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Article 5

5.0 INTEGRATED LAND USE AND RESOURCE MANAGEMENT

5.1 INTRODUCTION

5.1.1 Introduction

This Article provides for the designation of the Resource Management Area and the establishment of the Resource Management Area Board.

5.2 THE SPLIT LAKE RESOURCE MANAGEMENT AREA

5.2.1 Designation of Area

Integrated Land Use and Resource Management is to be achieved by the coordinated application of Manitoba and Split Lake Cree authority, and to this end Manitoba and Split Lake Cree shall each, within their respective authority and powers, take the necessary steps to designate the land areas described and shown in [Schedule 5.1](#) of this Agreement, and the waters lying within the identified areas, as part of the Resource Management Area for the purposes of Integrated Land Use and Resource Management.

5.2.2 Amendment of Area

The lands and waters which are included in the Resource Management Area may be amended, from time to time, by agreement between Manitoba and Split Lake Cree.

5.2.3 Restriction

Notwithstanding subsections 5.2.1 and 5.2.2 of this Article, there shall be no restrictions or impediments imposed by this Agreement with respect to any lands held, acquired, to be acquired, or expropriated by, or transferred or transferrable to Canada, other than Reserve Lands; nor to any interest in or use of lands required by Manitoba or Canada for the purposes of fulfilling obligations to which the provisions of any one or more of Section 11 of the Manitoba Natural Resources Transfer Agreement, 1930, Section 35 of the Constitution Act, 1982, Section 35 of the Indian Act (Canada), the NFA or Treaty No. 5 apply.

5.3 THE SPLIT LAKE RESOURCE MANAGEMENT BOARD

5.3.1 Establishment of Board

Manitoba and Split Lake Cree shall each, within ninety (90) days of the Date of this Agreement, appoint five (5) members to constitute the Resource Management Area Board (the "Board"). Manitoba agrees with Hydro that one (1) of its appointees may be selected in consultation with Hydro. Manitoba and Split Lake Cree agree to participate in the Board in such a fashion as to implement Integrated Land Use and Resource Management and to accommodate the interests of Split Lake Cree and Manitoba, in the Resource Management Area. By agreement between Manitoba and Split Lake Cree, which agreement shall not be unreasonably withheld, the number of appointees may be increased to accommodate representation of interests in the Resource Management Area, provided that there will always be an equal number of appointees by Manitoba and Split Lake Cree.

5.3.2 Selection of Chair

The members of the Board shall select a chair from among the members, and establish rules and procedures for the conduct of the business of the Board. The member selected as chair shall continue to have a vote as a member but shall have no additional or deciding vote as the chair.

5.3.3 Quorum

A quorum of the Board shall be a majority of the members, including at least three (3) appointees of each of Manitoba and Split Lake Cree.

5.3.4 Annual Program and Budget

The Board shall prepare annual programs and budgets, subject to review and approval by the Minister and Chief and Council. Such programs and budgets will be prepared in accordance with guidelines determined by the Board, in consultation with the Minister and Chief and Council, and may include anticipated requirements for:

a)	staff, facilities, equipment and administration;
b)	public meetings, consultations and hearings;
c)	research, publications and public education;
d)	technical assistance; and,
e)	other programs or activities as deemed necessary by the Board for the purposes of this Article.

5.3.5 Technical Support

Technical support and programs for land use planning and natural resource management, available from Manitoba, will be made available to, and coordinated with programs of the Board, without charge, except in those instances where a set fee or charge has been established, in which case the set fee or charge will be levied unless otherwise agreed by Manitoba.

5.3.6 Sharing of Costs

Manitoba and Split Lake Cree will pay the costs incurred by each in support of their members on the Board. Other costs to be incurred will be shared by Manitoba and Split Lake Cree in a proportion to be determined jointly at the time of the review and approval of the annual program and budget under subsection 5.3.4 of this Article. For this purpose, Chief and Council shall have the authority to request money from Accounts or Reserve Accounts established pursuant to the Indenture, consistent with the Appropriate Uses, Article 10 of this Agreement, and Article 11 of the Indenture.

