

**Edkaagmik Nbiizh Neyaashiinigamiingninwag
Edbendaagzijig Trust
(Chippewas of Nawash Unceded First Nation
Coldwater Trust)
Agreement**

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Edkaagmik Nbiizh Neyaashiinigamiingninwag Edbendaagzijig Trust (Chippewas of Nawash Unceded First Nation Coldwater Trust) Agreement

THIS DEED OF TRUST made this 16th day of October, 2012.

BETWEEN:

THE CHIPPEWAS OF NAWASH UNCEDED FIRST NATION

represented by its duly elected Council

(hereinafter referred to as the "First Nation")

OF THE FIRST PART

- and -

GEEWADIN ELLIOTT, of the Province of Ontario

MICHAEL HILLS, of the Province of Ontario

CHERYL JOHNSTON, of the Province of Ontario

PAUL JONES, of the Province of Ontario

The Bank of Nova Scotia Trust Company, a trust company duly incorporated,
validly existing and authorized to carry on business as a Trustee in the
Province of Ontario

(hereinafter collectively referred to as the "Trustees")

OF THE SECOND PART

WHEREAS the First Nation has entered into the Coldwater-Narrows Settlement Agreement (hereinafter referred to as the "Settlement Agreement") among Her Majesty the Queen in Right of Canada, the Chippewa Tri-Council (as that term is defined in the

Settlement Agreement), and the First Nation in respect of the surrender of the Coldwater-Narrows Reserve;

AND WHEREAS pursuant to the Settlement Agreement, the First Nation shall receive settlement monies as compensation, the amount of the compensation referred to in Article 2.4(a)(iv) of the Settlement Agreement being hereinafter referred to as the "Compensation", from Her Majesty the Queen in Right of Canada;

AND WHEREAS the First Nation and the Trustees acknowledge and agree that the Compensation is intended to be for the long term benefit of the First Nation as beneficiary of this Trust;

AND WHEREAS the First Nation and the Trustees further acknowledge and agree that the purposes of this Trust are to facilitate the attainment of specific objects and goals as more particularly set forth in this Deed of Trust;

AND WHEREAS the First Nation has irrevocably authorized and directed Her Majesty the Queen in Right of Canada, on the First Nation's behalf, to pay the Compensation owing to the First Nation to the Trustees:

NOW THIS DEED WITNESSETH that, in consideration of the premises and of the mutual covenants and agreements herein contained, it is mutually covenanted, agreed and acknowledged by and between the parties hereto that the Compensation and all other cash, securities or other property which the First Nation may, at any time during the continuance of the Trust, pay, assign, transfer, loan, deliver or convey to the Trustees to be held upon the trusts hereof together with all income therefrom and accretions thereto and substitutions therefor, shall be held by the Trustees upon the trusts, terms and conditions hereinafter set forth:

1. CREATION OF THE CHIPPEWAS OF NAWASH UNCEDED FIRST NATION TRUST

- (a) The First Nation, as settlor of this Trust, has established this Trust effective upon the deposit of the Compensation into the Trust Account (as that term is hereinafter defined);
- (b) The Trust shall be known as: Edkaagmik Nbiizh Neyaashiinigamiingninwag Edbendaagzijig Trust (Chippewas of Nawash Unceded First Nation Coldwater Trust);

- (c) Any funds or property contributed from time to time to this Trust shall be deemed to have been contributed by the First Nation;
- (d) All funds or property contributed from time to time to this Trust shall be added to the Trust Property (as that term is hereinafter defined) and shall be governed by the terms of this Deed of Trust;
- (e) All beneficial right, title, interest and benefit in and to the Trust Property shall vest in the Beneficiary (as that term is hereinafter defined);
- (f) All legal right, title, interest and benefit in and to the Trust Property shall vest in the Trustees.

2. **PURPOSES OF THE TRUST**

The Trustees acknowledge and agree that the Trust Property is intended to be held for the long term benefit of the First Nation as Beneficiary and to be administered as a long term Trust upon the trusts set out in this Deed of Trust, for the purposes of investing and expending the Trust Property and the Income (as that term is hereinafter defined) arising thereon for the purchase of land, for the advancement of education, for the promotion and protection of heritage and culture, for the promotion of health, for economic development, to provide funding for housing on the basis described in sub-paragraph 6(a)(x) of this Deed of Trust, to improve infrastructure and to provide funding for the enhancement of governance; all for the long term benefit of the Beneficiary.

3. **ACCEPTANCE OF TRUSTS**

The Trustees by joining in the execution of this Deed of Trust signify their acceptance of this Trust and the duties and obligations contained herein and agree to act until discharged by resignation or other lawful means.

4. **DEFINITIONS**

- (a) In this Deed of Trust the following words shall, unless the context otherwise requires, have the following meanings:
 - “adult” means any individual who has attained the age of majority;
 - “Authorized Expenses” means the expenses reasonably incurred by the Trustees in each Fiscal Year in carrying out the terms of this Deed, including the payment of administrative, accounting, legal, investment and

other costs, including, without limiting the generality of the foregoing, reasonable costs of holding any meeting of the Members required under the terms of this Deed;

- "Authorized Investments" means investments authorized in accordance with paragraph 11(a)(i) of this Deed;
- "Authorized Loan" means a loan from a Financial Institution to the Trust, as borrower, in accordance with paragraph 8 of this Deed;
- "Authorized Loan Payments" means those payments of principal and interest made by the Trustees to service an Authorized Loan, such payments to be made by instalments sufficient to retire the Authorized Loan over a period of not exceeding ten (10) years;
- "the Beneficiary" means the First Nation, including all Members of the First Nation from time to time on a collective and undivided basis as represented by its duly elected Council;
- "Canada" means Her Majesty the Queen in right of Canada as represented by the Minister of Indian Affairs and Northern Development;
- "Capital Project" means a project which involves an outlay of funds to acquire, improve or exchange a capital asset, including land;
- "Children" means all those Members of the First Nation who are not adults and who are living on the Effective Date, as that term is defined herein, and more particularly described on a list of children to be provided to the Trustees by the First Nation as soon as is reasonably possible after the execution of this Deed and "Child" refers to any one of such "Children";
- "Corporate Trustee" means, initially, The Bank of Nova Scotia Trust Company, and thereafter means any company duly incorporated and authorized to carry on business as a trustee in the Province of Ontario and which is from time to time appointed in substitution for the initial or a subsequent Corporate Trustee pursuant to the terms of this Deed;
- "Council" means the duly elected Chief and Council of the First Nation;

- "Council Resolution" means a written resolution of the Council, signed by a quorum of Council, which resolution has been passed by Council at a duly convened meeting of the Council;
- "this Deed" means this Deed of Trust including the attached Schedule "A", as amended from time to time;
- "disability" means incapable of managing property within the meaning provided by section 6 of the *Substitute Decisions Act*, S.O.1992, c.30 ("*Substitute Decisions Act*, 1992") at the date of this Deed;
- "Eligible Member" means, at any relevant time, a Member at that time who is an adult and who is not suffering from a disability;
- "Effective Date" means the date that this Trust is settled by the deposit referred to in sub-paragraph 1(a) hereof;
- "Elder Delegate" means the elder delegate appointed by Council from time to time in accordance with paragraph 23 of this Deed;
- "Financial Institution" means any bank, or trust company licensed to carry on business as a trust company in Ontario, that is a member institution for which the Canada Deposit Insurance Corporation has a duty to insure deposits pursuant to the *Canada Deposit Insurance Corporation Act*, R.S.C. 1985, c. C-3;
- "First Nation" means the Chippewas of Nawash Unceded First Nation;
- "Fiscal Year" means, in respect of Edkaagmik Nbiizh Neyaashiinigamiingninwag Edbendaagzijig Trust (Chippewas of Nawash Unceded First Nation Coldwater Trust), the twelve month period commencing on January 1 and ending December 31 in each calendar year, provided that the initial Fiscal Year shall be the period from the Effective Date up to and including December 31, 2012 or, to and including December 31, 2013 if the Effective Date is not in the 2012 calendar year but is in the 2013 calendar year;
- "Income" means the income of Edkaagmik Nbiizh Neyaashiinigamiingninwag Edbendaagzijig Trust (Chippewas of Nawash Unceded First Nation Coldwater Trust) for a Fiscal Year as such income is

computed for the purposes of the *Income Tax Act* including, for greater certainty, capital gains arising in respect of deemed dispositions under the *Income Tax Act* and other amounts deemed to be income for the purposes of the *Income Tax Act*, but without reference to subsection 104(6) of the *Income Tax Act*;

