

THE OKIKENDAWT HYDRO TRUST

THIS AGREEMENT dated for reference the th day of , 2015

B E T W E E N:

THE DOKIS FIRST NATION
as represented by the Chief and Council
(hereinafter referred to as "the Band")

OF THE FIRST PART

-and-

CANADA TRUST COMPANY
(hereinafter referred to as "the Corporate Trustee")



(hereinafter referred to as a "Community Trustee")



(hereinafter referred to as a "Community Trustee")

(hereinafter referred to as a "Community Trustee")

(The Corporate Trustee and the Community Trustees
hereinafter collectively referred to as "Trustees")

OF THE SECOND PART

WHEREAS:

I. BACKGROUND:

1. The Okikendawt Limited Partnership ("Okikendawt L.P.") is the owner and operator of a 10- megawatt hydroelectric generating facility at the site of the existing Portage Dam and situated at the outlet of Lake Nipissing on the French River, Ontario ("Okikendawt Hydro Project");
2. The Band, through its wholly owned corporation, Migisi Development Corporation ("Migisi"), owns forty thousand (40,000.00) Units of the Okikendawt L.P.

("FN Units"), which represent a forty percent (40%) interest in the Okikendawt Hydro Project;

3. The Band holds all of the issued and outstanding share capital in Migisi ("Migisi Units");

4. The Band wishes to create a trust fund which will own and control the Migisi Units, for the purpose of holding and investing the Band's share of the the net earnings generated by the Okikendawt Hydro Project intended to be held as assets for the use and benefit of the members of the Band, as beneficiaries, to be administered by the Trustees upon the trusts set out in this Trust Agreement.

5. The Trustees have agreed to act as the Trustees of this Trust Agreement and to hold the net earnings from the Migisi Units and any other assets which may form part of the trust on the terms set out in this Agreement.

II. AGREEMENT

NOW THEREFORE, in consideration of the premises and of the respective covenants and agreements hereinafter set out, it is agreed between the Band and the Trustees as follows:

NAME OF THE TRUST

1. The Trust created by this Trust Agreement shall be known as the "Okikendawt Hydro Trust".

DEFINITIONS

2.

(i) "Authorized Expenses" mean the expenses reasonably incurred by the Trustees in each fiscal year in carrying out the terms of the Trust Agreement, including payment of administrative, accounting, legal, investment as well as other costs which are to be paid by the Band and which the Council by Council Resolution shall direct the Trustees to pay on behalf of the Band from the Trust Property. This may include payment of any costs of the Band which have been incurred in performing any of its obligations in regards to the operation of the Okikendawt Hydro Trust.

(ii) "Authorized Investments" means those investments purchased with funds from the Trust Accounts as selected by the Trustees or the Investment Manager from those investments listed in Schedule "A" and in accordance with this Trust Agreement, as amended from time to time.

- (iii) "Band" means the Dokis First Nation, being the party of the first part.
- (iv) "Band Development" means the investment and utilization of the Trust Property by the Trustees on behalf of the Band for the use, development, advantage or benefit of the Band or members of the Band;
- (v) "Beneficiary" shall mean the Band, and "Beneficiaries" shall mean the Band Members of the Band;
- (vi) "Business" means an activity or undertaking the primary objective of which is to provide goods, services, programs or capital assistance to members of the Band or any activity or undertaking for profit;
- (vii) "Chief" has the meaning ascribed thereto in the *Indian Act*, R.S.C. 1985, c. I.5, and its regulations ("the Act");
- (viii) "Community Trustees" shall mean *****, *****, *****, **and** *****, and their successors from time to time, elected from time to time pursuant to Article 9 hereof. Certificates of the Community Trustees shall be attached hereto as Schedule "B". A list of the Trustees' addresses for service shall be attached hereto as Schedule "C";
- (ix) "Corporate Trustee" means a trust company duly incorporated and licensed to carry on the business of a Trustee under the laws of Canada and the Province of Ontario and who is independent from Dokis First Nation and its Members, appointed pursuant to Article 9 hereof. A Certificate of the Corporate Trustee shall be attached hereto as Schedule "D".
- (x) "Council" means, in respect of the Band, the "council of the band" within the meaning of the Act;
- (xi) "Councillor" means a member of the Council in accordance with the Act;
- (xii) "Dokis First Nation" is a First Nation validly existing under the *Indian Act*, R.S.C. 1985, c. I-5, as amended from time to time, with its traditional lands located within the proposed sites of the Okikendawt Hydro Project;
- (xiii) "Improvements" means all building or structures erected or placed on, over or under Band 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 alternations to Band land designed to facilitate the collection and retention of water;

(xiv) “Hydromega Energy (Ontario) Inc.” is a corporation validly incorporated under the laws of the Province of Quebec;