5.3.7 Fiscal Year

The fiscal year of the Board will correspond with the fiscal year of Manitoba.

5.3.8 Annual Report

The Board shall produce and provide to the Minister and Chief and Council an annual report of its activities, within three (3) months of the end of each fiscal year.

5.4 POWERS AND PURPOSES OF THE BOARD

5.4.1 Powers

In order to promote Integrated Land Use and Resource Management, the Board may:

a)	assess the appropriate consumptive and non-consumptive uses and enjoyment of the lands and resources within the Resource Management Area;
b)	monitor the actual uses of the lands and resources within the Resource Management Area, and the extent of compliance with authorized uses;
c)	consider what processes would be suitable for varying any authorized uses, and recommend the terms and conditions under which such variances may be allowed;
d)	investigate the nature and extent of Fish and Wildlife populations and their habitat;
e)	identify areas of significant Fish and Wildlife and the measures which would preserve and enhance such areas, including land use plans, zoning, water control schemes and monitoring procedures;
f)	consider what quotas, limits and harvesting practices would be appropriate for domestic, commercial and recreational use of renewable resources, consistent with

	aboriginal rights and requirements;
g)	view specific plans for forest, land and water management, the harvesting of resources, the extraction of minerals and commercial ventures associated with such endeavours, including tourism;
h)	hold such public meetings and consultations and conduct or participate in research, meetings or hearings as will promote the goals of sustainable economic development and resource management practices in the Resource Management Area;
i)	identify areas of ecological, cultural and historical significance; and,
j)	prepare a communication and information strategy.

5.4.2 No Sharing of Revenues

The powers and purposes of the Board do not extend to or include consideration of royalties, revenues, income or other payments derived from or attributable to resources, including minerals. Nothing in this Article entitles Split Lake Cree to share in any royalties, revenues, income or other payments derived from or attributable to resources, including minerals, situate in, on or under lands within the jurisdiction of Manitoba. Nothing in this Article entitles Manitoba to share in any royalties, revenues, income or other payments derived from or attributable to resources, including minerals, situate in, on or under lands within the jurisdiction of Split Lake Cree.

5.5 LAND USE PLANNING

5.5.1 Land Use Plans

The Board shall develop and recommend any one or more of a Basic Planning Statement, a Development Plan and(or) other land use plan for the Resource Management Area, or any part thereof, for the purpose of determining and guiding development policies and decisions. Any such statement or plan may include provisions:

a)	for the zoning of lands and waters for purposes of establishing and regulating activities thereon;
b)	for the preservation, protection and management of Fish and Wildlife, including the regulation of habitat for such purposes;
c)	for policies under which any Trapper or Commercial Fisherman may exercise the right to utilize unoccupied provincial Crown land within the Resource Management Area, to construct and(or) personally occupy a cabin or shelter for purposes of trapping within a Registered Trapline, commercial fishing or hunting, without first obtaining a land use permit, and the means by which such uses shall be recorded for administrative purposes;
d)	dealing with any matter arising out of, or ancillary to, the above matters; and,
e)	giving a role to the Board in the administration of the statement or plan.

5.5.2 Application of Plans

Statements or plans for the Resource Management Area shall not apply to any land or water not included in the Resource Management Area and, further, shall not apply to lands or waters within the boundaries of a Municipality, where such Municipality has adopted a Development Plan or Basic Planning Statement under **The Planning Act** (Manitoba). Provided that, if a boundary of a Municipality is created or altered so as to include any lands or waters subject to any plan or statement developed in accordance with this Article, such plan or statement shall continue to apply until a Development Plan or Basic Planning Statement adopted by the Municipality is approved for the lands and waters affected. Statements or

plans for the Resource Management Area shall not apply to lands or waters within the boundaries of a Community. If a Community boundary is created or altered so as to include any portion of the Resource Management Area, any statement or plan developed in accordance with this Article shall not apply.

