no Ballot is received from such Voter; or
- c) a Voter who does not have his or her ordinary residence on the First Nation's reserve is not sent a Mail In Ballot Package as the Council has advised the Minister that his or her whereabouts is unknown as provided for under Article 2.5.

8.4 The Mail In Ballot Package shall consist of:

- a) a letter from the Council providing such information as the Council determines appropriate and relating to the Treaty Land Entitlement Claim and its proposed settlement as set out in the Settlement Agreement and the Trust Agreement with a view to ensuring that the Voters receiving Mail In Ballot Packages are fully informed;
- b) a copy of the Notice of Vote, including all attachments thereto;
- c) a letter of instruction from the Ratification Officer explaining the procedure for casting a Ballot by mail;
- d) a Ballot, with the initials of the Ratification Officer affixed;
- e) a Ballot envelope in which the Ballot may be enclosed after use by the Voter; and
- f) a pre-addressed return envelope with postage prepaid in which the Ballot may be returned by the Voter to the Ratification Officer.

8.5 The Ratification Officer shall record the number of the Ballot beside the name of the each Voter to whom a Mail In Ballot Package is sent or provided on the List of Voters.

8.6 Notwithstanding a Voter has been sent or provided a Mail In Ballot Package, that Voter may vote in person at any Advance Poll or on the Voting Day.

8.7 In the event such a Voter attends at a Poll and:

- a) desires to vote in person, the Ratification Officer shall proceed in the manner set out in Article 11.3; and
- b) votes in person and subsequently mails in the Ballot provided to him or her in the Mail In Ballot Package, the Ratification Officer shall proceed in the manner

set out in Article 15.1(d).

ARTICLE 9: ADVANCE POLLS

9.1 An Advance Poll may be held at such time and place as the Council determines provided that no Advance Poll shall be held:

- a) unless the time, date, and place of such Advance Poll is set out in the Notice of Vote;
- b) earlier than 13 days after the Notice of Vote is posted;
- c) in the same place and before or at the same time as an Information Meeting is being conducted, provided that an Advance Poll may be held:
 - i) before or at the same time as an Information Meeting but in a place so distant from the place where the Information Meeting is being held that it is unlikely a Voter would be faced with a conflicting choice of attending the Information Meeting or voting at the Advance Poll; or
 - ii) in the same place as an Information Meeting but following the conclusion thereof; or
- c) later than two days prior to the Voting Day.

9.2 Subject to Articles 9.3, 9.4, and 9.5, every Advance Poll shall be conducted in the same manner as the Ratification Vote is conducted on the Voting Day.

9.3 Voting hours for every Advance Poll shall be:

- a) determined by the Council; and
- b) set out in the Notice of Vote

but, in any event, shall not be:

- c) less than two consecutive hours in duration; or
- d) held between the hours of 12 p.m. and 8 a.m.

9.4 Immediately after the close of every Advance Poll, the Ratification Officer, in front of those persons who may be present, shall seal the Ballot box(es) in such a manner that no further Ballots may be deposited therein or that none of the Ballots contained within the Ballot box(es) may be removed.

- 9.5 The Ballot box(es) used in any Advance Poll shall not be opened until the Poll(s) are closed on the Voting Day.

ARTICLE 10: VOTING HOURS

- 10.1 The Poll(s) shall be kept open from 9:00 a.m. until 8:00 p.m. on the Voting Day, however, at the request of the Chief and Council and subject to the approval of the Ratification Officer, in consultation with the First Nation Assistant Ratification Officer, the Poll(s) may be kept open for up to a further two hour period.

ARTICLE 11: VOTING PROCEDURES

- 11.1 The Ratification Officer shall, immediately before the time of commencement of the Ratification Vote:

- a) open the Ballot box(es) and ask any person(s) who may be present to witness that the Ballot box(es) is (are) empty;
- b) lock and properly seal the Ballot box(es);
- c) place the Ballot box(es) in view for the reception of the Ballots;
- d) prepare a "Declaration of Ratification Officer" and make oath in the form attached as Appendix "D"; and
- e) ensure that a "Declaration of Witness" is prepared and that at least one of the persons confirming that the Ballot box(es) was (were) empty makes oath in the form attached as Appendix "E".

- 11.2 Subject to Article 11.3, during the hours the Poll(s) is (are) open, the Ratification Officer, shall ensure that a person presenting himself or herself for the purpose of voting:

- a) is a Voter; and
- b) is not a Voter who has previously voted, either at an Advance Poll or on the Voting Day

and, except as provided in Article 11.3, shall thereafter:

- c) provide the Voter with a Ballot;
- d) affix his or her initials to the back of the Ballot in a manner so that when the

Ballot is folded the initials can be seen without unfolding the Ballot;

- e) place on the List of Voters a line through the name of the Voter; and
 - f) explain the method of voting to the Voter when requested to do so by such Voter.
- 11.3 In the event a person presenting himself or herself for the purpose of voting is someone who was sent a Mail In Ballot Package, the Ratification Officer shall:
- a) ensure that such person:
 - i) is not someone whose name was removed from the List of Voters after the Mail In Ballot Packages was sent out or provided as a result of a revision to the List of Voters under Article 6; and
 - ii) is not a Voter who has previously voted, either at an Advance Poll or on the Voting Day;
 - b) thereafter determine if such Voter has in his or her possession the Ballot which was sent or provided to him or her in the Mail In Ballot Package;
 - c) in the event the Voter does have such Ballot in his or her possession:
 - i) satisfy himself or herself that such Ballot:
 - A. is the Ballot provided to that Voter;
 - B. has not been marked in any way; and
 - C. still has the stub attached; and
 - ii) thereafter instruct the Voter that he or she is to utilise the Ballot in his or her possession for the purpose of casting his or her vote; or
 - d) in the event:
 - i) the Voter does not have such Ballot in his or her possession; or
 - ii) the Voter does have such Ballot in his or her possession but all of the provisions of sub-articles (c)(i)(A) through (C) inclusive are not satisfied

proceed in the manner set out in Articles 11.2 (c) through (f) inclusive.

11.4 If requested by a Voter who is:

- a) not able to read;
- b) incapacitated by blindness or other physical cause; or
- c) requires translation service

the Ratification Officer shall:

- d) assist that Voter by marking his or her Ballot in the manner directed by the Voter or request the Interpreter to assist that Voter by marking his or her Ballot in the manner directed by that Voter, as the case may require;
- e) thereafter immediately fold and place that Voters's Ballot into the Ballot box;
- f) make an entry on the List of Voters opposite the name of the Voter to indicate that the Ballot was marked by the Ratification Officer or the Interpreter at the request of the Voter; and
- g) indicate the reason for the Voter's request for assistance.

11.5 Except as provided in Article 11.4, every Voter receiving a Ballot shall without undue delay:

- a) proceed immediately to a polling booth provided for marking his or her Ballot;
- b) mark his or her Ballot in the manner provided for in Article 11.6;
- c) fold his or her Ballot so as to conceal his or her mark on the face of the paper and so as to expose the Ratification Officer's initials on the back of the Ballot; and
- d) immediately give his or her folded Ballot to the Ratification Officer who without unfolding it shall tear off the stub and deposit the Ballot into the Ballot box after verifying his or her initials.

11.6 Notwithstanding Article 7.1(f), a Ballot marked in any of the manners set out below shall be counted as being validly marked:

- a) a cross (an "X") in the box beneath the word "YES" or the word "NO";
- b) a checkmark in the box beneath the word "YES" or the word "NO";
- c) a cross (an "X") or a checkmark immediately adjacent to the word "YES" or the

word "NO" or one of the boxes beneath the words "YES" and "NO", provided such mark is positioned in such a manner as to clearly show the intent of the Voter;

- d) the printed or written word "YES" in the box beneath the word "YES" or the printed or written word "NO" in the box beneath the word "NO"; or
- e) circling or otherwise enclosing the word "YES" or the word "NO", provided the intent of the Voter is clearly shown.

ARTICLE 12: SPOILED BALLOTS

12.1 A Voter who receives a Spoiled Ballot or who accidentally spoils his or her Ballot when marking it, shall, upon returning that Ballot to the Ratification Officer, be entitled to receive another Ballot.

12.2 A Voter who has received a Ballot and who:

- a) leaves the polling booth without delivering his or her Ballot to the Ratification Officer in the manner described in Article 11.5; or
- b) refuses to vote

shall forfeit his or her right to cast a vote in the Ratification Vote, and the Ratification Officer shall make an entry on the List of Voters opposite the name of that Voter stating that the Voter did not return his or her Ballot or refused to vote.

ARTICLE 13: ORDERLY VOTING

13.1 The Ratification Officer shall allow only one Voter at any one time into the polling booth for marking his or her Ballot.

13.2 No person shall:

- a) interfere or attempt to interfere with a Voter when he or she is marking his or her Ballot; or
- b) obtain, or attempt to obtain, information as to how a Voter is about to vote or has voted at the Poll(s).

- 13.3 The Council with the assistance of the Ratification Officer shall ensure that peace and good order are maintained at the Poll(s).

ARTICLE 14: CLOSING OF THE POLLS

- 14.1 At the time set for closing the Poll(s), the Ratification Officer shall declare the Poll(s) closed and thereafter, entry to the Poll(s) shall be denied and the location shall be secured or locked, as the case may be.
- 14.2 Notwithstanding Article 14.1, a Voter who is inside a Poll at the time fixed for closing the Poll(s) and who has not cast a vote shall be entitled to vote before the Poll is closed.

ARTICLE 15: PROCESSING MAIL IN BALLOTS

- 15.1 Immediately after the closing of the Poll(s), the Ratification Officer, in the presence of at least two Council members and any Voters who may be present, shall:
- a) open envelopes in which those Voters who were sent Mail In Ballot Packages have returned their Ballots;
 - b) without unfolding the Ballot or in any other way disclosing the manner in which such Ballot has been marked:
 - i) ascertain by examination of the initials appearing on the Ballot and the number on the stub that it appears to be the same Ballot that was mailed to a Voter; and
 - ii) examine the List of Voters to determine if such Voter:
 - A. is someone whose name was removed from the List of Voters after the Mail In Ballot Packages was sent out or provided as a result of a revision to the List of Voters under Article 6; or
 - B. voted in person at any Advance Poll or on the Voting Day;
 - c) in the event the Ratification Officer is satisfied the Ballot appears to be the same Ballot that was provided to the Voter and the Voter is not someone to whom sub-articles (b)(i)(A) or (B) applies:

- i) tear off the stub from the Ballot;
- ii) deposit the Ballot in the Ballot box;
- iii) draw a line through the name on the List of Voters to which the number on the stub relates; and
- iv) destroy the stub; or
- d) in the event the Ratification Officer:
 - i) cannot determine that the Ballot is the same Ballot that was provided to the Voter;
 - ii) notes that the stub has been removed from the Ballot; or
 - iii) determines the Voter is someone whose name was removed from the List of Voters after the Mail In Ballot Packages was sent out or provided as a result of a revision to the List of Voters under Article 6; or
 - iv) determines that the Voter voted in person at any Advance Poll or on the Voting Day,

return the Ballot to the envelope in which it was mailed and endorse the words "Spoiled Ballot" on the outside of the envelope.

ARTICLE 16: CERTIFICATION OF RESULTS OF VOTING

16.1 Immediately after the close of the Poll(s), the Ratification Officer in the presence of at least two members of the Council and any Voters who may be present, shall:

- a) examine all Ballots contained in the Ballot box(es);
- b) reject all Ballots that:
 - i) have not been supplied by him or her, or that do not bear his or her initials;
 - ii) have not been marked in the manner provided for in Article 11.6 as either "YES" or "NO";
 - iii) have been marked as both "YES" and "NO"; or
 - iv) upon which there is any writing or mark by which a Voter can be

identified;

- c) count the votes given both for and against the Ballot Question and the number of rejected Ballots pursuant to sub-article (b); and
- d) count the number of Spoiled Ballots which were received on the Voting Day.