(xv) “Hydro Project Earnings Account” means an account or accounts established by the Trustees at any financial institution or investment corporation or other institution carrying on business in Ontario, to which the *Loan and Trust Corporations Act* (Ontario), R.S.O. 1990, c. L.25 or the *Trust and Loans Company Act* (Canada), S.C. 1991, c. 45, applies, as a vehicle for receipt of the net earnings from the Okikendawt Hydro Project through Migisi Development Corporation and the net earnings from Migisi Development Corporation, if any;

(xvi) “Indian” has the meaning ascribed to it in the Act;

(xvii) “Income” means all of the income generated from the Okikendawt Hydro Trust, including interest, dividends and capital gains and losses, and includes, without limitation, any income characterized as such by the *Income Tax Act* (Canada) R.S.C. 1985, C. 1 (5th Supp.) and the regulations thereto;

(xviii) “*Indian Act*” or “Act” means the *Indian Act*, R.S.C. 1985, c. I-5 and its regulations, as amended from time to time;

(xix) “Member of the Band” shall mean those persons whose names appear at the relevant time on the Dokis First Nation Band List, or those persons who are entitled to have their names appear on the Dokis First Nation Band List pursuant to the relevant sections of the Act;

(xx) “Migisi Development Corporation” means a limited partner (“Migisi”) of the Okikendawt Hydro Limited Partnership (“the Limited Partnership”) created by Declaration dated May 1st, 2009, under the *Limited Partnership Act*, for the purposes of developing the Okikendawt Hydro Project.

(xxi) “Okikendawt Hydro Project” means a proposed hydro-electric generating facility at on sites located within the traditional land use area of the Band;

(xxii) “Trust Reserve Account” means an account or accounts established by the Trustees at any financial institution or investment corporation or other institution carrying on business in Ontario, to which the *Loan and Trust Corporations Act* (Ontario), R.S.O. 1990, c. L.25 or the *Trust and Loans Company Act* (Canada), S.C. 1991, c. 45, applies, for the investing and re-investing of any surplus income for the long-term benefit of the Band;

(xxiii) "Trustees" means the Community Trustees and the Corporate Trustee collectively; and

(xxiv) "Voter" means any member of The Band who is 18 years of age or older on the voting date and "Voters" has a corresponding meaning.

CREATION OF TRUST

3.1 The Band and the Trustees acknowledge that the terms of the Okikendawt Hydro Trust are binding upon the Band and the Trustees.

3.2 The Band, as Settlor, hereby appoints and elects the Trustees and the Trustees agree to hold the Trust Property in trust for the Bands Members, upon the trusts set out in this Agreement.

3.3 All legal right, title and interest in the Trust Property shall vest in the Trustees upon the trusts set out herein.

3.4 This Agreement shall come into effect upon the transfer of the Migisi Units to the Trust.

TRUST PROPERTY

4. The Trust Property shall consist of all Migisi Units and funds received directly or indirectly from the Okikendawt Hydro Project together with all amounts accumulated by the Trustees as a result of such payments, including without limiting the generality of the foregoing, all Authorized investments and other property acquired with or substituted for the Trust Property, all accruals, interest and other income realized thereon, and such other additional property which may, with the approval of the Trustees, be transferred to the Trust Agreement, to be held by them on the Trusts now set out.

PURPOSE OF THE TRUST

5. The Band and the Trustees acknowledge and agree that the Trust Property is intended to be held and shall be held as an asset for the use and benefit of the Band, as beneficiary, to be administered by the Trustees upon the trusts set out in this Agreement.

APPLICATION OF THE TRUST PROPERTY

6. Trust Accounts

- (i) All earnings from the Okikendawt Hydro Project, and any other funds which the Settlor may wish to contribute to the Trust, shall be deposited and held from time to time in the Hydro Project Earnings Account;
- (ii) Trust Property, and any other property contributed to the Trust, in the Hydro Project Earnings Account shall, after the deduction of all Authorized Expenses, no later than two years after the initial receipt of earnings into the Hydro Project Earnings Account, and at the end of each financial year thereafter, be used to fund qualifying projects, and transfers to the Trust Reserve Account, in such manner and proportion as the Trustees may consider advisable and appropriate; and
- (iii) All Authorized Investments shall be held from time to time:
 - (a) in a unitized trust fund with a recognized trust company as custodian; or
 - (b) in a custodial account with a recognized financial institution.

MANAGEMENT OF THE TRUST PROPERTY

7.1 Estimate

The Trustees shall prior to December 1st of each year provide to Council an estimate of amount which they reasonably anticipate will be available in the Hydro Project Earnings Account and in the Trust Reserve Account for the following fiscal year ("the Estimate").

7.2 Requests

From time to time, Council may prepare and submit to the Trustees one or more requests in writing, containing the information set out in the form annexed hereto as Schedule "E", as amended from time to time ("Requests"), and as more particularly described in Article 7.5 hereof, for projects by band members ("Band Projects") to be funded from the Trust Property in the Hydro Project Earnings Account. The total value of all Band Projects to be funded by the Requests received for a fiscal year of the Trust shall not exceed the Estimate for that fiscal year. Council must confirm for all Requests that the planned purpose, results and effects of the Band Project are consistent with the purposes and objects of the Trust as set out in Article 5 and 7.3 of this Agreement. If a Request is made for funding of a Band Project the funding of which will extend beyond the present fiscal year, then the Request shall identify the amount of funding required in each subsequent fiscal year.