- “*Income Tax Act*” means the *Income Tax Act*, R.S.C. 1985, 5th Supplement, c.1, as amended from time to time;
- “*Indian Act*” means the *Indian Act*, R.S.C 1985 c.1-6, as amended from time to time;
- “Investment Consultant” means a firm or individual, retained by the Trustees from time to time, who is not engaged in the sale of investment products and services and who has (if an individual) and have staff (if a firm) that have the Chartered Financial Analyst designation, and who can provide independent advice on the development of the Investment Policy, the selection of an Investment Manager and the monitoring and evaluation of portfolio performance;
- “Investment Manager” means a firm that has obtained registration in the category of advisor with the Ontario Securities Commission as Investment Counsellor and Portfolio Manager; or as the term is amended from time to time, and whose revenue is derived solely or primarily from the discretionary management of investment portfolios and is experienced in managing trusts. Furthermore, the Investment Manager must have adopted and comply with the Code of Ethics and Standards of Professional Conduct of the CFA Institute;
- “Investment Management Agreement” means an agreement between the Trustees and an Investment Manager whereby the Trust Property or a portion of the Trust Property is placed in a managed fund(s) to be invested by the Investment Manager in Authorized Investments in accordance with this Deed and the Investment Policy;
- “Investment Policy” means the policy approved by the Trustees from time to time, following receipt of advice from an Investment Consultant and/or Investment Manager which sets out the policy, objectives and framework for

the investment of Trust Property in Authorized Investments, consistent with the purposes of this Deed;

- "land" means real property including any improvements thereon;
- "legal personal representative" shall include executors, administrators and trustees and estate trustees under a Will, attorneys under a continuing power of attorney and guardians of property appointed under the *Substitute Decisions Act, 1992*;
- "Member" means a person whose name appears on the Membership List or who is entitled to have his name appear on the Membership List;
- "Membership List" means the list of Members maintained for the First Nation pursuant to the *Indian Act* or, if the First Nation takes over control of the membership function by establishing a code as provided for in the *Indian Act*, then the list maintained by the First Nation in accordance with its membership code from time to time;
- "Member Resolution" means a resolution of the Eligible Members at any time and from time to time following a vote held in accordance with Paragraph 27 of this Deed;
- "Net Income" means all of the Income of the Trust, less the aggregate of:
 - (i) such sums in each Fiscal Year as the Trustees shall, in their sole and absolute discretion, consider to be proper allowances, reserves, deductions, disbursements and/or outgoings applicable thereto in accordance with generally accepted accounting principles; and
 - (ii) without limiting the generality of the foregoing, such sum in each Fiscal Year as the Trustees shall in their absolute discretion consider necessary and advisable from time to time as being on account of depreciation, depletion, deterioration or obsolescence of the assets in the Trust or such part thereof, as the case may be;
- "per capita distribution" means a distribution of cash to each of the Members which the Members are entitled to use at their discretion;

- "per capita distribution date" means the date referred to in sub-paragraph 5(a)(ii) of this Deed;
- "person" shall include a corporation;
- "Reserve" means a reserve within the meaning of the *Indian Act*, set apart for the use and benefit of the Chippewas of Nawash Unceded First Nation;
- "set apart as Reserve land" means either set apart as a new Reserve of the First Nation or added to an existing Reserve of the First Nation;
- "time of division" means the date determined pursuant to paragraph 29(a) of this Deed;
- "Trust Account" means the account to be established by the Trustees at a Financial Institution in accordance with the Settlement Agreement and in accordance with paragraph 25 of this Deed and into which Canada, pursuant to the Settlement Agreement, is to deposit the Compensation;
- "Trust Property" means, initially, the Compensation to be paid to the First Nation pursuant to the Settlement Agreement and thereafter, such other cash, securities or other property and assets, real, personal or mixed which the Trustees hold from time to time and at any time upon the trusts established by this Deed including, without limiting the generality of the foregoing, any and all property and assets, real, personal and mixed into which the same may be invested by the Trustees or into which the same may be converted by the Trustees, at any time and from time to time as well as any additions or accretions thereto and monies disbursed to, loaned to or re-contributed by the First Nation from disbursements of Income and land purchased by the Trustees and any proceeds derived from the sale of such land unless and until such time as such land is set apart as Reserve land;
- "Trustee" means a Trustee of Edkaagmik Nbiizh Neyaashiinigamiingninwag Edbendaagzijig Trust (Chippewas of Nawash Unceded First Nation Coldwater Trust) as appointed by Council or elected by the Members, as applicable, pursuant to Paragraph 20, Paragraph 21 and Paragraph 22 of this Deed;

- "Youth Delegate" means the youth delegate appointed by Council from time to time in accordance with Paragraph 23 of this Deed.

- (b) In this Deed, the masculine gender shall include the feminine gender and the singular shall include the plural and vice versa.

5. **USE OF TRUST PROPERTY**

- (a) The Trust Property shall only be used by the Trustees for the following purposes, namely:

- (i) Upon receipt of satisfactory financial statements, the Trustees shall pay all costs, fees and disbursements relating to the negotiation and completion of the Settlement Agreement by the First Nation, including but not limited to the drafting and settlement of this Trust and ratification by the First Nation, which costs, fees and disbursements have not already been reimbursed by deductions made from the total settlement compensation amount set out in the Settlement Agreement before Canada paid the Compensation into the Trust Account. Such costs, fees and disbursements shall be paid to whomever they are owing, which may include the First Nation's general account;
- (ii) On a one time basis only, the sum of \$1,800.00 per Member (hereinafter referred to as the "amount") shall be distributed by the Trustees to each Member living on the Effective Date, upon such rules and procedures as may be established by the Trustees. The date that the said distribution is made by the Trustees shall be hereinafter referred to as the "per capita distribution date". Provided that, in the case of Children, the amount payable to a Child shall be held and invested by the Trustees on the terms of Paragraph 9 of this Deed. Except for the amount referred to in this sub-paragraph 5(a)(ii), the Trust Property shall not be used, directly or indirectly, for any per capita distribution by the Trustees;
- (iii) For the purchase of Authorized Investments, subject to and in accordance with Paragraph 11 of this Deed;
- (iv) For payment of the Authorized Expenses and compensation of the Trustees in accordance with Paragraph 18 of this Deed, firstly out of the Income, and if the Income is, in the discretion of the Trustees, insufficient, secondly out of the

capital of the Trust Property, provided that, the Trustees shall use their best efforts to ensure that Authorized Expenses and compensation of the Trustees shall not, in the aggregate, exceed one (1%) percent of the average fair market value of the Trust Property in any Fiscal Year, pro-rated in the case of any Fiscal Year that is less than twelve (12) months;

- (v) For the purchase of land, subject to and in accordance with Paragraph 10 of this Deed and for the conveyance of land to Canada pursuant to Paragraph 10 of this Deed;
 - (vi) In the Trustees' discretion, for the purposes described in sub-paragraph 6(a) of this Deed, to the extent that the Income is insufficient, the Trustees may, in their absolute discretion, pay, transfer, distribute or loan the Trust Property, provided that the Trustees shall not encroach on the Trust Property before the fifth anniversary of the Effective Date except for the purposes described in sub-paragraphs 5(a)(i) and (ii) and for the purposes of acquiring land, providing funding for land claims and/or paying the principal portion of Authorized Loan Payments.
 - (vii) In the Trustees' discretion, the Trustees may secure Authorized Loans for Capital Projects and use the Trust Property as collateral with respect to Authorized Loans, including granting mortgages, pledges, security interests and charges against all or any portion of the Trust Property and the Trustees may use the Trust Property to make Authorized Loan Payments. For greater certainty, such Authorized Loans, Authorized Loan Payments and the use of the Trust Property as collateral pursuant to this sub-paragraph 5(a)(vii) shall not be considered to be an encroachment for the purposes of sub-paragraph 5(a)(vi) of this Deed.
- (b) Except as specifically authorized in this Deed, the Trustees shall not mortgage, pledge, hypothecate or in any way encumber the Trust Property or any interest therein, for any purpose whatsoever.
 - (c) The Trustees shall not lend, invest, release, distribute or advance in any way, including to themselves or to any other person, the Trust Property, except as specifically authorized in this Deed.