16.2 When the results of the Ratification Vote have been determined by the Ratification Officer, he or she shall:

- a) immediately prepare a "Statement of Ratification Vote Results" in the form attached as Appendix "F" indicating therein:
 - i) the number of Voters who were entitled to vote;
 - ii) the number of votes cast;
 - iii) the number of votes cast for the Ballot Question;
 - iv) the number of votes cast against the Ballot Question;
 - v) the number of Ballots rejected pursuant to Article 16.1(b); and
 - vi) the number of Spoiled Ballots;
- b) prepare a "Certification of Ratification Vote" and make oath in the form attached as Appendix "G";
- c) ensure that a "Certification of Ratification Vote" is prepared and that a member of Council make oath in the form attached as Appendix "H"; and
- d) immediately deliver a copy of the "Statement of Ratification Vote Results" to the Council and the Director.

16.3 The Ratification Officer shall separately seal in envelopes:

- a) the Ballots used in the Ratification Vote; and
- b) any Spoiled Ballots;

and shall affix his signature to the seal and deliver the envelope(s) to the Director.

16.4 The Director shall retain the material provided to him or her by the Ratification Officer

under Article 16.3 for 60 days, after which time, and no legal proceeding concerning the Ratification Vote having been initiated or commenced, he or she may, in the presence of at least two witnesses, destroy the Ballots.

ARTICLE 17: PROCEDURAL AMENDMENTS

- 17.1 In the event circumstances are such as to suggest discretion should be exercised in the implementation of this Ratification Procedure, the Ratification Officer, in consultation with the First Nation Assistant Ratification Officer, may agree on a departure from the procedural requirements herein set out, where such departure will not result in any substantive change and where it is determined necessary.
- 17.2 In such case, the Ratification Officer shall cause to be recorded a report setting out:
- a) the circumstances which gave rise to the need to amend this Ratification Procedure;
 - b) the amendment which was made thereto;
 - c) the reasons such amendment was considered necessary; and
 - d) confirming the First Nation Assistant Ratification Officer was consulted with on the amendment

and a copy of such report shall be provided by the Ratification Officer to the Director and the Council within 15 days of the date set for the Ratification Vote.

- 17.3 In the event the Ratification Officer is unable to arrange for a Commissioner for Taking Oaths, Notary Public, Magistrate or Justice of the Peace in and for the Province of Manitoba to be available when and as required at any Advance Poll or on the Voting Day, any declarations otherwise required by this Ratification Procedure to be completed at an Advance Poll or on the Voting Day may be completed and executed not later than 3 days after the Voting Day.

ARTICLE 18: OBJECTIONS

- 18.1 Any Voter who voted and has reasonable grounds for believing that:
- a) there was a violation of this Ratification Procedure that may affect the results of the Ratification Vote; or
 - b) there was corrupt practice in connection with the Ratification Vote; may, not later than seven days from the Voting Day, file an objection by

forwarding by registered mail to the Assistant Deputy Minister at the address set out in Article 18.2:

- c) notice of his or her objection; and
- d) a statutory declaration containing the grounds for the objection and particulars thereof.

18.2 An objection filed pursuant to Article 18.1 shall be sent addressed as follows:

Assistant Deputy Minister (Claims and Indian Government)
Department of Indian Affairs and Northern Development
11 Wellington Street
Hull, Quebec, K1A 0H4

- 18.3 Where an objection is filed pursuant to Article 18.1, the Assistant Deputy Minister shall not later than 21 days from the receipt thereof forward a copy of the objection by registered mail to the Ratification Officer.
- 18.4 The Ratification Officer shall, not later than 11 days from the receipt of the objection, forward to the Assistant Deputy Minister by registered mail a statutory declaration containing an answer to the particulars stated in the appeal.
- 18.5 The Assistant Deputy Minister shall not later than two days from the receipt of the response from the Ratification Officer, forward to the Minister the material filed by the Voter referred to in Article 18.1 and the response of the Ratification Officer.
- 18.6 The Minister may, if the material sent pursuant to this Article is not sufficient to decide the validity of the grounds of the objection, conduct such further investigations as the Minister deems necessary.
- 18.7 The Minister may dispose of an objection by:
 - a) allowing it, in which case the Minister shall call another Ratification Vote; or
 - b) dismissing it, where the Minister is of the opinion that the grounds of the objection:
 - i) are not established; or
 - ii) do not affect the results of the Ratification Vote.
- 18.8 In the event the Minister allows an objection and calls another Ratification Vote, such Ratification Vote shall be held in accordance with this Ratification Procedure, unless the Minister otherwise orders.

ARTICLE 19: MINIMUM REQUIREMENTS

- 19.1 In order for it to be determined that each part of the question asked on the Ballot Question has been answered in the affirmative:
- a) a majority of the Voters must vote; and
 - b) of those voting, a majority must cast an affirmative response to each part of the Ballot Question.
- 19.2 In the event a majority of Voters do not vote, a second Ratification Vote shall be held not later than 60 days after the Voting Day and these Ratification Procedures shall apply mutatis mutandis to such second vote, provided that:
- a) no Band Council Resolution as referred to in Article 2 shall be required; and
 - b) in order for it to be determined the question asked on the Ballot Question has been answered in the affirmative, a majority of those Voters voting must cast an affirmative response to the Ballot Question.

ARTICLE 20: CALCULATION OF TIME

- 20.1 Where in this Ratification Procedure there is a reference to a number of days between an event and the Voting Day (or an Advance Poll), the number of days shall in all cases be counted including the day on which the event is to occur but excluding the Voting Day (or Advance Poll).

ARTICLE 21: APPENDICES

- 21.1 The following Appendices form part of this Ratification Procedure:

- "A" Ballot Question
- "B" Band Council Resolution
- "C" Notice of Vote
- "D" Declaration of Ratification Officer
- "E" Declaration of Witness
- "F" Statement of Ratification Vote Results
- "G" Certificate of Ratification Vote by Ratification Officer
- "H" Certificate of Ratification Vote by Councillor
- "I" Appointment of Interpreter
- "J" Appointment of Assistant

APPENDIX "A"**BALLOT QUESTION**

As a Voter of the Swan Lake Indian Band do you agree with the terms and conditions of and do you authorize and direct the Council to sign:

- A) the proposed Settlement Agreement between Her Majesty the Queen in Right of Canada and the Swan Lake Indian Band for the settlement of the Treaty Land Entitlement Claim?**

YES☐**NO**☐

- B) The proposed Trust Agreement between the Swan Lake Indian Band and the Trustees for the administration and management of the payment to be made by Canada to the Swan Lake Indian Band as provided for in the Settlement Agreement?**

YES☐**NO**☐

Mark this Ballot by placing a **Cross (an "X")** in the box under the word "YES" or "NO" as you consider appropriate for **each part** of the Ballot Question.

APPENDIX "B"

BAND COUNCIL RESOLUTION

Pursuant to the consent of a majority of the Council of the Swan Lake Indian Band ("the Council") present at a duly convened meeting held on the ____ day of _____, 1995, **THE COUNCIL RESOLVES AS FOLLOWS:**

1. **BE IT RESOLVED THAT** the Council does hereby recommend to the members of the Swan Lake Indian Band the acceptance of the proposed agreement between Her Majesty the Queen in right of Canada and the Swan Lake Indian Band ("the Band"), including all Schedules attached thereto, pursuant to which terms for the settlement of a Treaty Land Entitlement Claim (as described therein) are set out ("the Settlement Agreement").
2. **BE IT RESOLVED THAT** the Council does hereby further recommend to the members of the Swan Lake Indian Band the acceptance of a proposed agreement between the Band and the Trustees named therein pursuant to which terms for the administration and management of the payment by Canada to the Band (as provided for in the Settlement Agreement) are set out (the "Trust Agreement").
3. **BE IT RESOLVED THAT** the Council does hereby call a Ratification Vote to determine whether a majority of the Eligible Members of the Band (as defined in the Ratification Procedure) are in favour of approving the Settlement Agreement and the Trust Agreement, which vote shall be conducted pursuant to the Ratification Procedure attached as Schedule "B" to the Settlement Agreement.
4. **BE IT RESOLVED THAT** the Council, by copy of this resolution to the Minister of Indian Affairs and Northern Development ("the Minister"), does hereby request that the Minister order that the Ratification Vote be conducted by means of a secret Ballot, and also that the Minister designate a Ratification Officer for the purpose of conducting the Ratification Vote.
5. **BE IT RESOLVED THAT** the Vote of the Swan Lake Indian Band shall be held at Swan Lake Indian Reserve No. 7 in the Province of Manitoba on AAAA, and that the polls shall be open from 9:00 a.m. until 8:00 p.m. on that date and, further that Advance Polls be held at the times, places, and on the dates set out below:

DATETIMELOCATION

6. **BE IT RESOLVED THAT** the Council does hereby approve of:

- a) the Ratification Procedures;
- b) the Ballot Question for the Ratification Vote in the form as set out in Appendix "A" to the Ratification Procedures; and
- c) the Notice of Vote in the form set out in Appendix "C" to the Ratification Procedures.

7. **BE IT RESOLVED THAT** Information Meetings be held for the purpose of providing an opportunity for the Council, the Band's legal counsel, financial advisor and any other persons as requested by the Council to explain the Treaty Land Entitlement Claim and its proposed settlement as set out in the Settlement Agreement and the Trust Agreement to all Eligible Members in attendance, with a view to ensuring that they are fully informed prior to casting their votes on the Ballot Question in the Ratification Vote at the following dates, times, and places:

DATE
LOCATION

TIME

8. **BE IT RESOLVED THAT** the Council of the Band shall provide the Minister with:

- a) an original, executed copy of this Resolution; and
- b) a list of the mailing address of each Eligible Member whose ordinary residence is not on the reserve or such substitutional address as may be available (or where no such address is available, a notation indicating that the whereabouts of such Eligible Member is unknown).

9. **BE IT RESOLVED THAT**, in the Council's opinion, it is anticipated that an interpreter will (not) be required at any Information Meetings (and if so, at those meetings indicated with an asterisk in paragraph 7 above) any Advance Polls (and, if so, at the Advance Polls indicated with an asterisk in paragraph 5) and at the Poll(s) on the Voting Day for the purpose of providing translation services to Eligible Members.

Chief

Councillor

Councillor

Councillor

A quorum for the Swan Lake Indian Band consists of ____ Council members.

APPENDIX "C"**NOTICE OF VOTE****TO: THE MEMBERS OF THE SWAN LAKE INDIAN BAND****NOTICE OF VOTE**

TAKE NOTICE that a vote of the Eligible Members (as hereinafter described) of the Swan Lake Indian Band will be held on AAAA at Swan Lake Indian Reserve No. 7 between the hours of 9:00 a.m. and 8:00 p.m. for the purpose of determining if the Eligible Members approve and assent to:

- a proposed agreement between Her Majesty the Queen in Right of Canada and the Swan Lake Indian Band (including all Schedules attached thereto) pursuant to which terms for the settlement of a Treaty Land Entitlement Claim (as therein described) are set out (the "Settlement Agreement"); and
- a further proposed agreement between the Swan Lake Indian Band and the Trustees named therein pursuant to which terms for the administration and management of the payment by Canada to the Band, as provided for in the Settlement Agreement are set out (the "Trust Agreement").

A copy of the Settlement Agreement is attached to this Notice of Vote and marked "A". The Trust Agreement forms a schedule to the Settlement Agreement and is marked "Schedule 'A'"

YOU ARE ENTITLED TO ASK FOR AND RECEIVE A COPY OF THE SETTLEMENT AGREEMENT (AND ALL SCHEDULES WHICH FORM PART OF THAT AGREEMENT INCLUDING THE TRUST AGREEMENT) IF YOU WISH. SUCH REQUESTS SHOULD BE DIRECTED TO THE CHIEF AND COUNCIL OF THE SWAN LAKE INDIAN BAND.