7.3 **Funding Purposes**

Project Requests shall include the following as their purposes:

(1) *Community Infrastructure:*

- (i) acquiring land to be added to the lands of the Band;
- (ii) the building, establishment and operation of a school or schools;
- (iii) provisions of scholarship and bursary funds for deserving members of the Band;
- (iv) construction and maintenance of roads, bridges, ditches, water courses, fences, buildings or permanent improvements, works or infrastructure on the Band lands,
- (v) the purchase of industrial or manufacturing equipment or machinery for the Band or for a Band corporation;

(2) *Economic Development:*

- (vi) establishing and enhancing recreational facilities and events owned or hosted by members of the Band or a Band corporation; and
- (vii) promoting or founding a business of commercial operation owned by a member of the Band or a Band corporation.

(3) *Health and Welfare:*

- (viii) promotion of the health of the members of the Band;
- (ix) the building, establishment and operation of a hospital or medical clinic;

7.4 **Disclosure Requirements:**

Project Requests shall be accompanied by the following materials (“the Disclosure Requirements”):

- (i) a description of the Band Project and its purpose;
 - (ii) a budget, including cash flow projections and details with respect to when the funds will be required for the Band Project;
 - (iii) a certification from Council that prior to its preparation of the Request, Council has identified, applied and budgeted for any other funding which may be available to fund the Band Project, including government grants;
- and

- (iv) a summary of the planned implementation and administration methods for the Band Project.

7.5 Processing of Requests

Within 30 days following their receipt of the Requests and the Disclosure Requirements described in Article 7.4 of this Agreement, the Trustees shall either:

- (i) confirm to Council that:
 - (1) the Request qualifies as a Band Project;
 - (2) there are sufficient funds available in the Hydro Project Earnings Account to meet the Request; and
 - (3) after the payment of all confirmed Requests, the Trustees believe on reasonable grounds that the Trust will be able to meet its obligations as they come due;
- (ii) advise Council that:
 - (1) further information, materials or documents are required in order to confirm that the Disclosure Requirements set out in Articles 7.4(i), (ii) and (iv) have been satisfied; and/or
 - (2) that they have not received the certification required pursuant to Article 7.4(iii) of this Agreement; or
- (iii) decline the Request, in which event the Trustees will provide written reasons for such decision.

7.6 Further Information

If the Trustees have advised Council that further information, materials or documents are required to confirm that all Disclosure Requirements have been satisfied, the Trustees shall process the Requests within 30 days of their receipt of such additional information, materials or documents.

7.7 Payments to Council

The Trustees shall ensure payment of all Confirmed Requests within 30 days following approval. Such payments will be made by the Trustees directly to Council, and the receipt of Council for such payments shall be a sufficient discharge to the Trustees who shall not be obligated to see the application of any funds so transferred.

7.8 Trust Reserve Account

The Trustees shall hold the funds on deposit in the Trust Reserve Account, if any, for the purpose of promoting purposes which they, in their absolute discretion, deem to

be for the long-term benefit of the Band, including, for greater certainty, as a reserve fund to finance purposes which are deemed to be too expensive to be fully funded by the funds available in the Hydro Project Earnings Account or which do not fit within the categories set out in section 7.3 hereof.

7.9 Funding from Reserve Account

From time to time, the Band may hold a vote for the funding of a project or projects from the Trust Reserve Account. If a majority of the Band members who voted are in favour of the Request for the funding of such project or projects, a Band Council Resolution requesting such funding for such project or projects shall be submitted to the Corporate Trustee. The total value of all projects to be funded from the Trust Reserve Account shall not exceed the Estimate for that fiscal year. If a Request is made for funding of a project which extends beyond the present fiscal year, then the Request shall identify the amount of funding required in each subsequent fiscal year.

7.10 Disclosure Requirements

A request for funding from the Trust Reserve Account submitted to the Corporate Trustee shall be accompanied by the same materials as set out in Article 7.4 and identified as the "Disclosure Requirements" therein.

7.11 Processing of Requests

Within 30 days following the receipt by the Corporate Trustee of the Request for funding, the Corporate Trustee shall either:

- (i) confirm to the Band that the Request for funding has been approved;
- (ii) advise the membership that further information, materials or documents are required in order to process the Request; or
- (iii) decline with written reasons, the Request.

7.12 Further Information

If the Corporate Trustee has advised the Band that further information, materials or documents are required, the Corporate Trustee shall process the Request within 30 days of its receipt of the requested information, materials or documents.

7.13 Payments to the Band

The Corporate Trustee shall ensure payments of all Confirmed Requests within 30 days following approval. Such payments will be made directly to Council, and the receipt of Council for such payments shall be a sufficient discharge to the Corporate Trustee who shall not be obligated to see the application of any funds so transferred.