6. **DISTRIBUTION OF INCOME**

(a) The Income shall only be used for the following purposes:

- (i) To pay the Authorized Expenses;
- (ii) To pay the compensation and expenses of the Trustees and of this Trust as authorized by Paragraph 18 of this Deed;
- (iii) To make Authorized Loan Payments;
- (iv) To acquire land for the benefit of the First Nation, including but not limited to:
 - (A) With the intention of the land being set apart as Reserve land;
 - (B) For the economic development of the First Nation or its corporations, whether or not set apart as Reserve land;
- (v) To advance the education of the Members, such as:
 - (A) Providing funds to be used to increase salaries of teachers for First Nation run educational programs;
 - (B) Providing funds for the building, establishment, improvement and operation of a school or schools;
 - (C) Providing educational loans, scholarship and/or bursary funds for Members;
 - (D) Providing funds for trade, apprenticeship and internship programs;
- (vi) To promote the health of the Members, generally, such as:
 - (A) Providing funds to promote the teaching of healthy living and eating;
 - (B) Providing funds to facilitate mental health or other wellness programs;
 - (C) Providing funds to facilitate programs that will provide services to seniors and allow them to remain in their own homes for as long as possible;
 - (D) Providing funds to build centres for seniors and/or a seniors' home;
 - (E) Providing funds to facilitate fitness programs.
- (vii) To promote economic development of the First Nation and/or its corporations, such as:

- (A) Providing business loans to the First Nation or to one or more of its corporations;
 - (B) Funding the start-up or acquisition of a business by the First Nation or by one or more of its corporations;
 - (C) Providing funds to promote eco or cultural tourism businesses of the First Nation or one or more of its corporations;
- (viii) To preserve or protect the culture and heritage of the First Nation, such as:
- (A) Providing funding to preserve, study, or promote the First Nation language and cultural heritage;
 - (B) Providing funding for the building of a cultural centre for the Members;
 - (C) Providing funding for cultural programs;
 - (D) Providing funding for cultural ceremonies;
- (ix) To improve infrastructure on Reserve lands or on lands owned by the First Nation or by one of its corporations or by this Trust, such as:
- (A) Providing funding to construct roads, bridges, ditches, water-courses, erosion control works, irrigation and drainage systems, fences, buildings, permanent improvements or other works;
- (x) To provide for housing needs on the following basis:
- (A) Providing funding for housing to Council provided that Council has made a proposal for funding on behalf of the Housing Committee which meets the criteria in sub-paragraph 6(c) and which the Trustees approve in their absolute discretion;
 - (B) Providing funding for off Reserve housing provided that Council has made a proposal for such funding and further provided that the proposal meets the criteria in sub-paragraph 6(c) and further provided that the off Reserve housing is for providing shelter for students while they attend post-secondary or apprenticeship type programs off Reserve and that the Trustees approve such proposal in their absolute discretion;
- (xi) To provide funding for enhancing governance, such as:

- (A) To fund negotiations or litigation in which the First Nation becomes involved after the Effective Date or is involved at the Effective Date where an issue in the negotiation or litigation is the protection or advancement of a right of the First Nation, including but not limited to all land claims of whatever nature that the First Nation has had, has now or may hereafter have;
 - (B) To fund research into claims or possible claims by the First Nation where the claim or possible claim relates to the protection or advancement of a right of the First Nation, including but not limited to all land claims of whatever nature that the First Nation has had, has now or may hereafter have;
 - (C) To support governance capacity, including policy development, the development of custom membership or electoral codes, knowledge for self-governance;
 - (D) To fund the pursuit of an enhanced role in resource management.
- (b) The Trustees shall distribute and pay Net Income, after payment of any Authorized Loan Payments, on the basis of proposals submitted to the Trustees by an Eligible Member or Eligible Members or by Council.
- (c) Each proposal must meet the following criteria:
- (i) It must be clear that any distribution made in accordance with the proposal will be for the long term benefit of the First Nation;
 - (ii) It must be in the form of a written proposal which must contain, at least, the following information:
 - (A) A description as to how the proposal is consistent with the purposes described in all, some or any of sub-paragraphs 6(a), (iv), (v), (vi), (vii), (viii), (ix), (x) or (xi);
 - (B) A description as to how the proposal will benefit the First Nation in the long term;
 - (C) A description of the project actually proposed;
 - (D) A detailed budget as well as financial projections for the project including the projected cost or price of the project; including, without

limitation, in the case of a business, any related acquisitions, particulars of all costs incidental and ancillary to the acquisition or establishment of the business and the financing of its operations and in the case of land, the price, acquisition costs and the costs of discharging any third party interests in respect thereof; and

- (E) A schedule of date or dates when the funds requested will be required.
- (d) The Trustees shall review each proposal at a meeting of the Trustees called for that purpose. More than one project or proposal may be considered at such a meeting. In each case the proposal shall be approved or denied. In considering a proposal, the Trustees shall consider whether funding for the proposal is available from another source, including, without limiting the generality of the foregoing, the First Nation.
- (e) Where a project will require multi-year funding, it will be a condition that the applicant making a proposal agree, prior to receipt of the funding, that if the Trustees require it, the applicants will adhere to monitoring requirements developed by the Trustees in their absolute discretion, in order to keep the Trustees informed of the use of the funding. The recipients of the funding shall, in that case, provide periodic written reports assessing how the objectives of the project are being met. The Trustees shall be entitled to require the recipients of the funding to provide financial statements (audited or unaudited) to keep and make available to the Trustees or their advisors proof of expenditures, to maintain separate bank accounts in respect of the funding provided, or to require other measures to meet the objectives of transparency and accountability. Notwithstanding the foregoing, upon transferring the funds to the recipient in the case of any proposal or project, the receipt of the recipient of the funds shall be sufficient discharge to the Trustees and the Trustees shall not be liable to see to the application thereof.
- (f) The Trustees shall, in each Fiscal Year, prior to the last day of any Fiscal Year, pay or make payable, transfer or distribute, to the First Nation, any Income which will exceed the amount expended or to be expended in the Fiscal Year in accordance with subparagraph 6(a) of this Deed. Such surplus Income shall be distributed in accordance with paragraph 7 of this Deed.

7. SURPLUS INCOME

- (a) After distributing Income in accordance with paragraph 6 of this Deed, the Trustees shall distribute any surplus Income prior to the last day of each Fiscal Year to the First Nation, by paying or making payable to the First Nation any such surplus Income. If, in any Fiscal Year, such surplus Income exceeds the Income which has been realized by the Trust before the end of the Fiscal Year or which is not immediately available for distribution for any reason, the Trustees shall allocate such excess to the First Nation as a payable, which is to be evidenced by a promissory note, such note to be accepted by the First Nation as absolute payment, with an effective date of no later than December 31 of that Fiscal Year in each case and such excess must be disbursed to the First Nation once actually realized.
- (b) Any surplus Income distributed to the First Nation in accordance with this paragraph 7 shall be deemed to firstly come from any amounts realized or earned on the investment or utilization of Income.
- (c) In the event that it is determined at any time and from time to time that the Trust is not liable to pay income tax on surplus Income retained in the Trust and not paid to the First Nation in accordance with this paragraph, by reason of the *Income Tax Act* or for any other reason, then the Trustees shall not be required to distribute the unexpended surplus Income to the First Nation but rather any such surplus Income may, in the discretion of the Trustees, be added to the capital of the Trust, provided that, after the expiration of the maximum period for the accumulation of income permitted by law, if the Trustees are then holding the Trust Property or any part thereof, they shall thereafter pay to or apply to or for the benefit of the First Nation the whole of the net Income derived from the Trust Fund.
- (d) The First Nation hereby directs that where any payment or distribution is required to be made by the Trustees to the First Nation, the Trustees shall make such payment to the First Nation, in care of Council.
- (e) The First Nation may redeliver any payment or distribution from the Trust and any such amount redelivered may take the form of a loan to the Trust or a contribution to the Trust, as determined by the First Nation and the Trustees.

8. AUTHORIZED LOANS

- (a) The Trustees are authorized and empowered to secure Authorized Loans and to make Authorized Loan Payments in accordance with the following terms and procedures:
 - (i) The repayment term sufficient to retire each Authorized Loan shall not exceed a period of ten (10) years;
 - (ii) The Trust Property may be used as collateral, including granting mortgages, pledges, security interests or charges against all or any portion of the Trust Property to secure an Authorized Loan and the Trust Property may be used to make the Authorized Loan Payments as they become due and payable.

9. PAYMENT OF PER CAPITA DISTRIBUTION TO CHILDREN AND CERTAIN OTHERS

- (a) Subject to the provisions of this Deed, the amount payable to a Child in accordance with sub-paragraph 5(a)(ii) of this Deed shall be held by the Trustees in trust for the Child from the per capita distribution date and invested until the Child attains the age of eighteen (18) years.
- (b) If the First Nation becomes aware of:
 - (i) a change in the name, whether by marriage or otherwise, of any Child; or
 - (ii) the death of any Child;

prior to that Child attaining the age of eighteen (18) years,

then the First Nation shall, forthwith, notify the Trustees in writing and provide the Trustees with certified true copies of the documents evidencing the name change or death certificate, as the case may be.
- (c) The First Nation shall confirm in writing to the Trustees the age and identity of any Child prior to that Child attaining the age of eighteen (18) years. Pending the receipt of confirmation of age and identity, the Trustees shall be under no obligation to disburse funds to or for any Child.
- (d) Upon receipt of the written information under sub-paragraph 9(c) of this Deed, and subject to this paragraph 9, the Trustees shall issue a cheque payable to that Child in an amount equal to the aggregate of the per capita payment the Child is entitled to

receive pursuant to sub-paragraph 5(a)(ii) of this Deed, together with an amount out of the capital equal to and as compensation for all interest actually received on such payment, all realized net capital gains or losses on such payment and all interest accrued on such payment up to the end of the month immediately preceding the month in which the Child attains the age of eighteen (18) years (hereinafter referred to as the "Child's share"). It is acknowledged for greater certainty that a Child shall under no circumstances be entitled to any further amount on account of interest, whether realized or accrued or any realized capital gains or losses beyond the end of the month immediately preceding the month in which the Child attains the age of eighteen (18) years.