VOTING PROCEDURE

The Eligible Members will be asked to vote on the following question:

As a Voter of the Swan Lake Indian Band do you agree with the terms and conditions of and do you authorize and direct the Council to sign:

- A) the proposed Settlement Agreement between Her Majesty the Queen in Right of Canada and the Swan Lake Indian Band for the settlement of the Treaty Land Entitlement Claim, and**

- B) the proposed Trust Agreement between the Swan Lake Indian Band and the Trustees for the administration and management of the payment to be made by Canada to the Swan Lake Indian Band as provided for in the Settlement Agreement?**

The Vote will be conducted in accordance with the Ratification Procedure which also forms a schedule to the Settlement Agreement and is marked "Schedule 'B'".

ELIGIBLE MEMBERS

All members of the Swan Lake Indian Band who:

- appear on the Band List maintained by the Department of Indian Affairs and Northern Development;
- are over the age of 18 years; and
- have not been found mentally incompetent or otherwise unable to manage their own affairs by a court of competent jurisdiction

as of AAAA are eligible to vote.

Attached to this Notice of Vote and marked "B" is a List of Voters which has been prepared from information supplied by the Council of the Swan Lake Indian Band. The List of Voters should contain the names of all Eligible Members. In addition to the criteria set out above, the name of an Eligible Member must appear on the List of Voters for that Eligible Member to be entitled to vote.

An Eligible Member may, up to and including the Voting Day, apply to the Ratification Officer to have his or her name added to the List of Voters if it does not appear, provided that person can:

- produce adequate and current identification;
- provide adequate proof of age;
- provide evidence that he or she is on the Band List maintained by the Department of Indian Affairs and Northern Development or has submitted an application to that Department to have his or her name entered on the Band List and such application has been approved; and
- if required, obtain corroborating testimony from another Eligible Member who is willing to make oath in the form of an Declaration as to the identity of that person.

Any Eligible Member may apply to the Ratification Officer by no later than _____, 1995 to have the List of Voters revised if such he or she believes that:

- the name of an Eligible Member has been omitted from the List of Voters; or
- the name of an Eligible Member is incorrectly set out or should not be included on the List of Voters.

MAIL IN BALLOTS AND ADVANCE POLLS

Eligible Members whose ordinary residence is off the reserve need not be in attendance at Swan Lake Indian Reserve No. 7 on AAAA in order to cast their vote. Such Eligible Members will be sent a package by registered mail to their last address known to the Council (or to a specified substitutional address, if their mailing address is not known) which will permit them to mail in their vote. Such persons will not be sent such a package if their whereabouts are not known and if no substitutional address is known. Such persons will have to vote in person.

In addition, Eligible Members whose ordinary residence is on the reserve but who, due to a planned absence or for medical reasons will not be available to Vote in person on AAAA may cast their vote by mail provided they make such a request to the Ratification Officer no later than -----, 1995.

Alternatively, any Eligible Member may vote at an Advance Poll if they so chose. Advance Polls will be open at the following locations and on the dates and at the times indicated:

<u>DATE</u>	<u>TIME</u>	<u>LOCATION</u>
-------------	-------------	-----------------

INFORMATION MEETINGS

Information Meetings for purposes of providing an opportunity for the Band Council, the Band's legal counsel, financial advisor and any other persons as requested by the Council to explain the Treaty Land Entitlement Claim and its proposed Settlement as set out in the Settlement Agreement and the Trust Agreement to all Eligible Members in attendance, with a view to ensuring that they are fully informed prior to casting their votes on the Ballot Question in the Ratification Vote at the following dates, times, and places:

<u>DATE</u>	<u>TIME</u>	<u>LOCATION</u>
-------------	-------------	-----------------

QUESTIONS

Any questions concerning the Settlement Agreement or the Trust Agreement should be directed to the Chief and Council of the Swan Lake Indian Band.

Any questions concerning the manner in which the vote is to be conducted, including requests for revisions to the List of Voters and requests for Mail In Ballots, should be directed to the Ratification Officer.

RATIFICATION OFFICER

The Ratification Officer is _____ and may be reached by calling (204) 983-____
(collect calls will be accepted)

ATTACHMENTS

The following are attached to this Notice of Vote:

- "A" Settlement Agreement (including the Trust Agreement and all other Schedules attached thereto)
- "B" List of Voters

IN THE EVENT OF ANY DISCREPANCIES BETWEEN THE INFORMATION CONTAINED IN THIS NOTICE OF VOTE AND THE RATIFICATION PROCEDURE, THE RATIFICATION PROCEDURE SHALL GOVERN.

DATED at Winnipeg, Manitoba this day of , 1995

Ratification Officer

APPENDIX "D"

DECLARATION OF RATIFICATION OFFICER

C A N A D A)
)
 PROVINCE OF MANITOBA)
)
 TO WIT:)

I, _____, (Assistant) Ratification Officer, of _____
 _____ in the Province of Manitoba, **DO SOLEMNLY DECLARE:**

1. **THAT** I was personally present at Swan Lake Indian Reserve No. 7 on AAAA when members of the Swan Lake Indian Band voted in a Ratification Vote concerning a proposed settlement agreement and a proposed trust agreement.

2. **THAT** immediately before the opening of the poll on such date, I opened the Ballot box to be used in connection with the Ratification Vote.

3. **THAT** the said Ballot box was seen by me to be empty and I called upon persons who were present to witness that the Ballot box was empty.

4. **THAT** I then locked and properly sealed the Ballot box and placed it in view for the reception of Ballot papers.

AND I make this solemn declaration conscientiously and believing it to be true and knowing it is of the same force and effect as if made under oath and by virtue of the *Canada Evidence Act*.

DECLARED BEFORE me at the ____ of)
 _____, in the Province of Manitoba,)
 this. ____ day of _____, 1995.)

 Ratification Officer

A Commissioner for Oaths in and for the
 Province of Manitoba.
 My Commission expires _____

APPENDIX "F"

STATEMENT OF RATIFICATION VOTE RESULTS

WE, the undersigned, severally state that members of the Swan Lake Indian Band voted in a Ratification Vote concerning a proposed Settlement Agreement and a proposed Trust Agreement on AAAA and the results of this Ratification Vote were as follows:

- (a) the names of _____ Voters appeared on the List of Voters prepared by the (Assistant) Ratification Officer pursuant to Article 3.2(a) and 6 of the Ratification Procedure, and the number of Voters who were entitled to cast a vote on the Ratification Vote was therefore _____;
- (b) _____ votes were cast in the Ratification Vote in accordance with Article 11 of the Ratification Procedure;
- (c) _____ Voters voted in favour of part A of the Ballot Question;
- (d) _____ Voters voted against part A of the Ballot Question;
- (e) _____ Voters voted in favour of part B of the Ballot Question;
- (f) _____ Voters voted against part B of the Ballot Question;
- (g) _____ Ballots were rejected in accordance with Article 16.1(b) of the Ratification Procedure; and
- (h) Articles 11 and 15.1(d) of the Ratification Procedure.

WE declare therefore that a majority (over 50%) of all of the Voters did (not) vote in the Ratification Vote and that a majority (over 50%) of those Voters who did vote:

- i) did (not) cast Ballots in the affirmative to part A of the Ballot Question thereby (approving)(failing to approve) and (not) authorizing the execution of the proposed Settlement Agreement; and

- ii) did (not) cast Ballots in the affirmative to part B of the Ballot Question thereby (approving)(failing to approve) and (not) authorizing the execution of the proposed Trust Agreement.

Dated at AAAA, in the Province of Manitoba this ____ day of _____, 1995.

(Assistant) Ratification Officer

(Chief)(Councillor) of the
Swan Lake Indian Band

APPENDIX "G"

CERTIFICATION OF RATIFICATION VOTE

C A N A D A)
)
 PROVINCE OF MANITOBA)
)
 TO WIT:)

I, _____, (Assistant) Ratification Officer, of _____, in the Province of Manitoba, DO SOLEMNLY DECLARE:

1. **THAT** I was present at Swan Lake Indian Reserve No. 7 on BBBB, when Eligible Members of the Swan Lake Indian Band voted in a Ratification Vote concerning a proposed Settlement Agreement and a proposed Trust Agreement in accordance with the Ratification Procedure.
2. **THAT** a true copy of the Notice of Vote to the Eligible Members of the Swan Lake Indian Band to ratify and approve the proposed Settlement Agreement and proposed Trust Agreement is attached as Exhibit "1" to this my Declaration.
3. **THAT** I did cause the said Notice of Vote to be posted in accordance with Article 4 of the Ratification Procedure at least ____ days prior to the date of the Ratification Vote.
4. **THAT** (I did attend)(I or an Assistant appointed by me attended)every Information Meeting set out in the Notice of Vote and made reasonable efforts to ensure that minutes of each Information Meeting were generated in accordance with Articles 5.3 and 5.6 of the Ratification Procedure.
5. **THAT** the voting procedure was conducted in accordance with the Ratification Procedure.
6. **THAT** the proposed Settlement Agreement was (not) approved and the proposed Trust Agreement was (not) approved by the Ratification Vote, the results of which are set out in a true copy of the Statement of Ratification Vote Results attached as Exhibit "2" to this my Declaration.

AND I make this solemn declaration conscientiously and believing it to be true and knowing it is of the same force and effect as if made under oath and by virtue of the Canada Evidence Act.

DECLARED BEFORE me at the _____)
 of _____, in the Province of Manitoba,)
 this _____ day of _____, 1995.) _____
 Ratification Officer

 A Commissioner for Oaths in and for the
 Province of Manitoba.
 My Commission expires _____

I, _____, member of the Council of the Swan Lake Indian Band, in the Province of Manitoba, **DO SOLEMNLY DECLARE:**

DECLARED BEFORE me at the _____ of)
_____, in the Province of Manitoba,)
this _____ day of _____, 1995.)

A Commissioner for Oaths in and for the
Province of Manitoba.
My Commission expires _____

Member of the Council of
the Swan Lake Indian Band

APPENDIX "I"**APPOINTMENT OF INTERPRETER**

I, _____, Ratification Officer, appoint _____ to act as an Interpreter for the purpose of providing translation services to such Eligible Members at any Information Meeting or to assist such Voters who require translation services to cast their Votes at the poll(s).

Ratification Officer

Date

I, _____, hereby agree to act as an Interpreter for the purpose of providing translation services to such Eligible Members at any Information Meeting or to assist such Voters who require translation services to cast their Votes at the poll(s) and I do hereby solemnly undertake to carry out such task accurately, honestly, and to the best of my ability.

Interpreter

Date

APPENDIX "J"**APPOINTMENT OF ASSISTANT**

I, _____, Ratification Officer, appoint _____ to act as an Assistant for the purpose carrying out such duties and assignments under the Ratification Procedure as delegated by me.

Ratification Officer

Date

I, _____, hereby agree to act as an Assistant to carry out such duties and assignments under the Ratification Procedure as delegated by Ratification Procedure to me and I do hereby solemnly undertake to carry out such tasks to the best of my ability and in accordance with the Ratification Procedure.