5.6 RESOURCE MANAGEMENT PLANNING

5.6.1 Resource Management Plans

Manitoba and Split Lake Cree recognize that aboriginal people, including Split Lake Cree, have priority rights to the harvesting of Fish and Wildlife resources within the Resource Management Area, based on their rights recognized and affirmed by Section 35 of the Constitution Act, 1982. In section 15.1 of the NFA, Manitoba agreed, as a matter of policy, subject to certain limitations, to grant to Split Lake Cree priority rights to those wildlife resources in the Resource Management Area traditionally available to and used by Split Lake Cree as a source of food supply, income-in-kind and income. Split Lake Cree and Manitoba recognize that, subject to the rights of aboriginal people, and subject to resource management plans in force, other individuals shall be able to hunt, trap and(or) fish in the Resource Management Area. Manitoba and Split Lake Cree recognize that provisions for conservation, management and protection of the Fish and Wildlife resources in the Resource Management Area will be necessary. Actions under this Article, by the Board, Chief and Council, and the Minister, shall be consistent with the rights of Split Lake Cree, and other aboriginal people, the rights of other individuals, and the need for the conservation, management and protection of the Fish and Wildlife resources in the Resource Management Area.

5.6.2 Development of Resource Management Plans

The Board shall develop and recommend resource management plans for the Resource Management Area, or any part thereof.

5.6.3 Scope of Resource Management Plans

Resource management plans, developed and recommended by the Board, may deal with:

a)	Fish and Wildlife population goals;
b)	total allowable harvesting levels;
c)	species enhancement;
d)	habitat protection and enhancement;
e)	methods of harvesting;
f)	health and safety considerations;
g)	preservation, treatment, packaging or marketing of renewable resources;
h)	procedures for the assignment or reassignment of new, vacant or under-utilized traplines, fishery quotas and wild rice leases;
i)	domestic harvesting needs and priorities;
j)	leases, permits or quotas required for commercial and subsistence harvesting of renewable and non-renewable resources, including timber;
k)	enforcement considerations;
l)	conflicting uses of land;
m)	establishing criteria for the protection of Fish and Wildlife and their habitat in connection with forest and mineral developments;
n)	protection of particular species, and, in particular, rare, threatened and endangered species;

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| o) | facilitating commercial uses, including tourism and sports fishing; and, |
| p) | protection of areas of ecological, cultural or historical significance. |

5.6.4 Application of Plans

Resource management plans established in accordance with this Article shall cover any part of the Resource Management Area to the extent that they are reasonably determined not to be in conflict with any Development Plan or Basic Planning Statement in effect within a boundary of a Municipality or Community.

5.6.5 Amendment of Plans

The Board may, in respect to a resource management plan, or any other measure, policy or practice in effect in the Resource Management Area, submit for the consideration of the Minister and(or) Chief and Council, a resolution of the Board relating to any matter in subsection 5.6.3 of this Article, recommending an amendment of a plan, policy or practice which, in the opinion of the Board, is necessary for the administration and protection of resources in the Resource Management Area. Such resolutions shall be considered and dealt with in accordance with [section 5.8](#) of this Article.

5.7 CONSULTATION, ASSISTANCE AND DISCLOSURE

5.7.1 Public Meetings

In the course of the development or substantial revision of a Development Plan, Basic Planning Statement, other land use plan, and (or) resource management plan, the Board shall hold public meetings to receive comments and submissions. The Board may provide information to interested parties, and to persons attending the public meetings, to allow for informed discussion and comment on the issues being considered by the Board. In particular, in regard to resource management plans or resolutions respecting renewable resources, the Board shall hold public meetings or otherwise consult with the fur councils, fishermen's associations, and other resource users active in the Resource Management Area.