7.14 Holding the Trust Property

The Trustees shall hold and manage the Trust Property at all times in accordance with the terms of this Agreement.

AMENDING OR REVOKING THE TRUST

8. The Okikendawt Hydro Trust shall not be revoked or amended except in accordance with the provisions of this Agreement, as more particularly set out in Article 21 of this Agreement.

APPOINTMENT AND ELECTION OF TRUSTEES

9.1 Each Trustee who has signed this Agreement shall be a Trustee of the Okikendawt Hydro Trust, and shall act as a Trustee according to the terms and conditions of this Agreement. The Trustees shall have all the legal obligations of a Trustee, whether those obligations are part of the common law or are set out in any statute in Ontario or Canada regulating the conduct and obligations of Trustees, or by the terms of this Agreement.

9.2 Each Trustee accepts this appointment and election as Trustee and accepts the duties of a Trustee as set out in this Agreement. The Trustees agree to carry out their duties according to the terms and conditions of this Agreement.

9.3 It is a condition of becoming a Trustee after the execution of this Agreement, whether in substitution or replacement of a Trustee, that a proposed Trustee shall, prior to taking office as a Trustee, agree in writing to become a Trustee, and agree to be bound by the terms and conditions of this Agreement.

9.4 A Trustee's Certificate, as set out in Schedules "B" and "C" hereto, and certified by the Council shall be conclusive evidence for any person or persons or corporations dealing with the Trustees that the Trustees named therein are the current Trustees of the Okikendawt Hydro Trust, provided that such Trustee's Certificate is dated not more than ninety (90) days prior to the date upon which the Trustee's Certificate is to be relied upon by such person, persons or corporation.

9.5 Except for the period pending the filling of a vacancy, there shall always be at least three and no more than six Trustees.

9.6 The first Community Trustees ("the Initial Trustees") shall be elected at a general meeting by the members of the Dokis First Nation upon Chief and Council having called for nominations by the Band of qualified candidates. The Initial Trustees shall

serve their term, as more particularly set out in the Addendum to this Trust Agreement, commencing on the effective date of this Agreement.

9.7 With the exception of the terms for the Initial Trustees, as more particularly set out in the Addendum to this Trust Agreement, Council and the Band shall elect Community Trustees so that:

- (i) One Community Trustee may be a non-Band member, provided such Community Trustee, in the opinion of the Band, has skills and experience which might prove beneficial to the administration and execution of the Trust;
- (ii) All other Community Trustees shall be members of the Band;
- (iii) at least one of the Trustees must be female; and
- (iv) at least one of the Trustees must be under the age of twenty-six.

9.8 Chief and Counsel shall appoint a Corporate Trustee pursuant to a Service Agreement between Council and the Corporate Trustee.

For greater certainty, if one Community Trustee is female and under the age of twenty-six, both Trustee requirements under section 9.7(iii) and 9.7(iv) have been satisfied.

9.9 Subject to the terms of the Addendum to this Trust Agreement regarding the election of Initial Trustees, the Community Trustees shall be elected for a period of five (5) years, and may be re-elected after the expiration of their term.

9.10 All Community Trustees shall within six (6) months of their election as Trustees under this Agreement, undergo a training course offered by the National Aboriginal Trust Officers Association to assist them in acquiring knowledge about Aboriginal Trusts, with all fees payable for such training to be paid from the Hydro Projects Earnings Account.

9.11 At least three (3) months prior to the expiration of an election, Council shall invite and accept submissions for the replacement of the Community Trustees whose terms are expiring. Council shall review such applications and submissions, and shall submit the names of all qualified applicants to the Band for an election at the conclusion of which the Band shall subsequently elect a Community Trustee or Trustees to serve in the place of the Community Trustee whose term as Trustee has expired.

9.12 Any Trustee hereof that is a corporation may exercise or concur in exercising any discretion or power hereby or by law conferred on the Trustees by a resolution of such corporation or its board of directors or governing body or it may delegate the right and power to exercise or concur in exercising any such discretion or power to any one or more of its directors, officers or employees or to such other person or persons as such Trustee shall think proper.

9.13 The Trustees shall not be required to give any bond or security for the due and faithful administration of the Trust Property or for the discharge of the trusts hereof.

AUTHORITY OF THE TRUSTEES

10. The Trustees are authorized and empowered to:

(a) Retain, dismiss and replace agents, including lawyers, accountants, bookkeepers, investment advisors, realtors, appraisers, auctioneers, architects, engineers, investment counsellors, and other independent advisors or organizations qualified in the field for which their advice and opinion are sought, to assist the Trustees in carrying out their duties and responsibilities under this Agreement. The Trustees shall not be bound to act upon such advice, and shall not be responsible for any loss caused by acting or not acting, provided the decision to act or not to act was taken in good faith.

(b) Pay reasonable salaries, wages, fees and costs for the services of the persons and organizations referred to in article 10(a) of this Agreement, including any amounts associated with the research, preparation, negotiation, settlement and implementation of this Agreement and all related documentation.