Assistant

Date



CANADA

P.C. 1995-9/534
March 28, 1995

PRIVY COUNCIL • CONSEIL PRIVÉ

(T.B. Rec. 822649)

WHEREAS Canada and the Swan Lake Indian Band are signatories to Treaty No. 1 dated September 3, 1871;

WHEREAS Swan Lake Indian Reserve No. 7 was set apart for the use and benefit of the band;

WHEREAS the Swan Lake Indian Band did not receive all of the land to which it was entitled under Treaty No. 1 for reserve purposes;

WHEREAS the Swan Lake Indian Band has made a specific claim with regard to these entitlement lands;

WHEREAS the Minister of Indian Affairs and Northern Development accepted the claim for negotiations on November 5, 1982;

WHEREAS Canada, without admitting liability, has agreed to enter into a Settlement Agreement;

WHEREAS the Swan Lake Indian Band and the Minister of Indian Affairs and Northern Development, on behalf of Her Majesty in right of Canada, wish the Settlement Agreement to have effect in accordance with the terms, conditions and procedures set forth in that Agreement;

AND WHEREAS a ratification vote will be held on March 15, 1995, for the members of the Swan Lake Indian Band to consider the Settlement Agreement;

THEREFORE, HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL, on the recommendation of the Minister of Indian Affairs and Northern Development and the Treasury Board, is pleased hereby:

(a) to authorize the Minister of Indian Affairs and Northern Development to enter into the Swan Lake/Canada Settlement Agreement attached hereto as Schedule "A", on behalf of Her Majesty in right of Canada; and

(b) to authorize the Minister of Indian Affairs and Northern Development to enter into the Manitoba/Canada Settlement Agreement attached hereto as Schedule "B", on behalf of Her Majesty in right of Canada.

CERTIFIED TO BE A TRUE COPY - COPIE CERTIFIÉE CONFORME

A handwritten signature in black ink, appearing to be 'G. J. G.', is written over a horizontal line. The signature is stylized with a large loop at the beginning and a long, sweeping underline.

CLERK OF THE PRIVY COUNCIL - LE GREFFIER DU CONSEIL PRIVÉ



Indian and Northern
Affairs Canada

Affaires indiennes
et du Nord Canada

E4215-4-293

Chronological No - N° consécutif

95-2

293-344

File Reference - N° de référence du dossier

E41058-5-293

RT3

BAND COUNCIL RESOLUTION
RÉSOLUTION DE CONSEIL DE BANDE

NOTE: The words "From our Band Funds" "Capital" or "Revenue", whichever is the case, must appear in all resolutions requesting expenditures from Band Funds.
NOTA: Les Mots "des fonds de notre bande" "capital" ou "Revenu" selon le cas doivent paraître dans toutes les résolutions portant sur des dépenses à même les fonds des bandes

The council of the Le conseil de la bande indienne	Swan Lake First Nation	Current Capital Balance Solde de capital	\$ _____
Agency District	Manitoba Region	Committed Engagé	\$ _____
Province	Manitoba	Current Revenue Balance Solde de revenu	\$ _____
Place Nom de l'endroit	Swan Lake Indian Reserve	Committed Engagé	\$ _____
Date	06 Jan. AD 19 95		
	Day - Jour Month - Mois Year - Année		

DO HEREBY RESOLVE
DECIDE, PAR LES PRÉSENTES

Pursuant to the consent of a majority of the Council of the Swan Lake Indian Band ("the Council") present at a duly convened meeting held on the 6th day of January, 1995,

THE COUNCIL RESOLVES AS FOLLOWS:

1. BE IT RESOLVED THAT the Council does hereby recommend to the members of the Swan Lake Indian Band the acceptance of the proposed agreement between Her Majesty the Queen in right of Canada and the Swan Lake Indian Band ("the Band"), including all Schedules attached thereto, pursuant to which terms for the settlement of a Treaty Land Entitlement Claim (as described therein) are set out ("the Settlement Agreement").
2. BE IT RESOLVED THAT the Council does hereby further recommend to the members of the Swan Lake Indian Band the acceptance of a proposed agreement between the Band and the Trustees named therein pursuant to which terms for the administration and management of the payment by Canada to the Band (as provided for in the Settlement Agreement) are set out (the "Trust Agreement").
3. BE IT RESOLVED THAT the Council does hereby call a Ratification Vote to determine whether a majority of the Eligible Members of the Band (as defined in the Ratification Procedure) are in favour of approving the Settlement Agreement and the Trust Agreement, which vote shall be conducted pursuant to the Ratification Procedure attached as Schedule "B" to the Settlement Agreement.
4. BE IT RESOLVED THAT, the Council, by copy of this resolution to the Minister of Indian Affairs and Northern Development ("the Minister"), order that the Ratification Vote be conducted by means of a secret Ballot, and also that the Minister designate a Ratification Officer for the purpose of conducting the Ratification Vote.
5. BE IT RESOLVED THAT the Vote of the Swan Lake Indian Band shall be held at the Swan Lake Indian Reserve No. 7 in the Province of Manitoba on March 15, 1995, and that the polls shall be open from 9:00 a.m. until 8:00 p.m. on that date and, further that Advance Polls be held at the times, places, and on the dates set out below:

DATE	TIME	LOCATION
Feb. 22, 1995	4 p.m. - 9 p.m.	Brandon - Victoria Inn
Feb. 23, 1995	4 p.m. - 9 p.m.	Brandon - Victoria Inn
March 1, 1995	4 p.m. - 9 p.m.	Winnipeg - Polo Park Inn
March 2, 1995	4 p.m. - 9 p.m.	Winnipeg - Polo Park Inn
March 8, 1995	4 p.m. - 9 p.m.	Swan Lake First Nations Gym
March 9, 1995	4 p.m. - 9 p.m.	Swan Lake First Nations Gym

A quorum for this Band
Pour cette bande le quorum est

consists of
fixé à THREE (3)

Council Members.
Membres du Conseil.

(Councillor - Conseiller)

(Councillor - Conseiller)

(Councillor - Conseiller)

(Councillor - Conseiller)

(Chief - Chef)

(Councillor - Conseiller)

(Councillor - Conseiller)

(Councillor - Conseiller)

(Councillor - Conseiller)

(Councillor - Conseiller)

(Councillor - Conseiller)

(Councillor - Conseiller)



BAND COUNCIL RESOLUTION
RÉSOLUTION DE CONSEIL DE BANDE

Chronological No - N° consécutif

95-2 293-344

File Reference - N° de référence du dossier

NOTE: The words "From our Band Funds" "Capital" or "Revenue", whichever is the case, must appear in all resolutions requesting expenditures from Band Funds.
NOTA: Les Mots "des fonds de notre bande" "capital" ou "Revenu" selon le cas doivent paraître dans toutes les résolutions portant sur des dépenses à même les fonds des bandes

The council of the Le conseil de la bande indienne	Swan Lake First Nation	Current Capital Balance Solde de capital	\$ _____
Agency District	Manitoba Region	Committed Engagé	\$ _____
Province	Manitoba	Current Revenue Balance Solde de revenu	\$ _____
Place Nom de l'endroit	Swan Lake Indian Reserve	Committed Engagé	\$ _____
Date	06th Jan. AD 19 95		
	Day - Jour Month - Mois Year - Année		

DO HEREBY RESOLVE
DECIDE PAR LES PRÉSENTES

Page Two (2)

6. BE IT RESOLVED THAT the Council does hereby approve of:
- the Ratification Procedures;
 - the Ballot Question for the Ratification Vote in the form as set out in Appendix "A" to the Ratification Procedures, and
 - the Notice of Vote in the form set out in Appendix "C" to the Ratification Procedures.

7. BE IT RESOLVED THAT Information Meetings be held for the purpose of providing an opportunity for the Council, the Band's legal counsel, financial advisor and any other persons as requested by the Council to explain the Treaty Land Entitlement Claim and its proposed settlement as set out in the Settlement Agreement and the Trust Agreement to all Eligible Members in attendance, with a view to ensuring that they are fully informed prior to casting their votes on the Ballot Question in the Ratification Vote at the following dates, times, and places:

DATE	TIME	LOCATION
Feb. 22, 1995	1pm - 8pm	Brandon - Victoria Inn
Feb. 23, 1995	1pm - 8pm	Brandon - Victoria Inn
March 1, 1995	1pm - 8pm	Winnipeg - Polo Park Inn
March 2, 1995	1pm - 8pm	Winnipeg - Polo Park Inn
March 8, 1995	1pm - 8pm	Swan Lake First Nations Gym
March 9, 1995	1pm - 8pm	Swan Lake First Nations Gym

8. BE IT RESOLVED THAT the Council of the Band shall provide the Minister with:
- an original, executed copy of the Resolution; and
 - a list of mailing addresses of each Eligible Member whose ordinary residence is not on the reserve such substitutional addresses may be available (or where no such address is available, a notation indicating that the whereabouts of such Eligible Member is unknown).

9. BE IT RESOLVED THAT, in the Council's opinion, it is anticipated that an interpreter will (not) be required at any Information Meetings (and if so, at those meetings indicated with an asterisk in paragraph 7 above) any Advance Polls (and, if so, at the Advance Polls indicated with an asterisk in paragraph 5) and at the Poll(s) on the Voting Day for the purpose of providing translation services to Eligible Members.

A quorum for this Band
Pour cette bande le quorum est

consists of
fixé à THREE (3)

Council Members.
Membres du Conseil.

(Councillor - Conseiller)

(Councillor - Conseiller)

(Councillor - Conseiller)

(Councillor - Conseiller)

(Chief - Chef)

(Councillor - Conseiller)

(Councillor - Conseiller)

(Councillor - Conseiller)

(Councillor - Conseiller)

(Councillor - Conseiller)

(Councillor - Conseiller)

(Councillor - Conseiller)

(Councillor - Conseiller)

CERTIFICATE OF INDEPENDENT LEGAL ADVICE

IN THE MATTER OF:

An Agreement between Her Majesty the Queen in Right of Canada, as represented by the Minister of Indian Affairs and Northern Development (Hereinafter referred to as 'Canada'), and the Swan Lake First Nation (Hereinafter referred to as 'the First Nation') relating to the satisfaction of the Per Capita Provision entitlement of the Swan Lake First Nation to land under treaty. (The "Settlement Agreement" initialled January 13, 1995);

AND IN THE MATTER OF:

A further Agreement relating thereto, being an agreement between the First Nation and certain individuals named as trustees pursuant to which terms for the administration and management of the payment by Canada to the First Nation as provided for in the "Settlement Agreement" are set out. (The "Trust Agreement" as circulated to the First Nation members for ratification purposes).

I, CHARLES FREDERICK FRAMINGHAM, being entitled to practice law in the Province of Manitoba and being legal counsel to the FIRST NATION, duly appointed, DO HEREBY CERTIFY THAT:

1. I am entitled to practice law in the Province of Manitoba and have been retained to advise the First Nation with regard to all matters relating to and arising out of its claim for land entitlement under the Per Capita Provisions of Treaty No. 1 as revised on or about June 20, 1876 (as that term is defined in the "Settlement Agreement").
2. I have fully explained the legal nature and effect of the Settlement Agreement and Trust Agreement and the implementation of each such Agreement including, without limitation,:
 - (a) the entitlement of the First Nation to land pursuant to the Per Capita Provision (as that term is defined in the "Settlement Agreement"); and
 - (b) the treatment and placement of the Federal Payment (as that term is defined in the "Settlement Agreement") into the Trust Capital Account, established pursuant to the "Trust Agreement", rather than into the Consolidated Revenue Fund;
 - (c) the finality of the Settlement Agreement in respect of the Tramping Lake Issue and the Loss of Use arising under the Per Capita Provision.
 - (d) the First Nation's options, duties, and liabilities in establishing the Trust Agreement; and

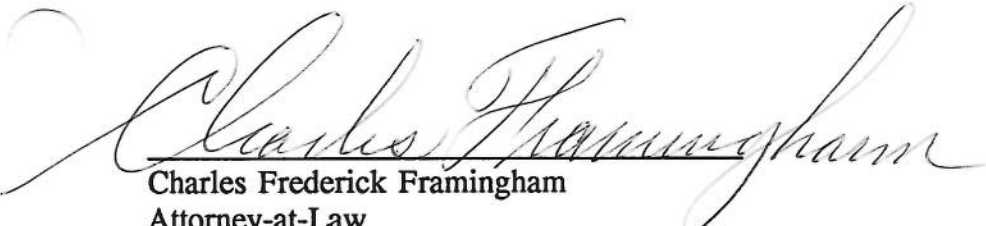
- (e) the release and indemnification required by Canada from the First Nation in consideration of the terms of the "Settlement Agreement" as same appear therein; and;
- (f) the legal nature and effect of the "Trust Agreement" on inaugural Trustees named in the Trust Agreement and their rights duties, responsibilities, and liabilities as trustees appointed pursuant thereto;

to the Chief and Councillors of the First Nation, the Trustees, and the members of the First Nation present at the Information Meetings listed below (held in accordance with the Ratification Procedures which form Schedule "B" of the Settlement Agreement):

Brandon, Manitoba	February 22 and 23, 1995
Winnipeg, Manitoba	March 1 and 2, 1995
Swan Lake, Manitoba	March 8 and 9, 1995

This, my Certificate is effective as of the date of the Execution of the Settlement Agreement.