5.7.2 Provision of Information

Manitoba and Split Lake Cree will, upon request, provide the Board with any information within their control which would assist the Board to properly carry out its responsibilities, provided such information is not privileged, or restricted by commercial confidentiality. Where a set fee or charge has been established for the provision of information, that set fee or charge will be levied, unless otherwise agreed by the Party from which the information is requested.

5.7.3 Assistance to the Board

The Minister shall, on request, provide assistance to the Board as to the application of existing provincial statutes, regulations and policies governing the management, use and harvesting of the lands and resources, including Fish and Wildlife, in the Resource Management Area, and such additional assistance as may be required by the Board, including prior consultation, review and advice on drafting of such resolutions as may be deemed appropriate by the Board, but such assistance or additional assistance shall not in any way imply or ensure approval by Manitoba.

5.8 APPROVAL OF PLANS AND STATEMENTS

5.8.1 Approval

Any Basic Planning Statement, Development Plan, land use plan, resource management plan or resolution developed by the Board shall be forwarded to:

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| a) | the Minister; and, |
| b) | Chief and Council; |

for approval, enactment, or other appropriate action, consistent with the respective authority and powers of Manitoba and Split Lake Cree.

5.8.2 Rejection

If the Minister (or other appropriate provincial authority), or Chief and Council are unwilling, or unable, to approve a statement, plan or resolution of the Board, the Minister or Chief and Council will, within sixty (60) days of the receipt of the statement, plan or resolution, refer the matter to the Board for further consideration, with written reasons for the rejection.

5.8.3 Resubmission by the Board

The Board may, within thirty (30) days of receipt of notice under subsection 5.8.2 of this Article, forward to the Minister and Chief and Council, a decision of the Board:

a)	revising the statement, plan or resolution;
b)	submitting the statement, plan or resolution for reconsideration with such additional information as the Board may deem relevant; or,
c)	withdrawing the statement, plan or resolution.

5.8.4 Final Decision

The Minister (or other appropriate provincial authority), and Chief and Council shall, within sixty (60) days of a submission by the Board under paragraphs 5.8.3 (a) or (b) of this Article, advise the Board of their final decision in respect to the matter in question.

5.8.5 Extensions

Time limits set forth in this section may be extended by agreement of Split Lake Cree, Manitoba and the Board.

5.8.6 Withdrawal of Plans

In the absence of approval by both the Minister (or other appropriate provincial authority), and Chief and Council, pursuant to section 5.8 of this Article, any Basic Planning Statement, Development Plan, land use plan, resource management plan or resolution developed by the Board shall be withdrawn and have no force or effect.

5.8.7 Amendments

Any Basic Planning Statement, Development Plan, land use plan or resource management plan may be amended, as it relates to lands within the jurisdiction of Manitoba, by the Minister (or other appropriate provincial authority) with notice to but with or without the approval of Chief and Council, and as it relates to lands within the jurisdiction of Split Lake Cree, by Chief and Council, with notice to but with or without the approval of Manitoba, provided that prior to such amendment being made, the proposed amendment shall be submitted to the Board for its consideration and recommendation. Recommendations by the Board, if any, shall be made within sixty (60) days of its receipt of the proposed amendment and the Board shall not be bound by section 5.7 of this Article in its consideration of such proposed amendment. If any recommendation by the Board is not followed by the Minister (or other appropriate provincial authority) as it relates to lands within the jurisdiction of Manitoba, or by Chief and Council as it relates to lands within the jurisdiction of Split Lake Cree, then the Minister (or other appropriate provincial authority) or Chief and Council shall, prior to implementing the amendment, provide written reasons for rejecting the recommendation of the Board.

5.8.8 No Derogation

The approval processes set forth in section 5.8 of this Article, do not derogate from the authority of Split Lake Cree and Manitoba with regard to the lands and resources in their respective jurisdictions.

