

THIS TRUST AGREEMENT is made this ____ day of _____, 200__.

BETWEEN:

PEGUIS FIRST NATION
as represented by its Chief and Council
(referred to as "*Peguis*")

- and -

(referred to as the "*Financial Trustees*")

and

(referred to as the "*Community Fund Trustees*")

WHEREAS:

- A. Peguis submitted a claim to Her Majesty the Queen in right of Canada (referred to as "*Canada*") under Canada's Specific Claims Policy with respect to the purported surrender by Peguis, on or about September 24, 1907, of its rights and interests in the land referred to as the St. Peter's Reserve;
- B. Peguis and Canada have entered into a Settlement Agreement (as defined in this Agreement) in order to settle the claim submitted by Peguis to Canada;
- C. Under the Settlement Agreement, Canada has agreed to pay the Total Amount (as defined in this Agreement) to Peguis;

- D. Under the Settlement Agreement, Peguis has agreed to establish a trust (referred to as the "*Trust*") to receive, invest, manage and administer the balance of the Total Amount remaining after the deduction set out in Section 2.8 of the Settlement Agreement, and to administer other monies, securities, property and assets which may be contributed to the Trust from time to time, all for the benefit of Peguis, in accordance with the provisions of this Agreement;
- E. The Initial Trustees have agreed that the Financial Trustees shall have custody of and legal title to the Trust Property, and shall administer the Trust Property in accordance with the provisions of this Agreement;
- F. The Initial Trustees have agreed that the Community Fund Trustees shall determine and direct the application of the Trust Property by providing the Financial Trustees with a Funding Direction in accordance with the provisions of this Agreement; and
- G. The Financial Trustees have agreed to hold the Trust Property upon the terms and subject to the conditions set out in this Agreement for the benefit of Peguis.

THEREFORE Peguis, in its capacity as settlor (referred to as the "*Settlor*") of the Trust, hereby transfers the sum of one hundred (\$100.00) dollars to the Initial Trustees. The transferred sum and any other Trust Property shall be held in trust and administered in accordance with the provisions of this Agreement. Peguis and the Trustees agree with each other as follows:

1. DEFINITIONS

In this Agreement, including the recitals, unless the context otherwise requires, the following terms shall have the following meanings:

- 1.1 **"Beneficiary"** means Peguis, also known as the "Peguis Band," a "band" within the meaning of the *Indian Act*;
- 1.2 **"Chief"** means the chief of Peguis from time to time;

- 1.3 **"Community Fund Trustees"** initially means the members of Council appointed in their personal capacity, being _____, _____, _____, _____, and _____, and thereafter any individual elected or appointed to fill a vacancy in the office of the Community Fund Trustees and who has executed a consent and acknowledgement, as set forth in Schedule "C" to this Agreement, in accordance with the provisions of Article 9, and "*Community Fund Trustee*" means any one of the Community Fund Trustees;
- 1.4 **"Community Purposes"** means those objects and purposes more particularly described in Paragraph 8.2(b);
- 1.5 **"Council"** means that body comprised of the Chief and the Councillors of Peguis from time to time;
- 1.6 **"Council Resolution"** means a resolution passed by a majority decision of the Council at a duly convened meeting of the Council;
- 1.7 **"Councillors"** means the elected members of Council, and "*Councillor*" means any one of the Councillors;
- 1.8 **"Corporate Trustee"** means a trust company organized and doing business under the laws of Canada or any province of Canada, authorized to exercise corporate trust powers, having a combined capital and surplus of at least ten million (\$10,000,000.00) dollars, and subject to supervision or examination by federal or provincial authorities;
- 1.9 **"Date of Certification"** means the date the Certification referred to in Paragraph 8.4(a) is executed by the Council;
- 1.10 **"Eligible Investments"** means:
- (a) debt instruments issued or guaranteed by the Government of Canada, a Province of Canada, or a municipality of Canada, or

mutual or pooled funds, all such instruments to have a rating of not less than A by the Dominion Bond Rating Service;

- (b) debt instruments issued or guaranteed by a chartered bank (being those listed on Schedule 1 of the *Bank Act*, S.C. 1991, c. 46, as amended), including bankers' acceptances and mutual or pooled funds, all such instruments to have a rating of not less than A by the Dominion Bond Rating Service;
- (c) mortgage-backed securities guaranteed by the Government of Canada, an agency of the Government of Canada, a Province of Canada, or a chartered bank, including mutual or pooled funds;
- (d) commercial paper issued by corporations rated A or better by the Dominion Bond Rating Service or Canadian Bond Rating Services, including mutual or pooled funds;
- (e) corporate Bonds rated A or better by the Dominion Bond Rating Service or Canadian Bond Rating Services, including mutual or pooled funds;
- (f) convertible debentures rated BBB or better by the Dominion Bond Rating Service or Canadian Bond Rating Services up to ten (10%) percent of the market value of the equity position of the portfolio, or two and one-half (2.5%) percent of the market value of the entire portfolio;
- (g) preferred shares and convertible preferred shares rated P2 or better by the Dominion Bond Rating Service or Canadian Bond Rating Services up to a maximum of two and one-half (2.5%) percent of the market value of the entire portfolio;
- (h) equity securities up to a maximum of thirty (30%) percent of the market value of the entire portfolio, including common shares,