DATED at the City of Winnipeg, this 19th day of April, 1995.


Charles Frederick Framingham
Attorney-at-Law
Stewart, Framingham
412-1661 Portage Avenue
Winnipeg, Manitoba R3J 3T7



PEACE Hills TRUST

Gerry T. Kinsella, C.A.
VICE PRESIDENT, CONTROLLER

March 31, 1995

The Minister of Indian Affairs and
Northern Development
c/o The Director of Lands and Trusts Services
Department of Indian Affairs and Northern Development
1100 - 275 Portage Avenue
Winnipeg, Manitoba
R3B 3A3

Corporate Office
Peace Hills Trust Tower
10th Floor, 10011 - 109 Street
Edmonton, Alberta T5J 3S8
Telephone: (403) 421-1606
Fax: (403) 426-6568

Dear Sirs:

RE: SWAN LAKE FIRST NATION TRUST

Please be advised that Peace Hills Trust has been named by the Trustees as the Financial Institution at which the Trust Account contemplated by the agreement in writing dated the 19th day of April, 1995 between the SWAN LAKE FIRST NATION and the individuals named as TRUSTEES therein (the "Trust Agreement") is to be maintained.

We wish to confirm to you the following:

1. Peace Hills Trust is a licensed trust company.
2. Peace Hills Trust has received and has reviewed the Trust Agreement.
3. The Trust Account has been established under the name of Swan Lake First Nation Trust Capital Account; as Account #5003-054; at the address of Samson Mall, P.O. Box 60, Hobbema, Alberta T0C 1N0; with wire transfer #00129-568.
4. Peace Hills Trust hereby undertakes to ensure the Trust Account is operated in accordance with the Trust Agreement.
5. Peace Hills Trust shall not permit the transfer of the Trust Property to another Financial Institution unless:
 - (a) The Trustees have given Peace Hills Trust 30 days prior written notice of their intention to transfer the Trust Property.
 - (b) The new Financial Institutions is a chartered bank, licensed trust company, or incorporated credit union or caisse populaire; and
 - (c) The New Financial Institution has provided Peace Hills Trust with a true copy of a letter to the Minister in identical form to this letter.

Yours very truly,

PEACE HILLS TRUST COMPANY

Gerry T. Kinsella, CA
Vice President, Controller

GTK/ic

CERTIFICATE OF INDEPENDENT FINANCIAL ADVICE

IN THE MATTER OF:

An Agreement between Her Majesty the Queen in Right of Canada, as represented by the Minister of Indian Affairs and Northern Development (Hereinafter referred to as 'Canada'), and the Swan Lake First Nation (Hereinafter referred to as 'the First Nation') relating to satisfaction of the Per Capita Provision entitlement of the First Nation to land under treaty. (The "Settlement Agreement" initialled January 13, 1995);

AND IN THE MATTER OF:


A further Agreement relating thereto, being an agreement between the First Nation and certain individuals named as trustees pursuant to which terms for the administration and management of the payment by Canada to the First Nation as provided for in the "Settlement Agreement" are set out. (The "Trust Agreement" as circulated to the First Nation member for ratification purposes).

PEACE HILLS TRUST HEREBY CERTIFIES THAT:

1. Peace Hills trust representative David Boisvert on behalf of Peace Hills Trust has presented financial investment information to the First Nation and the Initial Trustees relating to the deposit of the Federal Payment (as defined in the Settlement Agreement) which is to be paid by Canada to the First Nation and administered in accordance with the Trust Agreement.
2. Pursuant of that information, Peace Hills Trust has been named as the Financial Institution to receive the Federal Payment payable under the Settlement Agreement into the Trust Account in the amount of Nine and One-Half Million Dollars (\$9,500,000.00).
3. Peace Hills Trust has reviewed the Trust Agreement in its entirety and is prepared to provide services and advice within the terms set forth therein.

This certificate is effective as of the date of execution of the Settlement Agreement.

Dated at Winnipeg, in the Province of Manitoba, this 30th day of March, 1995.


Authorized Representative
Peace Hills Trust c/o Branch Office
244 Portage Avenue
Winnipeg, Manitoba R3C 0B1

**SWAN LAKE FIRST NATION
CANADA-MANITOBA AGREEMENT**

THIS AGREEMENT made this ^{1st} day of *May*, 1995.

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 MANITOBA as
represented by the Minister of Northern Affairs
(hereinafter referred to as "Manitoba"),**

OF THE SECOND PART.

WHEREAS Canada entered into a treaty, known as Treaty No. 1, with certain bands of Chippewa and Swampy Cree Indians on or about August 3, 1871;

AND WHEREAS the Portage Band was one of the signatories to the said treaty;

AND WHEREAS, in the articles of Treaty No. 1, Canada made certain undertakings including the following:

"And Her Majesty the Queen hereby agrees and undertakes to lay aside and reserve for the sole and exclusive use of the Indians the following tracts of land, that is to say:

... for the use of the Indians of whom Oo-za-we-kwun is Chief, so much land on the south and east side of the Assiniboine, about twenty miles above the Portage, as will furnish one hundred and sixty acres for each family of five, or in that proportion for larger or smaller families ... it being understood, however, that if, at the date of the execution of this treaty there are any settlers within the bounds of any lands reserved by any band, Her Majesty reserves the right to deal with such settlers as She shall deem just, so as not to diminish the extent of the land allotted to the Indians"

AND WHEREAS on or about June 20, 1876, the said treaty was revised as a result of a decision by the members of the Portage Band to split into three separate bands (of which the Swan Lake First Nation was one), such that the constituent bands agreed, *inter alia*, to share the benefits promised the Portage Band by Canada under Treaty 1 as between themselves, including the obligation on the part of Canada to establish reserves as therein set out;

AND WHEREAS the said revision further provided as follows:

"...it is hereby agreed with regard to the Reserve promised by the said treaty, that to the band of Yellow Quill, a Reserve shall be assigned by Her Majesty's Commissioner appointed for the purpose, to be selected in the region of country they now inhabit, and to be approved of by the said Band, but said Reserve shall not be nearer to the Portage than twenty miles...

... it is hereby agreed that the separate Reserves to be granted to the said three Bands shall contain an amount of land equal to that stipulated to be given to the original Band, and such land shall be assigned to each Band in proportion to their relative numbers so that each Band shall receive their fair and just share of the said land ...";

(which provisions of the revision and treaty hereinbefore set forth are hereinafter collectively referred to as "the Per Capita Provision");

AND WHEREAS Canada and Manitoba agree that the Swan Lake First Nation, (hereinafter referred to as "Swan Lake") as one of the successors to the Portage Band, has an unfulfilled land entitlement pursuant to the Per Capita Provision by reason of a shortfall in the counting of the population of Swan Lake at the time that reserves were set aside for it;

AND WHEREAS Canada and Manitoba desire to fully and finally settle any and all claims with respect to land entitlement of Swan Lake under the Per Capita Provision and the revision which Swan Lake ever had, now has, or may hereafter have against Canada and all obligations or undertakings between the parties in relation thereto;

AND WHEREAS Canada and Swan Lake have negotiated an agreement with respect to the fulfilment of Canada's undertaking and obligations to Swan Lake, which the said First Nation ever had, now has, or may hereafter have under the Per Capita Provision, and any claims arising therefrom (hereinafter referred to as "the Settlement Agreement");

AND WHEREAS paragraph 11 of Schedule 1 to the Constitution Act, 1930, and of the Schedule to The Manitoba Natural Resources Act, S.M. 1930, C. 30 provides as follows:

"All lands included in Indian reserves within the province, including those selected and surveyed but not yet confirmed, as well as those confirmed, shall continue to be vested in the Crown and administered by the Government of Canada for the purposes of Canada, and the Province will from time to time, upon the request of the Superintendent General of Indian Affairs, set aside, out of the unoccupied Crown lands hereby transferred to its administration, such further areas as the said Superintendent General may, in agreement with the Minister of Natural Resources of the Province, select as necessary to enable Canada to fulfil its obligations under the treaties with the Indians of the province, and such areas shall thereafter be administered by Canada in the same way in all respects as if they had never passed to the Province under the provisions hereof."

(hereinafter referred to as "paragraph 11 of the Manitoba Schedule");

AND WHEREAS Canada and Manitoba desire to fulfil their respective obligations so as to enable Canada to lay aside further reserve land for the use and benefit of Swan Lake;

NOW THEREFORE, Canada and Manitoba agree as follows:

1. Manitoba recognises that Canada and Swan Lake have negotiated the Settlement Agreement to address the fulfilment of Canada's undertaking and obligations to Swan Lake, which Canada ever had, now has, or may hereafter have under the Per Capita Provision, and any claims arising therefrom, a copy of which agreement Manitoba acknowledges receipt thereof.
2. Manitoba further recognises and agrees that there is minimal unoccupied provincial Crown land in the area in and around the existing reserve of Swan Lake or in its traditional territory and that, in the result, the fulfilment of Canada's undertaking and obligations to Swan Lake under the Per Capita Provision and any claims arising therefrom can only reasonably be addressed by providing Swan Lake with sufficient funds to acquire land.
3. Manitoba further recognises and agrees that with the funds so provided, Swan Lake will be acquiring at least 4,484 acres of land and that Canada has undertaken (subject to the conditions set out in the Settlement Agreement) to set up to 13,035 acres (but, in any event not less than 4,484 acres) of land apart as

reserve for the use and benefit of Swan Lake and Manitoba agrees that up to 13,035 acres of land may be set apart by Canada as reserve for the use and benefit of Swan Lake.

4. Manitoba further agrees that for the purpose of facilitating the implementation of the Settlement Agreement it shall:
 - a) take all reasonable steps necessary to ensure that Swan Lake is not lawfully required to pay land transfer fees and taxes in respect of lands which Swan Lake acquires and requests Canada to set apart as reserve pursuant to the Settlement Agreement;
 - b) take all reasonable steps to assist Canada in setting apart as reserve the lands acquired and requested by Swan Lake to be set apart by providing in a timely manner the necessary documentation and information within its control; and
 - c) transfer administration and control to Canada of mines and minerals (precious and base) and the royalties derived therefrom and sand and gravel, in, on or under lands which Swan Lake acquires and requests Canada to set apart as reserve pursuant to the Settlement Agreement, which Manitoba has administration and control of at the time of transfer, subject to satisfactory arrangements being first made to protect the interests of third parties in those mines and minerals and sand and gravel.
5. The parties further acknowledge that they are, together with the Treaty Land Entitlement Committee of Manitoba, Inc. (hereinafter referred to as "the TLE Committee"), engaged in a process, pursuant to a Protocol dated October 14, 1993 (hereinafter referred to as "the Protocol") intended to lead to:
 - (a) the fulfilment of Canada's undertaking and obligations to the First Nations represented by the TLE Committee to land entitlement under the terms of any treaty or adhesion and any claims arising therefrom; and
 - (b) the fulfilment of Manitoba's outstanding undertaking and obligation to Canada under paragraph 11 of the Manitoba Schedule.
6. The parties further recognize and agree that there are a number of issues relating generally to the acquisition of land by First Nations in Manitoba in satisfaction of their respective land entitlements under treaty and the setting apart of that land by Canada as reserves for the use and benefit of such First Nations. These issues include (but are not necessarily limited to):
 - (a) minerals and subsurface rights;
 - (b) water and riparian rights;
 - (c) other resource rights;
 - (d) third party interests;

- (e) compensation to local governments relating to loss of tax base; and
- (f) the procedure for transferring provincial Crown lands to be set aside as reserves

and that these issues are presently under negotiation with the TLE Committee (in respect of the acquisition of land in Manitoba by those First Nations whom the TLE Committee represents as described herein) pursuant to the Protocol.