(c) Establish the Hydro Project Earnings Account and Trust Reserve Accounts and make such arrangements governing procedures as they from time to time shall consider appropriate. They may delegate authority to sign cheques and withdraw monies from the Hydro Project Earnings Account and Trust Reserve Accounts to no fewer than three of the Trustees for the purposes permitted by this Agreement, provided that such delegation shall be in writing signed by all of the Trustees.

(d) Make, and change from time to time, such rules as they shall consider appropriate to govern their procedures, provided that such rules shall not be inconsistent with this Agreement or any laws which govern Trustees.

(e) Institute, prosecute, settle and defend any lawsuits or other proceedings effecting them as Trustees, or the Trust Property or any part of it, and make application to any Court of competent jurisdiction in respect of this Agreement.

(f) Reimburse the Community Trustees for all reasonable expenses incurred by them for meetings which they attend, in person or remotely, and *per diem* compensation for all such meetings attended, in person or remotely, provided that such payments shall always be subject to review and approval by the Council or by the Members of the Band at a general meeting, or by a Court of competent jurisdiction.

(g) Pay to **THE CANADA TRUST COMPANY**, as compensation for acting as the Corporate Trustee of and under this Agreement, the fees, reimbursement and other compensation provided for in the Service Agreement signed prior to the execution of this Agreement, which Service Agreement is attached as Schedule "F"

(h) Should the Trustees deem it to be in the best interests of the Band and the Okikendawt Hydro Trust to purchase or retain Authorized Investments issued or managed by a financial institution or its affiliates, the purchase or retention of such Authorized Investments shall be authorized notwithstanding any connection between the financial institution or its affiliates and the Corporate Trustee. The Corporate Trustee, its successors and assigns, are hereby released, discharged and indemnified, from any liability to which the Corporate Trustee may become subject to as a result of the purchase or retention of such Authorized Investments. It is acknowledged that the Corporate Trustee shall not be held responsible for any loss resulting from such Authorized Investments and neither the Corporate Trustee, the financial institution nor the affiliate shall be accountable for any profit. The Trustees are authorized to charge fees as agreed in respect of these Authorized Investments.

PURCHASE OF AUTHORIZED INVESTMENTS

11. The Trustees shall have the following investment powers:

- (a) The Trustees are authorized and empowered to invest monies on deposit in the Hydro Project Earnings Account or Trust Reserve Account to purchase Authorized Investments.
- (b) Upon receipt of a Council resolution so directing, the Trustees shall hire one or more investment Counsellors ("the Investment Counsellors") selected and approved by the Council.
- (c) The Trustees are authorized and empowered to delegate the ability to make decisions on the types and timing of the purchase and sale of Authorized Investments to the Investment Counsellors, provided the Investment Counsellors enter into investment agreements ("the Investment Management Agreements") with the Trustees which are consistent with this Trust Agreement. Until such time as an Investment Counsellor is hired, the Trustees shall be permitted to purchase only those Authorized Investments listed in Schedule "A".
- (d) With the assistance of an Investment Counsellor or an investment consultant, the Trustees shall develop, and may amend from time to time, an Investment Policy which is consistent with the terms and objectives of the Trust Agreement. Until the Investment Policy has been developed, any Investment Counsellors hired

pursuant to section 11(c) of this Trust Agreement shall be permitted to purchase only those Authorized Investments listed in Schedule "A".

- (e) The Trustees shall review the terms of the Investment Management Agreement and the Investment Policy and advise Council and the Investment Counsellors, of any conflict between the Investment Management Agreement and the terms of the Trust Agreement.
- (f) The Corporate Trustee shall obtain from the Investment Counsellors a quarterly report documenting the list of investments and the rate of return and confirming that the investments acquired with funds from each of the Trust Accounts comply with Schedule "A" and shall forward such list to the Community Trustees.
- (g) The Corporate Trustee shall satisfy itself that the investment of funds from the Trust Account by the Investment Counsellor complies with Schedule "A" and the Investment Policy and shall notify the Community Trustees and Council and the Investment Counsellor of any non-compliance therewith.

TRANSFER OF TRUST PROPERTY TO SUBSTITUTE INSTITUTION

12. The Trust Property may upon thirty (30) days written notice by the Community Trustees to the Corporate Trustee, be transferred by a duly qualified substitute Corporate Trustee appointed by Council, to which the *Loan and Trust Corporations Act* (Ontario), R.S.O. 1990, c. L.25 or the *Trust and Loans Company Act* (Canada), S.C. 1991, c. 45, applies, in the event of the resignation or removal of the then acting Corporate Trustee, and following such date, any other Corporate Trustee agreeable to Council and the Trustees, provided that:
- (i) prior to transfer of the Trust Property, the Band, the Community Trustees and the new Corporate Trustee (hereinafter referred to as the "Substituted Trustee") enter into a written agreement containing the same terms and conditions as this Agreement; and
 - (ii) the Substituted Trustee is authorized to deal with the Schedule of Authorized Investments set out in Schedule "A" hereto.