- (e) If any Child is, upon attaining the age of eighteen (18) years, in the First Nation's opinion, suffering from a disability, then that Child's share shall be transferred to such person(s) as shall be identified in a document signed by the First Nation for the benefit of the Child. Without limiting the generality of the foregoing, the Child's share may be paid to the legal personal representative(s) of the Child. Upon transferring the Child's share to such person(s), such person's receipt shall be a sufficient discharge to the Trustees, and the Trustees shall not be liable to see to the application thereof.
- (f) Should a Child die before attaining the age of eighteen (18) years, the share that would otherwise have been paid to that Child shall be paid to the legal personal representative(s) of the Child's estate, which legal personal representative(s) shall be identified in a document signed by the First Nation. Upon transferring the Child's share to the legal personal representative(s) of the Child's estate, the receipt of the said legal personal representative(s) shall be a sufficient discharge to the Trustees, and the Trustees shall not be liable to see to the application thereof.
- (g) The Trustees shall issue a cheque to the Child or to his or his estate's legal personal representative(s) or to such other person as identified by the First Nation, as applicable (the "payee"), for all amounts payable (the "proceeds") pursuant to this Paragraph 9. The First Nation shall be responsible for making all reasonable efforts to locate the payee. If, within sixty (60) days of the Trustees issuing such a cheque:
 - (i) the payee cannot be located by the First Nation, after using reasonable efforts;

- (ii) the payee is unaccounted for;
- (iii) the payee refuses to accept or claim the cheque;

then the Trustees shall retain the proceeds as a contribution by the First Nation to the Trust Property, provided that if the payee is located or claims the proceeds prior to the time of division, then the provisions of sub-paragraph 9(d) shall be followed, it being acknowledged that the Child (or other payee, as applicable) shall be entitled to the amount he would have otherwise been entitled to receive on attaining the age of eighteen (18) years, which for greater certainty does not include any interest, realized or accrued or any realized capital gains or losses, beyond the end of the month immediately preceding the month in which the Child attains the age of eighteen (18) years. In the event the Child (or other payee) is not located or the Child (or other payee) does not claim the funds payable to him prior to the time of division then his entitlement under the terms of this Deed shall be deemed to have been disclaimed and forfeited.

- (h) In the case of a Member who cannot be located by the First Nation on the per capita distribution date, if, within sixty (60) days of the Trustees issuing a cheque payable to the said Member:

- (i) the Member cannot be located by the First Nation, after using reasonable efforts;
- (ii) the Member is unaccounted for;
- (iii) the Member refuses to accept or claim the cheque;

then the Trustees shall retain the proceeds as a contribution by the First Nation to the Trust Property, provided that if the Member is located or claims the proceeds prior to the time of division, then the Trustees shall issue a cheque payable to that Member in an amount equal to the aggregate of the per capita payment the Member is entitled to receive pursuant to sub-paragraph 5(a)(ii) of this Deed, together with an amount out of capital on account of all interest actually received on such payment, all realized net capital gains or losses on such payment and all interest accrued on such payment up to the end of the sixty (60) day period referred to in this sub-paragraph (hereinafter referred to as the "Member's share"). It is acknowledged for greater certainty that such a Member shall under no circumstances be entitled to any further interest, whether realized or accrued or any realized capital gains or losses beyond the end of

the said sixty (60) day period. In the event the Member is not located or the Member does not claim the funds payable to him prior to the time of division then his entitlement under the terms of this Deed shall be deemed to have been disclaimed and forfeited.

- (i) In the case of a Member who, in the opinion of the First Nation, is suffering from a disability (other than as a consequence of being a minor) on the per capita distribution date (or on such later date when the said Member is located pursuant to sub-paragraph 9(h)), the amount payable to the said Member may instead be paid to the legal personal representative(s) of such Member or to any one to whom the Trustees in absolute their discretion deem it advisable to make such payments, whose receipt shall be a sufficient discharge to the Trustees, and the Trustees shall not be liable to see to the application thereof.

10. **ACQUISITION OF LAND**

- (a) An Eligible Member or Eligible Members, or Council may deliver a written proposal ("Proposal") to the Trustees for the acquisition of land which shall comply with the criteria in sub-paragraph 6(c) of this Deed.
- (b) Upon receiving a proposal, the Trustees shall make enquiries as they consider necessary in their absolute discretion to satisfy themselves that the proposed land is eligible for acquisition in that the land could reasonably be expected to benefit the First Nation and be in its best interests.
- (c) Upon the Trustees satisfying themselves that the proposed land is so eligible, the Trustees shall make such further inquiries as are necessary to fully inform themselves of the actual and potential costs and benefits associated with the acquisition of the eligible land and its being set apart as Reserve land and/or its use for economic development or for other purposes.
- (d) The manner of acquiring land shall be as follows:
 - (i) The Trustees shall enter into an Agreement to Purchase the approved land, subject to the condition that title transfers to and vests in the Trustees for and on behalf of the First Nation;

- (ii) If the land is being acquired with the intention of the land being set apart as Reserve land, the Trustees may, with consent of the First Nation and Canada, assign the Trustees' interest in the Agreement to Purchase to Canada;
- (iii) The Trustees, upon entering into an Agreement to Purchase the approved land, shall:
 - (A) arrange for deposit, out of the Trust Property and/or the Net Income, at the appropriate time, of such moneys into the trust account of a practicing solicitor retained by the Trustees to complete the purchase of the land in accordance with the terms of the Agreement to Purchase but, for greater certainty, taking into consideration all applicable adjustments, including, without limiting the generality of the foregoing, any adjustments for property taxes, property insurance, rents, real estate fees, and other incomings and outgoings, and the terms of this Deed;
 - (B) arrange to satisfy, at the appropriate time, out of the Trust Property and/or the Net Income, all third party interests which are required to be satisfied in order to complete the purchase of the land, including, without limiting the generality of the foregoing, legal fees, survey costs, environmental remediation costs, the costs of buying out easements, rights of way, restrictive covenants, party wall agreements, municipal services agreements, to the extent, in each case that the cost is not covered by sub-paragraph 10(d)(iii)(A);
 - (C) take such other steps as are necessary to fulfil the requirements of the Settlement Agreement; and
 - (D) deliver a fully executed copy of the Agreement to Purchase to the Council.
- (e) If land is acquired with the intention of it being set apart as Reserve land and if Council makes an application to Canada to have such land set apart as Reserve land for the use and benefit of the First Nation by delivering to Canada and to the Trustees a duly authorized Council Resolution requesting the same and if Canada agrees in principle to set apart such land as Reserve, the Trustees shall take all steps and sign all documents necessary to transfer the land to Canada;

- (f) In the event that the Trustees have acquired land with the intention of it being set apart as Reserve land and if Canada refuses to set apart the land as Reserve land or the conditions set out in the Settlement Agreement cannot reasonably be satisfied, such land shall be sold by the Trustees and the net proceeds of such sale shall be returned to, and form part of, the Trust Property and be forthwith re-deposited to the Trust Account, provided that the Trustees may retain such land as an investment of Trust Property if the Trustees, in their sole discretion, deem it appropriate to do so.

11. **INVESTMENT OF THE TRUST PROPERTY**

- (a) The Trustees are authorized and empowered to carry out the Trust in respect of the purchase of Authorized Investments in accordance with the following procedures:
- (i) With the assistance of an Investment Manager and/or Investment Consultant, the Trustees shall develop the Investment Policy. Until such guidelines and objectives are developed, the Trustees shall only be permitted to purchase those Investments listed on Schedule A. Following the development of the Investment Policy, the Trustees shall be permitted to purchase all of those investments authorized in the Investment Policy and permitted by the *Trustee Act* R.S.O. 1990, c.T.23, as amended from time to time.
 - (ii) 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, on all or a portion of the Trust Property, to one or more Investment Managers provided that an Investment Policy has been developed and the Investment Manager has, in each case, entered into an Investment Management Agreement with the Trustees.
 - (iii) For greater certainty, an Investment Manager may be affiliated with or related to a Corporate Trustee and any remuneration paid to the Investment Manager shall not be taken into account in determining the compensation paid to the Corporate Trustee.
 - (iv) Prior to entering into an Investment Management Agreement and at such times as it deems necessary or advisable, the Trustees shall review the terms of an Investment Management Agreement to ensure that it is consistent with this Deed, the Investment Policy and the current state of the law.

- (v) The Trustees shall provide, or cause to be provided, a report to the First Nation on a quarterly basis and on an annual basis, or more frequently if requested by Council, documenting the market value and performance of the investments of the Trust and confirming that the Authorized Investments comply with Schedule A or with the Investment Policy, as applicable;
- (vi) The Trustees shall monitor or cause to be monitored any Investment Manager retained to ensure that the Authorized Investments comply with Schedule A or with the Investment Policy, as applicable, and, in the event of any non-compliance, the Trustees shall promptly notify the Investment Manager so that remedial action is taken.
- (vii) The Corporate Trustee or any agent retained by the Trustees that is a Financial Institution shall hold, in accordance with industry standards, custody of the certificates, instruments, documents or other written materials that evidence any of the Authorized Investments.
- (viii) The Trustees shall annually evaluate or cause to be evaluated, the performance of the Authorized Investments made by the Investment Manager(s) against industry standards for portfolios with similar policies, objectives and investment guidelines, and the Trustees shall advise Council of the findings promptly following the completion of such performance evaluation.