7. The parties agree that the results of the negotiations involving the TLE Committee relating to the issues of the acquisition of land by First Nations in Manitoba in satisfaction of their respective land entitlements under treaty (and the setting apart of that land by Canada as reserves for the use and benefit of such First Nations) shall, with the consent of Swan Lake and Canada (and to the extent such issues have not been otherwise dealt with in the Settlement Agreement), apply with necessary modifications to the acquisition of land by Swan Lake pursuant to the Settlement Agreement.
8. The parties further agree that:
 - (a) until such matters are addressed in the manner hereinbefore set forth; or
 - (b) in the event Canada, Manitoba, and the TLE Committee fail to reach an agreement on such matters; or
 - (c) in the event Canada, Manitoba, and the TLE Committee do not deal with one or more matters relating or necessarily incidental to the acquisition of land by Swan Lake in Manitoba in satisfaction of its land entitlement under the Per Capita Provision and the setting apart of that land by Canada as reserves for the use and benefit of Swan Lake,

the setting apart of land acquired by Swan Lake in Manitoba in satisfaction of its land entitlement under the Per Capita Provision as reserve by Canada shall be carried out within the context of the existing policies of Canada and Manitoba.
9. The parties agree that, with respect to the fulfilment of Manitoba's undertaking and obligation to Canada under paragraph 11 of the Manitoba Schedule as it relates to the fulfilment of Canada's undertaking and obligations to Swan Lake under the Per Capita Provision, and any claims arising therefrom:
 - (a) the entry by Canada into the Settlement Agreement shall in no way release or discharge Manitoba from Manitoba's obligations to Canada under paragraph 11 of the Manitoba Schedule as it relates to the fulfilment of Canada's undertaking and obligations to Swan Lake under the Per Capita Provision, and any claims arising therefrom;
 - (b) Manitoba hereby acknowledges and agrees that such undertaking and obligation remains outstanding notwithstanding that Canada has obtained

a release from Swan Lake of Canada's undertaking and obligation under the Per Capita Provision pursuant to the Settlement Agreement;

- (c) Canada shall receive full recognition and credit for all amounts it has provided to Swan Lake pursuant to the Settlement Agreement in the context of any negotiations under paragraph 3 of the Protocol or subsequent agreement between the parties; and
 - (d) issues, other than the matters set out in subparagraphs (a), (b), and (c) hereof, relating to the obligations of Manitoba to Canada under paragraph 11 of the Manitoba Schedule as it relates to the fulfilment of Canada's undertaking and obligations to Swan Lake under the Per Capita Provision, and any claims arising therefrom are to be resolved as part of the negotiations under the Protocol.
10. In the event the negotiations between the parties under the Protocol are terminated, suspended for a period longer than six consecutive months, or in any way fail to resolve in a full and final manner all issues relating to the obligations of Manitoba to Canada under paragraph 11 of the Manitoba Schedule as it relates to the fulfilment of Canada's undertaking and obligations to Swan Lake under the Per Capita Provision and any claims arising therefrom:
- (a) they will enter into negotiations on such issues, (such negotiations to be commenced forthwith at the call of either of them); and
 - (b) in the context of that negotiation, Canada shall receive full recognition and credit for all amounts it has provided to Swan Lake pursuant to the Settlement Agreement.

IN WITNESS WHEREOF, the parties hereunto have executed this Agreement as of the day and year first above written.

**HER MAJESTY THE QUEEN IN RIGHT
OF CANADA**



**MINISTER OF INDIAN AFFAIRS AND
NORTHERN DEVELOPMENT**

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



MINISTER OF NORTHERN AFFAIRS

SWAN LAKE FIRST NATION

TREATY LAND ENTITLEMENT

TRUST AGREEMENT

SCHEDULE "A"

SWAN LAKE FIRST NATION

TREATY LAND ENTITLEMENT

TRUST AGREEMENT

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SWAN LAKE First Nation Trust for the use and benefit of the First Nation;

AND WHEREAS the First Nation and the Trustees acknowledge and agree that the Federal Payment to be so deposited to the Trust Capital Account is a long-term asset for the use and benefit of the First Nation, as Beneficiary, to be administered by the Trustees upon the trusts herein contained and subject to the Settlement Agreement and the terms and conditions hereinafter set out;

AND WHEREAS the First Nation and the Trustees, jointly and severally, recognize Canada's desire to ensure that Entitlement Land (including all Mines and Minerals in respect thereof) with a surface area equal to a minimum of 4484 acres and a maximum of 13,035 acres be purchased utilizing in the Federal Payment and that the same be set apart as Reserve for the use and benefit of the First Nation;

AND WHEREAS the Trustees further recognize the First Nation's desire to use all of the Trust Property for the acquisition of land to be set apart as reserve and as a heritage for future generations subject only to the specific exceptions set out in this Trust Agreement and the Settlement Agreement;

AND WHEREAS by a ratification vote held on the 15th of March, 1995, the Eligible Tribal Members of the First Nation have assented to and approved the execution and delivery of this Agreement, and have authorized and directed the Chief and Councillors to sign and deliver this Agreement and all related documentation;

NOW, THEREFORE, in consideration of the premises and of the respective covenants and agreements hereinafter set out, the parties covenant and agree as follows:

ARTICLE 1: INTERPRETATION:

- 1.1 Defined terms used to interpret this Agreement including recitals, are set out in Article 21 hereof.

ARTICLE 2: CREATION OF SWAN LAKE FIRST NATION TRUST

- 2.1 The First Nation hereby establishes the SWAN LAKE First Nation Trust.
- 2.2 The First Nation and the Trustees hereby acknowledge and agree that upon Canada depositing the Federal Payment into the Trust Capital Account, Canada is relieved of any and all obligations or liability, whether fiduciary or otherwise, relating to or arising from the deposit, use, management, settlement, withdrawal, or any other dealing with respect to the Federal Payment pursuant to this Agreement.

ARTICLE 4: SELECTION AND ACQUISITION OF ENTITLEMENT LAND

- 4.1 The manner of selection of land to be acquired as Entitlement Land by the Trustees shall be as follows:
- (a) The Council may deliver a written proposal for the acquisition of Entitlement Land setting out sufficient particulars to identify the land, the proposed price of the same and a statement as to how the land, if acquired, would benefit the First Nation, whereupon the Trustees shall make such inquiries as are necessary to satisfy themselves that the proposed Entitlement Land is eligible for acquisition in that:
 - (i) the terms and conditions of Article 4 of the Settlement Agreement could reasonably be expected to be satisfied if the eligible Entitlement Land was acquired by the Trustees; and
 - (ii) the acquisition of the proposed Entitlement Land could reasonably be expected to benefit the First Nation;
 - (b) Upon the Trustees satisfying themselves that the proposed Entitlement Land is so eligible (which land shall hereinafter be referred to as "Eligible Entitlement Land") the Trustees shall make such further inquiries as are necessary to fully inform themselves of the actual conditions associated with the acquisition of the Eligible Entitlement Land and the ability to transfer it to Reserve status;
 - (c) Within a reasonable time after receiving and assessing the proposal in accordance with paragraph (a), the Trustees shall notify the Eligible Tribal Members of each proposal for the acquisition of Eligible Entitlement Land by notice in writing which notice shall include:
 - (i) a summary of the proposal setting out a description of the Eligible Entitlement Land sufficient to identify it, the assessed value of the land and any improvements thereon, and the potential benefits to the First Nation if it is acquired;
 - (ii) the date, time and place of a meeting of the Eligible Tribal Members to be convened for the purpose of discussing and reviewing the proposal to assist the Trustees in formulating its recommendations regarding the acquisition of the Eligible Entitlement Land; and
 - (iii) stating that each Tribal Member is entitled to express his or her opinion regarding the proposed acquisition by attending the meeting and/or by writing to the Trustees.

4.2 The manner of acquiring Eligible Entitlement Land shall be as follows:

- (a) Upon receiving the consent of the Council pursuant to paragraph 4.1(j), or after a vote pursuant to paragraph 4.1(l) in which a majority of those voting favour the acquisition of the Eligible Entitlement Land, the Trustees shall enter into an Agreement to Purchase the approved Eligible Entitlement Land, subject to the condition that title transfers to and vests in the Trustees for and on behalf of the First Nation;
- (b) The Trustees may, with the consent of the First Nation and Canada, assign the Trustees' interest in the Agreement to Purchase to Canada;
- (c) Prior to acquiring Eligible Entitlement Land the Trustees shall ensure that adequate arrangements have been made for the management of the land;
- (d) The Trustees, upon entering into an Agreement to Purchase Eligible Entitlement Land, shall:
 - (i) arrange for the withdrawal of a sum of money from the Trust Capital Account, that is not in excess of the total of the agreed purchase price and Acquisition Costs;
 - (ii) arrange for deposit of such money into the trust account of a practising solicitor in and for the Province of Manitoba, retained by the Trustees to complete the purchase of the Eligible Entitlement Land in accordance with the terms of the Agreement to Purchase and the terms of this Agreement;
 - (iii) arrange to satisfy Third Party Interests and take such other steps as are necessary to fulfil the requirements of Article 4 of the Settlement Agreement; and
 - (iv) deliver a fully executed copy of the Agreement to Purchase to the Council.
- (e) In every instance in which Eligible Entitlement Land is acquired, Council shall make an application to Canada to have such Eligible Entitlement Land set aside as Reserve for the use and benefit of the First Nation by delivering to Canada and to the Trustees a duly authorized Band Council Resolution requesting the same. In the event the conditions set out in Article 4 of the Settlement Agreement are satisfied and Canada agrees to set aside such Eligible Entitlement Land as Reserve, the Trustees shall take all steps and sign all documents necessary to transfer the Eligible Entitlement Land to Canada;
- (f) All Agreements to Purchase Eligible Entitlement Land shall be subject to receipt

- 5.5 The Trustees may incur reasonable costs for the investment, acquisition, administration and management of Trust Property and may pay the cost of premiums for the purchase of such insurance as the Trustees, acting reasonably, may determine is advisable.
- 5.6 The Trustees may pay reasonable rent for office space and may pay reasonable compensation to the Trustees for the performance of their duties as defined by this Agreement and may reimburse to the Trustees any personal expenses reasonably incurred by the Trustees in carrying out their duties, which compensation and expenses shall be paid in accordance with the Tariff of Trustees' Honoraria and Disbursements (the form of which tariff appears as Appendix 'D'). The said Tariff may be varied from time to time by the Trustees; provided that no such variation of the Tariff shall be effective until approved by the Council in a vote called by the Council expressly for the purpose. Notwithstanding the aforesaid, after the first year of this Agreement, the Tariff may be varied once annually by the Trustees alone with the approval of Council, which approval shall not be unreasonably withheld, in an amount not to exceed the annual inflation rate calculated by Statistics Canada for the year preceding the proposed adjustment.
- 5.7 The Trustees shall pay the costs of instituting, prosecuting or defending any civil suits or actions or other legal proceedings affecting the Trust or the Trust Property or any part thereof.
- 5.8 The Trustees may make application for advice to the Court of Queen's Bench pursuant to s.84 of The Trustee Act, R.S.M. 1987, C.T160 or The Court of Queens's Bench Act, S.M. 88-89, Cap. 280 and shall pay the costs thereof out of Trust Property, provided that such costs shall be paid from the Trust Expense Account unless same is exhausted.
- 5.9 The Trustees may select criteria for determining and pay the costs associated with an application by any Tribal Member commenced for the purpose of determining an issue of jurisdiction, authority, negligence or breach of trust or fiduciary duty of the Trustees or Council under this Agreement and the Trustees shall pay the costs incurred by a Tribal Member of any legal proceeding commenced by that member which results in a finding that the Trustees or Council have exceeded their power, breached a duty, made an improper or unauthorized expenditure of Trust Property or have acted negligently in the management of Trust Property.
- 5.10 In the event there is a surplus in the Trust Expense Account on the last day of the Year, the Trustees shall pay the surplus into the Trust Development Account.
- 5.11 Each year the Trustees shall submit to and receive approval of their budget for the up-coming year from the Council.