DUTIES OF TRUSTEES

13.1 The Trustees shall maintain adequate records of all transactions effecting the Trust Property and shall cause to be prepared for each fiscal year, audited financial statements prepared in accordance with Canadian generally accepted

accounting principles, consistently applied. The Trustees shall have each of the financial statements audited by a qualified independent auditor who shall provide a written report on the financial statements for each fiscal year to the Trustees and the Council within ninety days of the end of each such fiscal year.

13.2 The Trustees shall provide the Council with:

- (i) A copy of the minutes of each meeting of the Trustees; and
- (ii) A copy of all ledgers, registers and documents or recordings of transactions effecting the Trust Property as and when requested by the Council.

13.3 The Trustees shall prepare a written annual report on the investments of the Trust Property and shall attach the annual audited statement to the annual report. A copy of the annual report and the audited statement shall be posted at the administrative offices of the Band and upon request, a copy of the annual report and the audited statement shall be provided to an adult member of the Band.

13.4 The Trustees shall meet with the Chief and Council at least two (2) times in each calendar year.

MEETINGS OF THE TRUSTEES

14.1 All decisions are to be made by a majority of the Trustees, with the Corporate Trustee always forming part of such majority decisions. It shall be the duty of the majority of Trustees who effect a decision or execute any document or other instrument to inform any Trustees not present at the time such decision is made or who are not signatories to such document or instrument of such decision. The Trustees shall meet at least four (4) times per year each calendar year, and the conduct of the meetings shall be governed by the following rules:

(a) The quorum for meetings of Trustees shall be three (3) Trustees, with the Corporate Trustee always forming part of the quorum, and with each Trustee to be present in person or attending by telephone or other communication facility which permits each Trustee to communicate with all other Trustees at the meeting. Where a Trustee, other than a Corporate Trustee, at a meeting cannot vote because of a conflict of interest, it shall be sufficient if all of the remaining Trustees at the meeting vote in favour of the decision;

(b) At the first meeting of the Trustees in any calendar year, the Trustees shall select a chairman to serve in such capacity for the balance of the year by

consensus of the Trustees or, failing consensus, by a majority vote of the Trustees present at such meeting;

(c) The Trustee appointed to chair the meeting shall have the right to call additional meetings of the Trustees in the year, as he or she deems appropriate;

(d) In case of a tie, the chairman shall cast the deciding vote;

(e) Meetings of the Trustees shall be held at such place or places within Ontario as the Trustees may determine;

(f) All Trustees shall be given at least ten (10) business days' notice in writing of the place, date and time of every meeting, unless all Trustees agree to shorter notice;

(g) Minutes of the meeting of the Trustees shall be kept in writing and shall be signed by each Trustee present at the meeting. The Trustees shall provide the Council with a copy of the minutes of the meeting of the Trustees; and

(h) If the Council calls a public meeting of the Members of the Band concerning decisions to be made about the Trust, the Trust Property or its administration, the Trustees shall attend the public meeting and shall fully and fairly answer all questions that are asked of them concerning the administration of the Agreement.

RESIGNATION OR REMOVAL OF A COMMUNITY TRUSTEE

15.1 A Community Trustee shall hold office until the end of his or her term, unless terminated sooner by Council Resolution, as a result of any one or more of the following event:

(i) he or she dies;

(ii) he or she resigns on thirty days' written notice;

(iii) he or she is declared bankrupt or charged with an indictable offence, fraud, or any offence involving the Trust Property or the exercise of his or her responsibilities as a Trustee;

(iv) he or she is declared to be mentally incompetent by a court of competent jurisdiction in Canada or elsewhere;

(v) his or her term expires;

(vi) he or she fails, after receipt of appropriate notice thereof, to attend three consecutive meetings of the Trustees; or

(vii) he or she fails to disclose his or her interest in a material contract as set out in this Agreement, or votes on any resolution contrary to the terms of this Agreement.

15.2 In the event that a Community Trustee's term as Trustee is termination by reason of one or more events set out in paragraph 15.1 hereof. Council shall take diligent action to fill the vacancy created thereby. Council shall select a replacement Community Trustee to fill the vacancy on the same basis and following the same procedures as for all other Community Trustees. The term of such replacement Community Trustee shall be the remainder of the term of the departing Community Trustee.

RESIGNATION AND REMOVAL OF A CORPORATE TRUSTEE

16.1 The Corporate Trustee may cease to act under this Agreement by serving ninety (90) days written notice to the Council or upon such earlier date as may be agreed upon between Council and the Corporate Trustee. No such resignation shall be effective until a new Corporate Trustee has been appointed by the Council. If no new Corporate Trustee has been appointed following the notice period then the Corporate Trustee may approach the courts for direction to approve its resignation.

16.2 Within sixty (60) days of receiving the Corporate Trustee's notice of resignation, the Council shall appoint a new Corporate Trustee and shall provide written directions to the resigning Corporate Trustee instructing it to transfer the Trust Property to the replacement Corporate Trustee.