12. **TRUSTEES' POWERS**

Subject to the provisions of this Deed, the Trustees are authorized and empowered:

- (a) To retain any cash, securities and/or other property belonging to or forming part of the Trust Property from time to time in the actual state or condition in which the same shall be received by the Trustees for so long as the Trustees shall think proper;
- (b) To establish the Trust Account with the Financial Institution or to transfer the Trust Property to a substitute Financial Institution in accordance with Paragraph 25 of this Deed and subject to the provisions of this Deed, make such reasonable arrangements governing banking procedures as they from time to time deem advisable;
- (c) Make and amend from time to time, rules that they deem appropriate and reasonable to govern their procedures, provided that:

- (i) Those rules shall not be inconsistent with this Deed or any laws which govern Trustees generally;
 - (ii) The Trustees shall not have the right to make any rules with respect to the investment, distribution or transfer of Trust Property or any portion of Trust Property which are inconsistent with this Deed;
- (d) To take out an Authorized Loan and for the purposes of an Authorized Loan to:
- (i) Mortgage, pledge, hypothecate or otherwise charge the Trust Property; and
 - (ii) Make, execute and deliver under seal or otherwise, such notes, bonds, mortgages or otherwise charge the Trust Property as may be required.
- (e) To make any payments, provisions, divisions or distributions which may be required under the terms hereof in whole or in part in cash, securities or other property, and on every division or distribution the judgment and apportionment of the Trustees and valuation made by the Trustees shall be final and binding on all persons;
- (f) To determine whether any payments made or received by the Trustees in the due administration of the Trust Property shall be credited to or charged against the capital or the Income or partly to or against the capital and partly to or against the Income, and such determination shall be final and binding upon all persons concerned;
- (g) the Trustees shall be authorized:
- (i) to make or refrain from making, in their absolute discretion, any elections, determinations, and designations permitted by any statute or regulation enacted by the Parliament or government of Canada, by the legislature or government of any province of Canada, or by any other legislative or governmental body of any other country, province, state or territory, and such exercise of discretion by the Trustees shall be conclusive and binding upon all the Beneficiaries hereof. The Trustees shall not be liable to any person, whether the Beneficiary or otherwise, by reason of any loss, claim, tax or other cost experienced by any such person or by the Trust Property resulting from any election, determination, designation or exercise of discretion entered into by the Trustees in good faith;
 - (ii) to make income payable to the Beneficiary for the purpose of subsection 104(6) of the *Income Tax Act*;

- (h) To take, institute, maintain, defend or defer any action or other proceeding which may be necessary or advisable in the opinion of the Trustees for the preservation or protection of or realization in respect of any cash, securities or other property forming part of the Trust Property and to compromise and/or settle the same;
- (i) To incorporate, reorganize and wind up any corporation or corporations under the federal laws of Canada or under the laws of Ontario, or any other jurisdiction in Canada, which corporation or corporations shall have the Trustees or authorized nominees of the Trustees as their sole directors and shall be incorporated for the purpose of carrying out of one or more of the purposes of this Trust and to loan or to contribute funds to such corporation to enable it to carry out such purpose.

13. **AMENDMENT**

- (a) Subject to sub-paragraph 13(c) hereof, no amendment is effective unless the amendment has been proposed by the Trustees and approved by a Member Resolution. Any such amendment shall be in writing, approved as required in this sub-paragraph 13(a) and signed by Council on behalf of the First Nation and by the Trustees. Notwithstanding the foregoing, Council may, on behalf of the First Nation, prior to the signing of this Deed, amend this Deed without further approval to correct any typographical error, changes required for the purposes of curing or correcting clerical omissions, manifest error or ambiguity or to satisfy a reasonable request of the Corporate Trustee prior to signing this Deed.
- (b) The termination of this Trust shall not be considered to be an amendment of the Trust.
- (c) Notwithstanding sub-paragraph 13(a) hereof, amendments may be made to this Deed by the Trustees as a result of changes in law, or to improve the administrative efficiency of this Trust, after receipt of a written opinion from legal counsel for the Trustees explaining the legal implications and benefits of the proposed amendment(s).
- (d) Notwithstanding any of the provisions of this Deed and specifically notwithstanding sub-paragraph 13(a) hereof, the Beneficiary shall always be the First Nation, the Deed shall always provide that the Trust Property shall be transferred to the First Nation at the time of division, and Income shall be and shall always remain the income of the First Nation and be exempt from income taxation under the *Income Tax*

Act and any provincial income taxing legislation. In the event that the Canada Revenue Agency or the Minister of National Revenue, or other authority with the jurisdiction to tax income, assesses or reassesses at any time on the basis that the Income is taxable or amendments are made to the *Income Tax Act* or regulations thereunder or other relevant income tax legislation that might adversely affect the intention of the First Nation that the Income be exempt from taxation, the Trustees may amend this Deed in such manner as may be necessary to give effect to the intentions of the First Nation.

14. **PROFESSIONAL ADVICE**

- (a) The Trustees may take legal or other advice and instead of acting personally may employ professional or other assistance as they may deem necessary to the proper discharge of their duties, and may pay proper and reasonable compensation for such advice and assistance and may, in relation to this Deed, act on the opinion or advice of, or information obtained from, any solicitor, valuator, investment consultant, auctioneer or other expert, but will not be bound to act upon such information or advice and shall not be responsible for any loss occasioned by so acting or by not so acting, as the case may be. The Trustees shall incur no liability for any loss resulting from the delegation of discretion to such advisers provided the Trustees have acted in good faith.
- (b) In making any such arrangement as aforesaid and subject to the provisions of this Deed, the Trustees are authorized to place the cash, securities or other property comprising all or part of the Trust Property or part thereof in the custody of such solicitor or other expert and to transfer such cash, securities or other property or part thereof into the name of any such person or to any nominee thereof. Further, the Trustees may cause legal title to any part of the Trust Property to be held in the name of a nominee, including a nominee corporation owned by the Trust.

15. **SETTLEMENT OF ADDITIONAL PROPERTY**

Upon acceptance by the Trustees, the First Nation may at any time and from time to time add to the Trust Property by devising, bequeathing, assigning, transferring, conveying, delivering or making payable to the Trustees cash, securities or other property, and all such cash, securities or other property shall upon acceptance by the Trustees be held by the Trustees subject to the terms hereof.

16. TRUST PROPERTY ACCOUNTING

- (a) The Trustees shall keep accurate accounts relating to the Trust which shall be available at all reasonable times for inspection by the Beneficiary.
- (b) The Trustees shall cause to be prepared, for each Fiscal Year, financial statements respecting the Trust Property prepared in accordance with Canadian generally accepted accounting principles, consistently applied.
- (c) The Trustees shall have the financial statements audited by a qualified independent auditor and the said auditor shall be engaged to submit or file his or her report on the financial statements for the Fiscal Year to the Trustees and Council within ninety (90) days of the end of each Fiscal Year.
- (d) The Trustees shall prepare a written report on the Authorized Investments of the Trust Property which will include the opening and closing market values of the Trust Property for the Fiscal Year and a summary of the deposit activity including additions to capital, net realized capital gains, interest income and dividend income and other investment income as well as a summary of disbursement activity, and shall attach the annual audited statements to the annual report. The annual report and audited statements shall be made available to the Members at the Council offices within one hundred and twenty (120) days of the end of the Fiscal Year.
- (e) The Trustees will, upon a minimum of fourteen (14) days notice from Council, attend a community information meeting at such date, time and location as directed by Council to review the said written report and audited financial statements and to report on the administration of the Trust Property.

17. EXONERATION OF TRUSTEES

- (a) The Trustees shall not be required to give bond or other security for the due and faithful administration of the Trust Property or for the discharge of the trusts hereby created.
- (b) The Trustees shall not be liable or accountable for any loss or damage to the Trust Property or any part thereof, resulting from the exercise of a discretion or authority conferred upon them by this Deed as long as they are acting in good faith and honestly in the best interest of the First Nation and are not grossly negligent.