- (b) set out that the meeting is for the purpose of informing Eligible Tribal Members of the intended requisition and expenditure of a specified amount of Annual Income for a specified project;
 - (c) describe the project in reasonable detail; and
 - (d) set out the proposed budget of expenditures.
- 6.4 Subject to Paragraphs 6.1 and 6.2 the Trustees shall deposit to the Trust Development Account amounts of the Annual Income not more than the amounts requisitioned provided that amount requisitioned in combination with all other payouts do not exceed the amount available in accordance with paragraph 6.1 hereof.
- 6.5 On receipt of any amount of the Annual Income under this Article, the Council shall become a trustee and fiduciary of the First Nation for the purpose of the expenditure of same.
- 6.6 The Beneficiary hereby directs that, where under this Article any payment is required to be made by the Trustees to the Beneficiary, the Trustees shall make such payment to the Beneficiary in care of the Council.

ARTICLE 7: ANNUAL INCOME SURPLUS

- 7.1 The Trustees shall manage and pay out the Annual Income before the last day of each Year, firstly, by paying Trust expenses and the hedge against inflation in accordance with Article 5, secondly, by delivering to the Beneficiary such amounts as may be required to be paid out by Council in accordance with Article 6, and thirdly by payment into the Trust Development Account any balance of the Annual Income in accordance with this Agreement.
- 7.2 In the event it is determined in the future by Revenue Canada or a court of competent jurisdiction that the Trust is not liable to pay income tax on Annual Income if kept in the Trust and not paid to the Beneficiary in accordance with this Article by reason of s. 90 of the Indian Act or for any other reason, any such untaxed and unexpended Annual Income shall be deposited to the Trust Development Account.

ARTICLE 8: FINANCIAL ADMINISTRATION AND ACCOUNT OPERATION AGREEMENT

- 8.1 No monies shall be withdrawn from the Trust Capital Account, the Trust Expense

Member and by the auditor.

- 8.9 Subject to Articles 8.1 through 8.8 inclusive, the Trustees and the Council shall execute and deliver to the Institution any document in writing requested by the Institution which is necessary or appropriate in the opinion of the Institution for the administration of the Trust Property or the operation of the Trust Capital Account, Trust Expense Account or Trust Development Account in particular, and notwithstanding the generality of the foregoing, the Trustees shall provide to the Institution a Trustees Certificate (the form of which certificate appears as Appendix 'L') immediately following any election or replacement of one or more Trustees.
- 8.10 The Trustees and the Council shall enter into agreements with the Institution regarding the operation of the Trust Capital Account, Trust Expense Account and Trust Development Account respectively, which agreements shall contain at least the provisions of this Article and a copy of this Agreement shall be attached for identification purposes.

ARTICLE 9: POWERS OF TRUSTEES

- 9.1 In addition to such other duties and powers of the Trustees as are set out in this Agreement and subject to the restrictions herein the Trustees are authorized and empowered:
- (a) To make any investment, acquisition, expenditure, disposition, contract, arrangement or transaction whatsoever, which a person absolutely and beneficially entitled to the Trust Property would have had power or right to effect or to concur in effecting, to the extent that the Trustees shall have, in relation to the Trust Property, all the powers and rights of a beneficial owner, but subject always to the dispositive provisions and trusts created hereunder and provided that the Trustees shall always exercise such powers and rights in good faith in what the Trustees believe are in the best interests of the First Nation;
 - (b) Without in any way restricting the generality of the foregoing powers and rights conferred on the Trustees, which powers and rights shall be interpreted according to the widest generality of which the words describing them shall be capable, the Trustees shall have, subject to Paragraph 10.1(a) of this agreement, the following powers:
 - (i) to make investments as are authorized by the law for Trustees, and the Trustees may make any investments, without regard for diversification, which in their uncontrolled discretion they consider advisable and the Trustees shall not be liable for any loss that may happen in connection

of Canada or a legislature, and such exercise of discretion by the Trustee shall be final and binding upon the Beneficiary, provided that the Trustees shall not act so as to confer a tax advantage upon a Tribal Member, or a Corporation owned by the First Nation at the expense of the Beneficiary;

- (c) To establish the Trust Capital Account, Trust Expense Account and the Trust Development Account with the Institution and make such arrangements governing banking procedures as are consistent with this Agreement;
- (d) To make, and amend from time to time, such rules as they deem appropriate and reasonable to govern their procedures, provided that such rules shall not be inconsistent with this Agreement, the Settlement Agreement or any laws which govern Trustees generally;
- (e) To maintain the Resolution register referred to in Paragraph 8.8 and a written record of all decisions taken and certificates issued by the Trustees and to make these records available to Council and Tribal Members on request;
- (f) To maintain adequate records of all transactions through the Trust Capital Account and the Trust Expense Account;
- (g) To execute all documents required by the Institution for the purpose of its administration of the Trust Property;

ARTICLE 10: PURCHASE OF AUTHORIZED INVESTMENTS:

- 10.1 (a) The Trustees are authorized and empowered to invest monies on deposit in the Trust Capital Account or the Trust Expense Account to purchase Authorized Investments only of the following types;
- (i) debt instruments issued or guaranteed by the Government of Canada, a province of Canada or a municipality of Canada;
 - (ii) debt instruments including Bankers' acceptance issued or guaranteed by any of Canada's chartered banks or licensed trust companies;
 - (iii) commercial paper issued by a corporation rated R-1 or A-1 by the Dominion Bond Rating Services or Canada Bond Rating Services up to a maximum of fifteen (15%) percent of the value of the Trust Capital; or
 - (iv) corporate bonds rated A or better by the Dominion Bond Rating

- 11.3 Subject to Article 11.4, during the said period, the initial Trustees shall exercise the powers conferred on Trustees pursuant to Article 9 and in particular shall:
- (a) Establish the Trust's Accounts at the Institution and make arrangements governing banking procedures pursuant to paragraph 9.1 (c);
 - (b) Establish rules and procedures pursuant to paragraph 9.1 (d);
 - (c) Establish a register as required in paragraph 9.1 (e);
 - (d) Do all such other things and execute such documents as may be required by the Institution for the purpose of administering the Trust which are consistent with this agreement;
 - (e) Establish a procedure for the selection of the Independent Trustees pursuant to Paragraphs 12.2 and 12.5 hereof;
 - (f) Establish a procedure for the election of Trustees pursuant to Article 12.3; and
 - (g) Cause an election to be held in accordance with that procedure within ninety (90) days of the date on which the Settlement Agreement comes into force.
- 11.4 Notwithstanding the generality of Article 11.3, the initial Trustees shall not select or acquire Eligible Entitlement Land and the operation of Article 4 herein shall be suspended until the election of Trustees pursuant to paragraph 11.3(g) has occurred.

ARTICLE 12: ELECTION AND TERM OF OFFICE OF TRUSTEES

- 12.1 Subject to Article 11 and Paragraph 12.5, each Trustee shall serve a term of four (4) years.
- 12.2 Except for the period pending the filling of a vacancy and subject to Article 11.1, there shall be at all times five (5) Trustees in office of which at least three (3) must reside on the SWAN LAKE Indian Reserve and one (1) shall be an Independent Trustee selected by the other four (4) Trustees jointly with the Chief and Council and all except the Independent Trustee shall be Eligible Tribal Members.
- 12.3 The procedure for the election of Trustees other than the Independent Trustee by the Eligible Tribal Members shall be consistent with the procedure followed by the First Nation for election of its Council except that all Eligible Tribal Members are eligible to vote in an election of Trustees and those nominees receiving the

Paragraphs 16.1 and 16.2 of this Agreement or votes on any resolution contrary to Paragraph 16.3 of this Agreement;

- (g) Resigns by delivery of a notice in writing to the other Trustees indicating an effective resignation date no less than fourteen (14) days next following delivery in which case a Trustee affected shall automatically cease to be a Trustee on the date indicated in the said resignation.
- 13.2 If a vacancy among the Trustees occurs, other than by expiration of the term of a Trustee, it shall be filled by the Council as soon as reasonably possible, but in any event within thirty (30) days of the date the vacancy occurs except that in the event that 2 or more Trustees cease to be Trustees within a 6 month period there shall be an election to fill the vacancies of both resigning Trustees notwithstanding the appointment to replace the first resignation and such election shall be for the remainder of each resigning Trustee's term and conducted in accordance with the election procedures herein.
- 13.3 Any Trustee appointed after the execution hereof, whether in substitution or replacement of a Trustee shall, prior to such appointment being effective, agree to become a party to, and be bound by, the terms and conditions hereof.
- 13.4 The Trustees may make and adopt special rules governing residence and disqualification due to residence of the Trustees for tax purposes and where a Trustee fails to meet these special rules, such Trustee may be replaced or denied office as the case may be.

ARTICLE 14: CONDUCT OF MEETINGS

- 14.1 The conduct of all meetings of Trustees shall be governed by the following:
 - (a) The quorum for meetings of Trustees shall be three (3) Trustees except for meetings of initial Trustees for which a quorum shall be two (2);
 - (b) A Trustee may be present or attend by telephone or other communication facility which permits each Trustee to communicate with all other Trustees at the meeting;
 - (c) At the first meeting held in each year the Trustees shall select a Chairman from among themselves but not including the Independent Trustee, who shall serve as Chairman for that year;
 - (d) All decisions and actions of the Trustees, except as otherwise specifically provided in this agreement, shall require three (3) votes of the Trustees at a duly convened meeting except for decisions and action of the initial Trustees which

within ninety (90) days of the last day of each Year End.

15.3 The Trustees shall provide the First Nation through its Council with:

- (a) A certified copy of the minutes of each meeting of the Trustees; and
- (b) A copy of all ledgers, registers and documents or recordings of transactions affecting the Trust Property as and when requested by Council from time to time.

15.4 Not less than two (2) Trustees shall attend meetings of the Tribal Members, Eligible Tribal Members and Council meetings when requested by Council and shall report on the administration of the Trust Property in relation to the purposes of the Trust.

15.5 Any Tribal Member shall be entitled to review of the annual consolidated trust audit on request from the Trustees without charge.

ARTICLE 16: CONFLICT OF INTEREST

16.1 A Trustee who:

- (a) Is a Party or is related by blood or marriage to a party to a material contract or proposed material contract of the Trustees entered into or to be entered into in accordance with this Agreement; or
- (b) Is a director, an officer or a principal or is related by blood or marriage to a person who is a director, officer or principal in any corporation, sole proprietorship or partnership which is a party to a material contract or proposed material contract with the Trustees entered into or to be entered into in accordance with this Agreement, shall disclose in writing to the Trustees or request to have entered into the minutes of a meeting or meetings of Trustees the nature and extent of his interest.