16.3 Council may remove the Corporate Trustee by providing fourteen (14) business days' notice to the Corporate Trustee.

16.4 Prior to service a notice of termination on the Corporate Trustee, Council shall have selected a replacement Corporate Trustee.

16.5 The resignation or removal of the Corporate Trustee does not affect the rights, obligations, liabilities and responsibilities of the Corporate Trustee or the Dokis First Nation, which accrued prior to the effective date of the termination of the Corporate Trustee's appointment.

16.6 The Corporate Trustee shall provide the Band with a complete account of its administration of the Trust in a form satisfactory to the Band within forty-five (45) days of the date upon which the Corporate Trustee ceases to act hereunder.

CONFLICT OF INTEREST

17.1 A Trustee who:

(a) is a party to a contract or proposed contract which the Trustees have executed or which the Trustees propose to execute in accordance with the terms and conditions of this Agreement; or

(b) is a director or an officer of or has a material interest in any person who is a party to a contract or proposed contract of the Trustees entered into or to be entered into in accordance with the terms of and conditions of this Agreement;

shall disclose in writing to the other Trustees, or shall request to have entered in the minutes of meetings of the Trustees, the nature and extent of such Trustee's relationship and extent of his or her interest.

17.2 The disclosure of conflict of interest described in Article 18.1 shall be made:

(a) at the meeting at which a proposed contract is first considered by the Trustees;

(b) if the Trustee was not interested in the proposed contract at the time of that meeting, then at the first meeting after he or she becomes so interested;

(c) if the Trustee becomes interested in a contract after it is made, then at the first meeting after he or she becomes so interested; and

(d) if a person who is interested in a contract is appointed or elected as a Trustee after that contract is executed, then at the first meeting after he or she becomes a Trustee.

17.3 A Trustee who has an interest or interests as described above shall not take part in any discussions, deliberations or votes of the Trustees concerning any such contract.

17.4 A contract is not void if a Trustee with such an interest or interests in the contract was present at the meeting for the purpose of securing a quorum, provided that the Trustee in question did not take part in discussions, deliberations or votes on the contract, and provided the contract was approved by the other Trustees and in the absolute discretion of the other Trustees was reasonable and fair at the time it was approved.

17.5 Where one Trustee has, or several Trustees have, such an interest or interests and cannot vote or take part in discussions or deliberations on that contract, the contract may be entered into if all of the remaining Trustees approve it. If such a contract has been approved, the Trustees shall execute all necessary documents after the approval, whether or not such Trustees have a conflict of interest.

TRUST INCOME AND EXPENSES

18.1 Authorized Expenses should be paid in a timely manner from the Trust Property first from income generated on income, secondly from primary income and thirdly from capital.

TERMINATION OF TRUST

19.1 The Trust shall terminate on any date which the Trustees may in their absolute discretion select which is prior to twenty-one (21) years from the date of death of the last Member of the Band who was alive at the creation of the Trust ("the Perpetuity Period").

19.2 When the Trust terminates, the Trust Property shall be transferred to the Band.

19.3 Within three months after the termination of the Trust, the Trustees shall prepare a final report of the Trust's activities, purchases and financial dealings, and shall present that report to the Council, along with the records, account books and other documents of the Trust.

LIABILITY OF TRUSTEES

20.1 The Trustees shall not be liable for any loss or damage resulting from the exercise of a discretion or their refusal to exercise a discretion, and shall only be liable for money and securities that are actually received by them. A Trustee shall not be accountable for the acts, neglects or defaults of another Trustee and shall not in any case be liable for any loss of money or security or other property unless the same happens through his or her own fraudulent or negligent act. Due care and good faith of each Trustee shall be presumed unless it is rebutted by evidence to the contrary.

20.2 The Trustees' duties shall not be considered to have been breached, and no Trustee shall be liable whether for damages, private profits or otherwise, unless the Trustee has acted:

- (a) with a fraudulent intent; or
- (b) with negligence resulting in actual loss to the Trust Property.

20.3 Subject to Article 17 of this Agreement, it shall be considered a breach of a Community Trustee's responsibility if that Trustee carries on a business which competes with any business that the Trust carries on or invests in, or if that Community Trustee, directly or indirectly, owns, acquires or disposes of shares or securities in any corporation in which the Trust also owns shares or securities.

20.4 If the Trustees make a payment in good faith and acting reasonably to a Member of the Band by making that Member's payment to his or her parent or legal guardian, *de facto* guardian, or person representative, and obtain a receipt for such payment, the Trustees shall not be liable for any loss or damage suffered, directly or indirectly, by the Member as a result of such payment.

AMENDING THE TERMS OF THE TRUST

21.1 Subject to the terms of Article 21.2 hereof, the Trustees may amend or revoke any administrative provision of this Trust, which for greater certainty shall be exclusive of the provisions of article 2, and may add additional terms thereto, provided that execution and delivery of any such amendment, revocation and/or addition by the Band shall require acceptance and ratification by a majority of the eligible voting Members of the Band voting in favour of such change following a fair and reasonable process which ensures that:

- (a) members of the Band will have an opportunity to discuss, review and approve of such changes; and
- (b) members of the Band will be provided with sufficient advance notice of the place and date for discussion, review and approval of the proposed changes.