- (c) Notwithstanding any provision of this Deed, and without limiting the generality of the foregoing, the Trustees shall, in respect of any specific use of the Trust Property or the Income thereon, not be liable or accountable for any claim by the Beneficiary or other person at some date subsequent to the specific use that the specific use of Trust Property or Income thereon was not for the long term benefit of the First Nation, provided that the Trustees, acting reasonably and in good faith, considered the long term benefit of the specific use at the time of making the decision in favour of the specific use.
- (d) Provided that such Trustee has acted in accordance with his, her or its duties hereunder, each Appointed Trustee and Elected Trustee and his or her heirs, executors, administrators, and other legal personal representatives, or in the case of a Corporate Trustee, its successors and assigns, shall from time to time and at all times be indemnified and saved harmless out of the Trust Property from and against:
 - (i) All costs, charges and expenses which such Trustee sustains or incurs in or about any action, suit or proceeding which is brought, commenced or prosecuted against him or her or it, or in respect of any act, deed, matter or thing whatsoever, made, done or permitted by him, in or about the execution of the duties of his office or in respect of any such liability;
 - (ii) All other costs, charges and expenses which he sustains or incurs in or about or in relation to the affairs thereof, except such costs, charges, or expenses as are occasioned by his own wilful neglect or default.
- (e) The Trustees are permitted and directed to obtain such errors and omission insurance as may be available to the Trustees, and the costs of such insurance shall be paid as an Authorized Expense.

For greater certainty, the Trustees shall have no responsibility for Trust Property or Income upon it being disbursed to the First Nation or to any other party or any liability for how such funds are used by the First Nation or such other party except for any funds re-contributed by the First Nation to the Trust.

18. **COMPENSATION OF TRUSTEES**

- (a) The Corporate Trustee shall be entitled to receive and shall be paid out of the Income firstly, or, if insufficient, out of the capital of the Trust Property, as compensation for its acting as Corporate Trustee of and under this Deed, the fees, reimbursement and

other compensation provided for in the Trust Fee Agreement between the Corporate Trustee and the First Nation, which Trust Fee Agreement is attached hereto. The terms of the Trust Fee Agreement shall be valid and binding in all respects to fix the compensation payable to the Corporate Trustee as though the Trust Fee Agreement were expressly embodied in this Deed. In the event that the original Corporate Trustee resigns or is removed pursuant to the terms of this Deed, as Corporate Trustee, and if another Corporate Trustee is then acting, the Trust Fee Agreement which shall govern shall be the Trust Fee Agreement between the First Nation and the Corporate Trustee then acting as such.

- (b) In the case of all other Trustees, Council may, by Council Resolution from time to time, provide that the Trustees shall be paid an honorarium for their services hereunder which honorarium, if provided, shall be in an amount determined by Council Resolution from time to time. Other than such an honorarium, if any, such other Trustees shall not receive compensation but shall be entitled, in each case, to be reimbursed for reasonable costs, charges and expenses which a Trustee may properly incur in the performance of his or her duties hereunder.

19. **EXECUTION OF DOCUMENTS**

- (a) All deeds, transfers, assignments, contracts, obligations, bills of lading, promissory notes, bills of exchange, and any and all other instruments in writing made on behalf of the Trust and purporting to bind the Trust may be signed, executed, drawn, endorsed and negotiated by a majority of the Trustees, provided that one of them shall be the Corporate Trustee, one of them shall be an Elected Trustee (as that term is hereinafter defined) and one of them shall be an Appointed Trustee (as that term is hereinafter defined).

20. **APPOINTMENT AND ELECTION OF TRUSTEES**

- (a) Edkaagmik Nbiizh Neyaashiinigamiingninwag Edbendaagzijig Trust (Chippewas of Nawash Unceded First Nation Coldwater Trust) shall be administered by a board of five (5) Trustees;
- (b) One (1) of the Trustees shall at all times be a Corporate Trustee;
- (c) Subject to sub-paragraph 20(f) hereof, two (2) of the Trustees shall be elected from the Members on the Membership List (hereinafter referred to as the "Elected Trustees") by Member Resolution;

- (d) Two (2) of the Trustees shall be appointed by Council from its members (hereinafter referred to as the "Appointed Trustees"). The first Appointed Trustees shall be **Cheryl Johnston and Paul Jones**;
- (e) Only Eligible Members who meet the following criteria are eligible to serve as either Elected Trustees or Appointed Trustees:
 - (i) The Eligible Member is willing to carry out the objects of the Trust;
 - (ii) The Eligible Member is a resident of Canada for purposes of the *Income Tax Act*;
 - (iii) The Eligible Member has attained the age of twenty-one (21) years at the time of election or appointment, as applicable;
 - (iv) The Eligible Member has attained a minimum education level of graduation from an Ontario Secondary school or equivalent;
 - (v) The Eligible Member has agreed to attend compulsory training to be provided on the duties of a trustee;
- (f) Notwithstanding that there has been no election by Member Resolution, as and from the Effective Date and until the next Chief and Council elections are held following the Effective Date (unless Council, in its absolute discretion determines that an election should be held at some earlier date), the Elected Trustees shall be **Michael Hills and Geewadin Elliott**.

21. REMOVAL OR RESIGNATION OF THE CORPORATE TRUSTEE

- (a) The Corporate Trustee from time to time and at any time may cease to act under this Deed by serving ninety (90) days written notice to the Council or upon such earlier date as may be agreed between the Council and the Corporate Trustee. No such resignation shall be effective until a new Corporate Trustee has been appointed by the Council.
- (b) Within sixty (60) days of receiving the notice of resignation from the Corporate Trustee, the Council shall appoint a new Corporate Trustee.
- (c) The Council may remove the Corporate Trustee by providing thirty (30) days written notice to the Corporate Trustee.

- (d) Prior to serving notice of termination on the Corporate Trustee, the Council shall have selected a replacement Corporate Trustee.
- (e) The Corporate Trustee shall prepare the necessary documentation for a passing of accounts in the Ontario Superior Court of Justice within one hundred and twenty (120) days of the date on which it ceased to be a Corporate Trustee.

22. REMOVAL, REPLACEMENT AND APPOINTMENT OF INDIVIDUAL TRUSTEES

- (a) Each of the Elected Trustees and Appointed Trustees shall serve a term of four (4) years.
- (b) Notwithstanding sub-paragraph 22 (a) hereof, the original Elected Trustees; namely, **Michael Hills** and **Geewadin Elliott**, shall serve until the Chief and Council elections next following the Effective Date are held (unless Council, in its absolute discretion determines that an election should be held at some earlier date) and the first Elected Trustees thereafter shall serve the following terms: One (1) Elected Trustee shall serve a term of Two (2) years and One (1) Elected Trustee shall serve a term of four (4) years.
- (c) Subject to the terms of this Deed, Elected Trustees shall be eligible for re-election.
- (d) Notwithstanding sub-paragraph 22(a) hereof, the original Appointed Trustees; namely, **Cheryl Johnston** and **Paul Jones**, shall serve until the Chief and Council elections are held next following the Effective Date and the first Appointed Trustees thereafter shall serve the following terms: One (1) Appointed Trustee shall serve a term of Two (2) years and One (1) Appointed Trustee shall serve a term of four (4) years.
- (e) Subject to the terms of this Deed, Appointed Trustees shall be eligible for re-appointment.
- (f) If there is a vacancy on the board in respect of either an Appointed Trustee or an Elected Trustee, the vacancy shall be filled by:
 - (i) In the case of an Appointed Trustee, appointment by Council Resolution as soon as reasonably possible, but in any event within thirty (30) days of the date that the vacancy occurs. A Trustee appointed in this manner shall serve out the term of the Appointed Trustee that he or she replaced.

- (ii) In the case of an Elected Trustee, by Member Resolution. An Elected Trustee elected in this manner shall serve out the term of the Trustee he or she replaced. Notwithstanding the foregoing, in the event that the term of the Elected Trustee was, in any case, going to expire within a period of 6 months of the vacancy occurring, and provided that there is at least one (1) Elected Trustee still acting, the vacancy need not be filled. Further, in the case of the original Elected Trustees; namely **Michael Hills** and **Geewadin Elliott**, any vacancy will be filled by an appointment by Council pending the next Chief and Council elections (unless Council, in its absolute discretion, determines that an election should be held at an earlier date).
- (g) Elected Trustees shall be elected by Member Resolution pursuant to paragraph 27 of this Deed.
- (h) An Elected Trustee and/or an Appointed Trustee shall serve until:
 - (i) his or her term expires;
 - (ii) he or she resigns. Any Elected Trustee or Appointed Trustee hereof shall be entitled at any time to resign his or her office upon giving thirty (30) days' notice in writing to the remaining Trustees;
 - (iii) in the case of an Appointed Trustee, he or she is no longer on Council;
 - (iv) he or she dies;
 - (v) he or she shall be found to be incapable of managing property within the meaning of that term provided by the *Substitute Decisions Act*, 1992;
 - (vi) he or she becomes insolvent or bankrupt, whether discharged or not, or makes an assignment for the general benefit of his or her creditors, or a proposal to his or her creditors which is refused, or is charged with an indictable offence, with fraud or with any offence involving the Trust Property or the exercise of his or her responsibilities as a Trustee;
 - (vii) he or she fails to attend three (3) consecutive meetings of the Trustees, of which meetings he or she has been given notice, upon the remaining Trustees voting to remove him or her (in which case the vote will be positive if a simple majority of Trustees remaining vote to remove);

- (viii) he or she fails to disclose an interest, or votes on any contract or proposed contract in which he or she has an interest, contrary to Paragraph 26 of this Deed.
- (i) Notice of all changes in the Trustees hereunder shall be endorsed on or attached to this Deed and signed by the Trustees, and every such notice shall be sufficient evidence to any person having dealings with the Trustees under this Deed as to the facts to which it relates.
- (j) Any person dealing with this Deed may rely upon a copy hereof and of the notices endorsed hereon or attached hereto certified by the Trustees before a notary public to the same extent as he might rely upon the original. Any person dealing with the Trustees may rely on the identity of the Trustees as certified by the Trustees from time to time for that purpose.