16.2 The said disclosure required of a Trustee shall be made in writing:

- (a) At the meeting at which a proposed contract is first considered by the Trustees.
- (b) If the Trustee was not then interested in a proposed contract, at the first meeting after he becomes so interested.
- (c) If the Trustee becomes interested after a contract is made, at the first

18.1 The Trustees shall establish a procedure for the taking of any vote of the Eligible Tribal Members required or authorized under this Agreement which procedure shall be consistent with the Ratification Procedure which is attached as Schedule 'B' to the Settlement Agreement but shall provide:

- (a) That all votes shall be by secret ballot;
- (b) For reasonable written notice to all Eligible Tribal Members of the date, time and place of the vote and the question to be voted on;
- (c) That each Eligible Tribal Member entitled to vote shall have a reasonable opportunity to vote; and
- (d) That the question voted upon shall be determined by a majority of those casting their vote, provided that in the case of a vote taken with respect to a proposed amendment to this Agreement as required by Article 17 hereof, and as required in the Ratification Procedure, the question shall be determined by not less than a majority of a majority of the Eligible Tribal Members entitled to vote.

ARTICLE 19: NOTICE

19.1 Whenever in this Agreement it is required that notice be given or served by any party to or on the others such notice shall be given or served in writing by delivering it personally or by forwarding it by Registered Mail to:

- (a) the First Nation at the following address:

P.O. Box 368
Swan Lake, Manitoba
R0G - 2S0

- (b) The Trustees in care of the current address of each Trustee as recorded pursuant to paragraph 14.1(i);

19.2 Any notice or communication shall be sufficient if delivered personally, or if delivered by registered mail, postage prepaid, addressed as set forth above, and shall be effective on delivery if delivered personally or on the fourth business day

relation to Entitlement Land.

- (b) "Agreement", "this Agreement", "hereto", "hereof", "herein", "hereunder", "hereby" and similar expressions refer, unless otherwise expressly stated, to this agreement, including the recitals and the Appendices attached hereto, and not any particular article, section, subsection, paragraph or other subdivision hereof or thereof;
- (c) "Annual Income" means all the income derived from the Trust Property for the year including any capital and currency gains within the meaning of the Income Tax Act, RSC 1985, c.I48, as amended;
- (d) "Authorized Investments" means any of those instruments, notes, bonds or other securities which the Trustees are authorized to purchase, in accordance with the terms hereof, with funds from the Trust Capital Account or Trust Expense Account;
- (e) "Beneficiary" means the First Nation;
- (f) "Canada" means Her Majesty the Queen in Right of Canada, as represented by the Minister of Indian Affairs and Northern Development;
- (g) "Council" means, in respect of the First Nation, the "council of the band" within the meaning of the Act;
- (h) "Eligible Tribal Members" means all SWAN LAKE Tribal Members who are over the age of eighteen (18) years, registered as "Indians" within the meaning of the Indian Act, RSC 1985, c.I-5 (as amended), and have not been found mentally incompetent or otherwise unable to manage their own affairs by a court of competent jurisdiction as of the date of any vote authorized by this Agreement;
- (i) "Entitlement Land" means Lands, Minerals or Improvements in Manitoba hereafter Purchased and which are intended to be set apart as an Entitlement Reserve pursuant to the provisions of the Settlement Agreement and this Agreement;
- (j) "Federal Payment" means those monies to be paid to the First Nation by Canada pursuant to the Settlement Agreement in accordance with Article 2 thereof;
- (k) "Improvements" means all buildings or structures erected or placed on, over or under land and, unless otherwise expressly provided herein, includes, without limitation, anything affixed to or incorporated therein, the plant and equipment of any oil or gas well or mine, any pipeline on or under land, fencing, and any dugouts or other alterations to land designed to facilitate the collection and

district for compensation based on the premise that the setting apart of any lands as a Reserve for the use and benefit of the First Nation will result in a loss of annual tax revenue (other than school and hospital taxes), net of any replacement revenues, reduced cost of local service delivery, and any contribution or recovery of capital assets;

- (t) "Tribal Member" means those persons registered from time to time as members of the First Nation on the Band list maintained pursuant to the Act;
- (u) "Trust Property" means the Federal Payment and includes all monies now or hereafter on deposit in the Trust Capital Account or Trust Expense Account (which for greater certainty includes any and all investment instruments in which the monies in the Trust Capital Account or Trust Expense Account may from time to time be invested hereunder by the Trustees as specified herein) as well as any additions or accruals thereto and also includes, without limitation, all interest revenue and other income realized thereon, and the net proceeds of sale of all Entitlement Land sold pursuant to paragraph 4.2(g) of this Agreement;
- (v) "Trustees" means collectively those individuals appointed to act as Trustees on behalf of the First Nation pursuant to this Agreement, and any individuals from time to time thereafter appointed or substituted therefor, and "Trustee" means any one of such Trustees;
- (w) "Trustees Certificate" means the certificate to be provided by the Trustees from time to time to the Institution, certifying the names of the then current Trustees and evidencing their signatures;
- (x) "Year" means the calendar year.

ARTICLE 22: OTHER PROVISIONS

- 22.1 Wherever this Agreement requires that notice of a meeting be given to the Eligible Tribal Members:
- (a) Such notice shall be in writing and shall be posted and displayed clearly both inside and outside the Council Office and the place of administration of the Trust not less than fourteen (14) days before the day on which the meeting is to be held and throughout the notice period; and
 - (b) Mailed by ordinary mail or delivered to each Eligible Tribal Member at his or her last known address at least fourteen (14) days before the day on which the meeting is to be held.

Appendix 'F' Trust Capital Account Land Acquisition Direction;

Appendix 'G' Trust Capital Account Annual Income Direction;

Appendix 'H' Trust Capital Account Investment Direction;

Appendix 'I' Trust Development Account Direction;

Appendix 'J' Trust Expense Account Direction;

Appendix 'K' Trust Expense Account Investment Direction;

Appendix 'L' Trustees Certificate;

Appendix 'M' Release Direction.

IN WITNESS WHEREOF the parties hereto have executed these presents as of the date and year first above written.

DATED at Winnipeg this 19th day of

April, 1995.

First Nation
as represented by Chief
Council

Charles Thompson
Witness

Ray M. H. [Signature]
Chief

Charles Thompson
Witness

Don Davis
Councillor

Charles Thompson
Witness

B. [Signature]
Councillor

Charles Cunningham Dave Scott

Witness

Councillor

Charles Cunningham Lloyd Cameron

Witness

Councillor

DATED at Winnipeg this 19th day of
April, 199 5.

Trustees of the First Nation
Entitlement Trust Agreement:

B. B. B. B. B. Elmer S. S.

Witness

B. B. B. B. B. James S. S.

Witness

B. B. B. B. B. Richard Cameron

Witness

DATED at Winnipeg this 19th day of
April, 199 5.

APPENDICES

APPENDIX "B"

**BAND COUNCIL RESOLUTION CONSENTING TO THE
ACQUISITION OF ELIGIBLE ENTITLEMENT LAND**

TO: The Trustees

RE: SWAN LAKE First Nation Trust Agreement made _____, 1995, between the SWAN LAKE First Nation, as the "First Nation", OF THE FIRST PART, and _____, _____, _____, _____, and _____, as "Trustees", OF THE SECOND PART, (the "Agreement")

REFERENCE is made to the Agreement. Capitalized terms used herein and not otherwise defined shall have the meanings set out in the Agreement.

REFERENCE is further made to Paragraph 4.1(j) of the Agreement.

WHEREAS the Trustees have certified that the acquisition of the Eligible Entitlement Land described herein would benefit the First Nation and be in its best interests;

THE COUNCIL HEREBY RESOLVES AS FOLLOWS:

BE IT RESOLVED THAT THE COUNCIL DOES HEREBY CONSENT TO THE ACQUISITION OF THE ELIGIBLE ENTITLEMENT LAND.

Dated this _____ day of _____, 19____.

The Council:

Chief

Councillor

Councillor

Councillor

Councillor

APPENDIX "D"

TARIFF OF TRUSTEES' HONORARIA AND DISBURSEMENTS

Trustees shall, in accordance with paragraph 5.6 of this Agreement, be entitled to an honorarium and compensation for disbursements in an amount to be established by the Trustees subject to the approval of the Council at a meeting called by the Trustees for that purpose within sixty (60) days of the signing of this Agreement.

Trustees shall be entitled to be compensated for reasonable expenses reasonably incurred in the discharge of their duties herein based upon the following criteria:

- (a) Automobile mileage: \$ per kilometre
- (b) Meals:
 - (i) Breakfast: \$
 - (ii) Lunch: \$
 - (iii) Supper: \$
- (c) Other reasonable expenses which were reasonably incurred from time to time.

Receipts shall be provided by each Trustee to substantiate each expense and no compensation shall be provided without such receipts.

Approved by Council:

The Council:

Chief

Councillor

Councillor

Councillor

Councillor

APPENDIX "E"

TRUSTEES' CERTIFICATE OF PERMITTED WITHDRAWAL

TO: The SWAN LAKE First Nation

RE: SWAN LAKE First Nation Trust Agreement made _____, 1995, between the SWAN LAKE First Nation, as the "First Nation", OF THE FIRST PART, and _____, _____, _____, _____, and _____, as "Trustees", OF THE SECOND PART, (the "Agreement")

REFERENCE is made to the Agreement. Capitalized terms used herein and not otherwise defined shall have the meanings set out in the Agreement.

REFERENCE is further made to Paragraph 6.2(c) of the Agreement.

PURSUANT TO PARAGRAPH 6.2(c), this is to certify that the proposed withdrawal described herein is one permitted under Paragraph 6.2(a) according to the attached Resolution of Council.

DESCRIPTION OF THE WITHDRAWAL: (attach document setting out withdrawal if insufficient space)

The Trustees

Per: _____
Trustee

Per: _____
Trustee

Per: _____
Trustee

Per: _____
Trustee

Per: _____
Trustee

The Trustees:

Trustee

Trustee

Trustee

Trustee

Trustee

The Trustees:

Trustee

Trustee

Trustee

Trustee

Trustee

The Trustees

Per: _____
Trustee

Per: _____
Trustee

Per: _____
Trustee

Per: _____
Trustee

Per: _____
Trustee

The Council:

Chief

Councillor

Councillor

Councillor

Councillor

The Trustees

Per: _____
Trustee

Per: _____
Trustee

Per: _____
Trustee

Per: _____
Trustee

Per: _____
Trustee

The Trustees

Per: _____
Trustee

Per: _____
Trustee

Per: _____
Trustee

Per: _____
Trustee

Per: _____
Trustee

APPENDIX "M"

RELEASE DIRECTION

TO: The Institution

RE: SWAN LAKE First Nation Trust Agreement made _____, 1995, between the SWAN LAKE First Nation, as the "First Nation", OF THE FIRST PART, and _____, _____, _____, _____, and _____, as "Trustees", OF THE SECOND PART, (the "Agreement")

REFERENCE is made to the Agreement. Capitalized terms used herein and not otherwise defined shall have the meanings set out in the Agreement.

REFERENCE is further made to certain Investment Instruments held by the Institution pursuant to the Agreement in respect of purchases made from the Trust Capital Account or the Trust Expense Account of the Trustees and Paragraph 10.1(e).

PURSUANT TO Paragraph 10.1(e), YOU ARE HEREBY AUTHORIZED AND DIRECTED to release, transfer and deliver the following Investment Instruments as indicated below against receipt from the indicated person of a bank draft or a certified cheque, or upon confirmed receipt by a direct deposit, wire transfer or otherwise to the relevant account, in the amount set forth below:

Description of Investment Instrument:	_____
Method of Transfer or Delivery:	_____
Effective Date (if not immediately effective):	_____
Amount of Bank Draft, Certified Cheque or Wire Transfer:	_____
Other Directions:	_____ _____ _____

AND FOR SO DOING this shall be your good, sufficient and irrevocable authority.