21.2 The Trustees and Council may by written joint resolution:

- (i) correct any typographical or clerical errors; and
- (ii) correct any provisions in the Trust Agreement required as a result of changes in the law or defects in the Trust Agreement after receipt of a written opinion from legal counsel, explaining the legal implications and benefits of the

proposed changes and advice that such changes do not substantially alter the entitlements or obligations of the parties to the Agreement,

by amendment without ratification by the Members of the Band.

21.3 Such amendments, revocations and/or additions shall not revoke the Trust or cause the Trust to be revoked or re-settled in whole or in part.

NOTICE

22.1 Whenever in this Agreement it is required that legal notice be given to any party, such notice shall be given in writing by delivering it personally or by sending it by registered mail or by facsimile transmission or electronic mail:

(a) to the Council at:

Chief Denise Restoule
940A Main Street
Dokis First Nation
P0M 2N1

(b) to each Trustee at the address for him or her set out in Schedule "D" to this Agreement, or by facsimile transmission or electronic mail. Such legal notice will be deemed to have been received seven business days after the notice has been sent by registered mail.

OTHER PROVISIONS

23.1 The headings in this Agreement are inserted only for convenience and shall not control or effect the meaning and interpretation of any part of this Agreement.

23.2 In this Agreement, words in the singular include the plural and words in the plural include the singular.

23.3 In this Agreement, words referring to the male person include the female person and corporations and words referring to the female person include the male person and corporations.

23.4 This Agreement shall be construed under and regulated by the laws of the Province of Ontario, Canada, unless the Trustees determine to the contrary in writing, which they are hereby authorized to do, and the parties agree that at all

Witness

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SCHEDULE "A"

SCHEDULE OF AUTHORIZED INVESTMENTS

(A) Prior to the development of an Investment Policy:

1. Debt instruments issued or guaranteed by the Government of Canada, a Province of Canada, or a Municipality of Canada, or mutual or pooled funds investing in these debt instruments, all of which shall have a term not exceeding three years.
2. Debt instruments issued or guaranteed by a chartered bank or licensed trust company, including banker's acceptance, certificates of deposit, guaranteed investment certificates or term deposits, including mutual or pooled funds thereof investing in these debt instruments, all of which shall have a term not exceeding three years.
3. Mortgage backed securities guaranteed by the Government of Canada, an agency of the government of Canada, or one of the above chartered banks, including mutual or pooled funds thereof investing in these securities, all of which shall have a term not exceeding three years.
4. Commercial Paper issued by corporations rated R-1 or A-1 by the Dominion Bond Rating Services or Standard and Poors Bond Rating Services, including mutual or pooled funds thereof investing in these securities, all of which shall have a term not exceeding three years.
5. Corporate Bonds rated A or better by the Dominion Bond Rating Services or Standard and Poors Bond Rating Services, including mutual or pooled funds thereof investing in these securities, all of which shall have a term not exceeding three years.

(B) After the development of an Investment Policy:

Upon the development and implementation of an Investment Policy, any investment which complies with the prudent investor/prudent portfolio standard, but not limited to common or preferred shares and any or all other debt or equity instruments, including derivatives, which take into consideration the following factors:

- (1) General economic conditions;
- (2) The possible effect of inflation or deflation on the investment;
- (3) The expected tax consequences of investment decisions or strategies;
- (4) The role that each investment or course of action plays within the overall trust portfolio;
- (5) The expected total return from income and appreciation of capital;
- (6) The need for liquidity, regularity of income, and preservation or appreciation of capital;

(7) An asset's special relationship or special value, if any, to the purposes of the Trust or to one or more of the Beneficiaries of the Trust; and

(8) Should the Investment Counsellor deem it to be in the best interests of Dokis First Nation and the Okikendawt Hydro Trust to purchase or retain shares of a financial institution or its affiliates, the Trustees authorize the purchase of, or retention of shares notwithstanding any connection between the financial institution or its affiliates and the Corporate Trustee. The Corporate Trustee, its successors and assigns are released, discharged and indemnified from any liability to which the Corporate Trustee may become subject as a result of such authorization and direction to retain or purchase shares in a related financial institution or its affiliates. The Trustees acknowledge that the Corporate Trustee shall not be held responsible for any loss resulting from the retention or purchase of such shares, and the Corporate Trustee is authorized to charge fees as agreed in respect of those shares.

SCHEDULE "B"
CERTIFICATES OF COMMUNITY TRUSTEES

SCHEDULE "C"
TRUSTEES ADDRESSES FOR SERVICE

SCHEDULE "D"
CERTIFICATE OF CORPORATE TRUSTEE

SCHEDULE "E"
REQUESTS FOR BAND PROJECTS

SCHEDULE "F"
SERVICE AGREEMENT WITH