23. **YOUTH DELEGATE AND DELEGATE OF ELDERS**

- (a) The Council may appoint a delegate from the Members on the Membership List who shall be twenty (20) years of age or under twenty (20) years of age at the time of such appointment. The Youth Delegate, if appointed, shall not be a Trustee, but shall be a person with whom the Trustees may consult in terms of the concerns of the youth in the Membership. The Youth Delegate may be appointed by the Council immediately after the election of the Council, every two years or more frequently as Council sees fit, such that the term of the appointment will be determined by Council. The Trustees may pay a Youth Delegate appointed by Council an honorarium in such amount as the Trustees consider appropriate from time to time in their absolute discretion. Other than such an honorarium, if any, a Youth Delegate shall not receive compensation, but shall be entitled to be reimbursed for reasonable costs, charges and expenses which a Youth Delegate may properly incur in respect of this appointment.
- (b) The Council may appoint a delegate from the Members on the Membership List who shall be considered an elder at the time of such appointment. The Elder Delegate, if appointed, shall not be a Trustee, but shall be a person with whom the Trustees may consult in terms of the concerns of the elders in the Membership. The Elder Delegate may be appointed by the Council immediately after the election of the Council, every two years, or more frequently, as Council sees fit, such that the term of the appointment will be determined by Council. The Trustees may pay an Elder Delegate

appointed by Council an honorarium in such amount as the Trustees consider appropriate from time to time in their absolute discretion. Other than such an honorarium, if any, an Elder Delegate shall not receive compensation, but shall be entitled to be reimbursed for reasonable costs, charges and expenses which an Elder Delegate may properly incur in respect of this appointment.

24. **MEETINGS OF THE TRUSTEES**

- (a) The Trustees shall meet at least four (4) times in each Fiscal Year.
- (b) The Trustees shall hold their meetings on the Reserve whenever possible, provided that a meeting may be conducted by teleconference or other electronic form of communication which permits each Trustee in attendance to communicate with all other Trustees at the meeting.
- (c) The Elected Trustees and the Appointed Trustees shall be given notice in writing of the place, date and time of every meeting by the Corporate Trustee. Notice of such meetings shall be delivered, faxed or emailed to each of the Elected Trustees and the Appointed Trustees by the Corporate Trustee not less than seven (7) days prior to the date fixed for the meeting or shall be mailed to each Trustee not less than ten (10) days before the meeting is to take place, unless all Trustees agree to shorter notice and signify their agreement in writing.
- (d) No error or omission in giving notice for a meeting of the Trustees shall invalidate such a meeting or make void any proceedings taken or had at such meeting. Any Trustee may at any time waive notice of any such meeting and may ratify and approve of any or all of the proceedings of the Trustees.
- (e) Quorum means at least one of the Elected Trustees, at least one of the Appointed Trustees and the Corporate Trustee.
- (f) Decisions shall be made by motion and a majority of votes cast at the meeting shall be sufficient to pass a motion provided that there is quorum, provided that a majority shall include at least one of the Elected Trustees, at least one of the Appointed Trustees and the Corporate Trustee.
- (g) The Trustees may adopt any rules and regulations which they from time to time deem proper to govern their own procedure.

- (h) The Trustees may act either by a resolution passed by such a majority at a meeting, by telephone agreement of the majority followed by written confirmation signed by such majority or by an instrument in writing signed by such a majority, and any such decision or act of such a majority of the Trustees shall, for all purposes of this Deed, be deemed the decision or act of the Trustees. Every deed or instrument of every nature or description executed by such a majority of the Trustees shall be as valid, effectual and binding as if executed by all the Trustees.

25. TRUST ACCOUNT

- (a) The Trustees shall, concurrent with or prior to the deposit of the Compensation with the Financial Institution, cause to be opened at a Financial Institution, the Trust Account.
- (b) The Compensation deposited by Canada on behalf of the First Nation shall be deposited into the Trust Account.
- (c) All Trust Property from time to time in the Trust Account shall remain in the Trust Account and shall not be withdrawn except in accordance with this Deed.
- (d) Notwithstanding anything to the contrary hereinbefore contained, the Trust Property in the Trust Account thereon may be transferred to a substitute Financial Institution.

26. DISCLOSURE OF INTEREST OF TRUSTEES

- (a) If a Trustee has a financial interest, either direct or indirect, in a decision being made by the Trustees, including where a Trustee is a party to a contract or proposed contract of the Trustees, or is a director, officer or materially interested in or has close connection to any person who is a party to a material contract which the Trustees have executed or propose to execute, such Trustee shall disclose his interest. For greater certainty, the fact that an Appointed Trustee is also on Council shall not be deemed, in and of itself, to be a conflict of interest in respect of any decision being made by the Trustees.
- (b) The disclosure of interest described in sub-paragraph 26(a) shall be made:
 - (i) At the meeting at which a proposed contract is first considered by the Trustees;
 - (ii) If the Trustee was not interested in the proposed contract at the time of the first meeting, then at the first meeting after he becomes so interested;

- (iii) If the Trustee becomes interested in a contract after it is made, then at the first meeting after he becomes so interested;

and the interested Trustee shall refrain from voting thereon, and any decision made by the remaining Trustees shall be as effective as a decision of all of them. Such interested Trustee may execute any documents necessary to give effect to the decision of the other Trustees.

- (c) A Trustee who has an interest or interests as described above shall not take part in any discussions or deliberations concerning any such contract, however the Trustee may be present at the meeting for the purpose of establishing quorum but shall not participate in the meeting otherwise.
- (d) In the event that a disclosure of interest has been made in respect of a decision being made by the Trustees, for the purposes of such a decision, a majority of votes cast at the meeting shall be sufficient to pass a motion, whether or not the majority includes at least one of the Elected Trustees or at least one of the Appointed Trustees, provided that the majority includes the Corporate Trustee. Notwithstanding the foregoing, in the event that the Corporate Trustee is the only Trustee entitled to vote on a decision, the vote shall not pass.

27. MEMBER RESOLUTIONS

- (a) Where a Member Resolution is required for the purpose of electing the Elected Trustees, or filling a vacancy in the office of Elected Trustee, the Trustees shall make such rules from time to time as to nomination and election procedures, including notice periods, that they consider appropriate using as a guideline the *Indian Band Election Regulations*, CRC, c.952, as amended from time to time, with such changes made to the nomination and election procedures set out therein as the Trustees consider appropriate in their absolute and sole discretion from time to time. Notwithstanding the foregoing, in the event that, at any relevant time, the First Nation has established its own election code, then the Trustees shall use such code, as amended from time to time, as a guideline for the rules that the Trustees shall make from time to time in respect of the nomination and election procedures, including notice periods, with such changes made to such procedures set out in such code as the Trustees consider appropriate in their sole discretion. The Trustees' decision as to

what changes should be made to the procedures set out in the said Regulations or the said code, as applicable, shall be final and binding.

- (b) To the extent possible, in order to mitigate costs, meetings of Eligible Members, whether for the purpose of electing the Elected Trustees or for any other purpose, shall be held concurrently with Chief and Council elections.
- (c) Where a Member Resolution is required for any purpose other than for the purpose of electing the Elected Trustees or filling a vacancy in that office, the Trustees shall call a meeting of the Eligible Members by giving notice to the Eligible Members in accordance with sub-paragraph 27(d) hereof.
- (d) The notice referred to in sub-paragraph 27(c) shall:
 - (i) be in writing;
 - (ii) be posted in an area of the administrative offices of the First Nation to which the Members have access;
 - (iii) be posted at other times and in other locations as the Council and/or the Trustees determine appropriate with the objective of ensuring that to the extent possible all Eligible Members have notice of the meeting;
 - (iv) be posted at least 30 days in advance of the date of the meeting;
 - (v) in the case of those Eligible Members who do not reside on the Reserve and whose address is known only, be mailed to those Eligible Members, at least thirty (30) days prior to the meeting;
 - (vi) contain the following information:
 - (A) The date, time and place of the meeting;
 - (B) The purpose of the meeting, including a detailed description of the matters that will be considered at the meeting, which may include relevant background material pertaining to the matters in issue, to permit the Eligible Members to make an informed decision;
 - (C) Advice as to whether a vote will be taken at the meeting;
 - (D) In the case of an Eligible Member who does not reside on the Reserve and whose address is known only, information to allow the Eligible Member to vote by mail.