[Article 5.7](#)

5.9 INTERIM MANAGEMENT

5.9.1 Resource Allocations

Pending approval of any Basic Planning Statement, Development Plan, land use plan or resource management plan, Manitoba and Split Lake Cree shall refer to the Board requests for resource allocations, including any applications for land use permits, under consideration by Manitoba or Split Lake Cree, with respect to lands and resources within the Resource Management Area. The Board may, within forty-five (45) days of referral, submit resolutions with respect to such allocations or land uses in accordance with section 5.8 of this Article. In the absence of a resolution being submitted within the time provided, Manitoba may process the said applications for land use permits, and Manitoba and Split Lake Cree may act upon requests for resource allocations within their respective jurisdictions. Requests for resource allocations or applications for land use permits received prior to the establishment of the Board will be deferred pending it being established, and then referred to the Board.

5.10 GENERAL

5.10.1 Ownership of Resources

Nothing in this Article is intended to confer rights of ownership in Fish and Wildlife or other resources.

5.10.2 Access to Lands

Nothing in this Article will be so construed as to prevent or hinder the entry of any person on provincial Crown lands within the Resource Management Area for any lawful purpose.

5.10.3 Releases to Manitoba

The NFA, by virtue of its Articles 3, 4 and 15, makes provision for the establishment of additional reserve lands, hold areas, resource areas and Band consultation in the management of resources. [Articles 3](#), [Articles 4](#) and [5](#) of this Agreement satisfy Manitoba's obligations under Articles 3, 4 and 15 of the NFA, and Split Lake Cree hereby releases and forever discharges Manitoba, of and from any and all actions, causes of action, suits, claims, demands, losses or damages of any nature or kind whatsoever, at law or in equity, which Split Lake Cree, its successors, or assigns, have had, now have or hereafter can, shall or may have, for, or by reason of, any cause, matter or thing whatsoever up to the Date of this Agreement, or at any future time, attributable, in whole or in part, to or arising out of Articles 3, 4 and 15 of the NFA. Split Lake Cree covenants and agrees not to commence or prosecute any action, claim, demand, or proceeding on its own behalf or on behalf of any Member, Split Lake Cree Based Business, or Controlled Institution, on account of or in relation to any such matters.

5.10.4 Releases to Canada

Split Lake Cree releases and discharges Canada from any claims and demands, whatsoever, including claims, if any, of a fiduciary character, which may arise in respect of Canada's obligations to Split Lake Cree for anything done or omitted to be done by Canada to the Date of this Agreement in relation to the matters dealt with in this Article.

5.10.5 Extent of Authority under the Indian Act

Canada gives no warranty as to the existence or extent of the authority of Split Lake Cree under the Indian Act (Canada), in relation to the various subjects on which the Board may make recommendations for actions by Chief and Council. Nothing in this Article alters any statutory requirements for approval or action by Canada, of any action to be taken or thing to be done by Split Lake Cree or Chief and Council pursuant to this Article.

5.10.6 Limit of Powers

Nothing in this Article is intended to contemplate the exercise of power under federal statutes or regulations other than the Indian Act (Canada) or other authorities exercisable by Split Lake Cree.

5.10.7 Jurisdictional Authority

Nothing in this Article shall derogate from the authority of Split Lake Cree, Manitoba, or Canada with regard to the lands and resources in their respective jurisdictions.

SCHEDULE 5.1

THE SPLIT LAKE RESOURCE MANAGEMENT AREA

All lands and waters within the Split Lake Trapline Zone, as shown on Plan 5.1, are included within the Split Lake Resource Management Area with the exception of:

1)	Trapline #13 which has been allocated by Split Lake Cree to the York Factory Indian Band;
2)	The reserve of the York Factory Indian Band;
3)	The reserves of the Fox Lake Indian Band;
4)	Lands within a Municipality or Community designated or occupied, from time to time, for residential, commercial, industrial or associated purposes;
5)	Areas of Reserve Lands designated or occupied, from time to time, for residential, commercial, industrial or associated purposes.

[Article 3.5](#)
[Article 4.6.3](#)
[Article 5.2.1](#)
[Article 6](#)
[Article 6.2.4](#)
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