- (e) A meeting of the Eligible Members for any purpose except the election of Elected Trustees or the filling of a vacancy in that office, shall be held on the date and at the time and place and for the purposes set out in the notice, at which time and in the presence of a quorum of the Council and a quorum of the Trustees, voting shall be a poll of the Eligible Members conducted by the Trustees in attendance, by show of hands and following the count of votes, including any votes cast by mail, the Trustees shall announce the results, which shall be determined by a simple majority of votes cast.
- (f) No decision of the Eligible Members and no action of the Trustees taken on the basis of a Member Resolution shall fail on the grounds that a technical and non-substantial procedural breach of this sub-paragraph 27 has occurred which could not reasonably be inferred to have affected the outcome of the vote of the Eligible Members.
- (g) Notwithstanding the foregoing sub-paragraphs 27(c), 27(d) and 27(e), in the event that Chief and Council elections are being held, the notice containing the information in sub-paragraph 27(d)(vi) which is required pursuant to sub-paragraph 27(d)(v) to be mailed to Eligible Members who do not reside on the Reserve and whose address is known, can be mailed with any notice for such Chief and Council elections and only to those Members to whom notice is sent for such Chief and Council elections and the Member Resolution can be passed in whatever manner is consistent with the manner in which the Chief and Council are elected, in the sole and absolute discretion of the Trustees, which, once exercised, shall be final and binding.

28. **IRREVOCABLE TRUST**

Subject to the terms of this Deed, the trusts herein declared are and shall be irrevocable by the First Nation.

29. **TERM OF THE TRUST**

- (a) The Trust created by this Deed shall terminate on that date which is twenty (20) years after the date of death of the last surviving Member who is alive at the date that this Deed takes effect.
- (b) When Edkaagmik Nbiizh Neyaashiinigamiingninwag Edbendaagzijig Trust (Chippewas of Nawash Unceded First Nation Coldwater Trust) is terminated, the Trust Property, if any, then remaining, shall be transferred to the First Nation.

- (c) Within ninety (90) days of the termination of the Trust, the Trustees shall prepare a final report on the Trust's activities, purchases and financial dealings and shall present the report to Council, along with all records, books, account books and other documents of the Trust.

30. NOTICE

Whenever in this Deed it is required that notice be given or be served by any party to or on other parties, including any change of address, such notice shall be given or served in writing by delivering the notice personally or by prepaid registered mail to:

- (a) The First Nation (and its Chief and Council) at the following address:

Chief and Council:
Chief and Council
Chippewas of Nawash Unceded First Nation
R.R. #5
Wiarton ON N0H 2T0

FAX: (519) 534-2130

- (b) The Trustees at the following addresses:

The Bank of Nova Scotia Trust Company
44 Collier Street
2nd Floor
Barrie ON L4M 1G6

Michael Hills
Box 32 Southampton,
ON N0H 2L0

Geewadin Elliott
30 Bryghton Road
Barrie ON L4M 6S4

Cheryl Johnston
72 Community Centre Road
Neyaashiinigmiiing ON N0H 2T0

Paul Jones
6 Community Centre Road, RR5
Neyaashiinigmiiing ON N0H 2T0

31. **LAW OF ONTARIO**

This Deed shall be governed by and construed in accordance with the laws of the Province of Ontario, Canada and the parties agree that at all times the principal place of administration of the Trust created by this Deed shall be the Chippewas of Nawash Unceded First Nation Reserve.

IN WITNESS WHEREOF the First Nation, represented by its Council hereto, have hereunto executed this Trust Deed on the 16th day of October, 2012.

**THE CHIPPEWAS OF NAWASH UNCEDED FIRST NATION,
as represented by its Council**

Witness:

Aubright

Chief Scott Lee

Chief Scott Lee

Witness:

Aubright

Anne Marie Proulx

Anne Marie Proulx

Witness:

Aubright

Arlene Cheganno

Arlene Cheganno

Witness:

Aubright

Cheryl Johnston

Cheryl Johnston

Witness:

Aubright

Christopher P. Solomon Sr.

Christopher P. Solomon Sr.

Witness:

Aubright

Isabelle Millette

Isabelle Millette

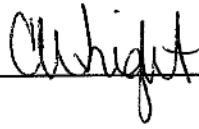
Witness:

Aubright

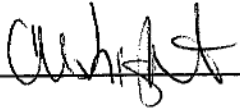
Kathy Jones

Kathy Jones

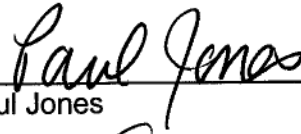
Witness:



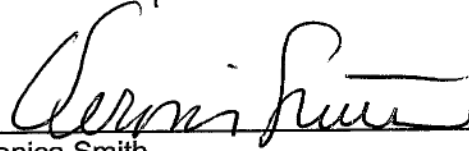
Witness:



Paul Jones



Veronica Smith



[SIGNATURES OF TRUSTEES TO FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF the Trustees have executed this Trust Agreement the 16th day of October, 2012.

Witness: <u> A. Wright </u>) <u> Michael Hills </u> Michael Hills Trustee
Witness: <u> A. Wright </u>) <u> Geewadin Elliott </u> Geewadin Elliott Trustee
Witness: <u> A. Wright </u>) <u> Cheryl Johnston </u> Cheryl Johnston Trustee
Witness: <u> A. Wright </u>) <u> Paul Jones </u> Paul Jones Trustee

THE BANK OF NOVA SCOTIA TRUST COMPANY

Per: [Signature]
Authorized Signatory

SCHEDULE "A"

AUTHORIZED INVESTMENTS

1. Debt instruments issued or guaranteed by the Government of Canada, or 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 any of the following chartered bank including bankers' acceptances:

Bank of Montreal;
Royal Bank of Canada;
CIBC;
TD Bank;
National Bank of Canada
Bank of Nova Scotia;

including mutual or pooled funds thereof investing in these debt instruments, all of which shall have a term not exceeding three years.

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.

3. Commercial paper issued by corporations rated R-1 or A-1 by the Dominion Bond Rating Services or Standard and Poor's Bond Rating Services including mutual or pooled funds investing in commercial paper, all of which shall have a term not exceeding three years.
4. Corporate Bonds rated A or better by the Dominion Bond Rating Services or Standard and Poor's Bond Rating Services including mutual or pooled funds thereof investing in these corporate bonds, all of which shall have a term not exceeding three years.

Upon the development and implementation of an Investment Policy, any investment that complies with the Prudent Investor/Prudent Portfolio Standard but not limited to common or preferred shares and any or all other debt or equity-like 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 needs for liquidity, regularity of income, and preservation or appreciation of capital;
7. An asset's special relationship or special value, if any, to the purpose of the trust or to one or more of the beneficiaries; and

Should the Investment Manager deem it in the best interests of The Chippewas of Nawash Unceded First Nation and the Edkaagmik Nbiizh Neyaashiinigamiingninwag Edbendaagzijig Trust (Chippewas of Nawash Unceded First Nation Coldwater Trust) to purchase or retain shares in a financial institution or its affiliates, the Client hereby authorizes this purchase of, or retention of shares notwithstanding any connection between the financial institution or its affiliates and the Trustee. The Trustee, its successors and assigns, are hereby released, discharged and indemnified, from any liability to which the Trustee may become subject to as a result of such authorization and direction to retain or purchase shares in a related financial institution or its affiliates. It is acknowledged that the Trustee shall not be held responsible for any loss resulting from the retention or purchase of such shares. The Trustee is authorized to charge fees as agreed in respect of these shares.

Trustee Services Agreement

Trust Services Fees

(fees exclude any fees for special trustee services in excess of that agreed to at inception as necessary and basic to the role of trustee, services associated with litigation, and other properly incurred expenses)

0.30% per annum on the first \$5 million
0.20% per annum on the next \$20 million
0.10% per annum on the next \$50 million
0.08% per annum on the balance

Special Services

The Bank of Nova Scotia Trust Company shall be entitled to retain and charge fees in accordance with its scale of fees for special services in effect from time to time and such fees are subject to review by the beneficiaries and/or a court of competent jurisdiction. Special services include, but are not limited to, engagement in litigation, and/or unusually complex aspects of the administration of the trust which could not be reasonably foreseen at inception or execution of the agreement.

All other Expenses

Compensation paid to The Bank of Nova Scotia Trust Company shall be exclusive of all legal costs and disbursements, agent's charges and other expenses properly incurred.

Signed at Neyaashiinigamiing on the 16 day of October, 2012.

Al Wright
Witness

Al Wright
Witness

Al Wright
Witness

Al Wright
Witness

Chief David Lee
Chief

Isabel Millette
Councillor

Cheryl Johnston
Councillor

Paul Jones
Councillor

Continued on page 2

Trustee Services Agreement

Continued from page 1

Witness

Witness

Witness

Witness

Witness

Witness

Witness

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

The Bank of Nova Scotia Trust Company