instalment receipts, American Depositary Receipts (referred to as "ADRs"), and share purchase warrants of a corporation listed on a recognized major global stock exchange. Equity securities may include mutual funds, income trusts, pooled funds or equities managed on a discretionary basis by a professional money manager. Equities may also include hedging strategies provided they are a fund of funds, market neutral or seek to provide through their investment process a risk reduction to the portfolio by applying hedging strategies; and

- (i) other high yield debt instruments, provided such securities are managed by a professional financial manager and comprise no more than ten (10%) percent of the market value of the fixed income portion of the portfolio. High yield debt may also include hedging strategies provided they are a fund of funds, market neutral or seek to provide through their investment process a risk reduction to the portfolio by applying hedging strategies.

For further clarity, the market value of all equities referred to in Paragraph 1.10(h) including equity securities, income trusts, common shares, instalment receipts, common share purchase warrants, ADRs, including mutual or pooled funds acquired by the Financial Trustees should not, at any time, exceed thirty (30%) percent of the market value of all securities and cash which comprise the total portfolio of the Trust Property. In order to maintain the investment objectives of the Trust, the need for re-balancing the portfolio shall be reviewed every six (6) months (on or about each of June 15 and December 15) of each calendar year. If it is determined upon review that the market value of the securities, as described in Paragraph 1.10(h), are thirty-five (35%) percent or greater of the market value of all securities and cash which comprise the total portfolio of the Trust Property, the portfolio shall be re-balanced to the objectives of the Trust with the result that the market value of securities as

described in Paragraph 1.10(h) do not exceed thirty (30%) percent of the market value of all securities and cash which comprise the total portfolio of the Trust Property.

Within the guidelines set out in this Section 1.10, the amount of Trust Property to be invested in each of the various authorized investments, the asset mix policy, and other conditions governing these investments, shall be set out in an investment policy established by the Financial Trustees;

1.11 **"Expenditures Beneficial to the Beneficiary"** means applications of the Trust Property by the Financial Trustees to or for the benefit of the Beneficiary for Community Purposes in accordance with the general principles, specific guidelines and restrictions contained in Article 8 of this Agreement, which have been authorized as follows:

- (a) in the case of proposed applications of the Trust Property for amounts less than seventy-five thousand (\$75,000.00) dollars, by approval of the Community Fund Trustees obtained by Ordinary Resolution;
- (b) in the case of proposed applications of the Trust Property for amounts of seventy-five thousand (\$75,000.00) dollars or more, but less than two hundred and fifty thousand (\$250,000.00) dollars:
 - (i) by recommendation of the Community Fund Trustees made by Ordinary Resolution; and
 - (ii) by Council's approval of such recommendation obtained by Council Resolution; and
- (c) in the case of proposed applications of the Trust Property for amounts of two hundred and fifty thousand (\$250,000.00) dollars or more:

- (i) by recommendation of the Community Fund Trustees made by Ordinary Resolution;
- (ii) by Council's approval of such recommendation obtained by Council Resolution; and
- (iii) by the Members' approval of such recommendation made by Ordinary Resolution;

1.12 **"Financial Trustees"** initially means the members of Council appointed in their personal capacity, being, _____, _____, _____, _____ and _____, and thereafter any individual or trust company elected or appointed to fill a vacancy in the office of the Financial Trustee and who has executed a consent and acknowledgement, as set forth in Schedule "C" to this Agreement, in accordance with the provisions of Article 9, and "*Financial Trustee*" means any one of the Financial Trustees;

1.13 **"Funding Direction"** means a written direction from the Community Fund Trustees in respect of Expenditures Beneficial to the Beneficiary, delivered to the Financial Trustees, for a distribution of funds from the Trust Property, which comprises the following information and documentation:

- (a) a written description providing sufficient details, to the satisfaction of the Financial Trustees, of the Expenditures Beneficial to the Beneficiary, in respect of which the proposed distribution will be applied;
- (b) a written description providing sufficient details, to the satisfaction of the Financial Trustees, of the manner in which the funds will be applied, including when and to whom funds will be paid, the anticipated completion date of any project to which the funds will be applied, the amount and source of other funds which will be applied in respect of the same matter, a description of any charges or

security arrangements which may arise in respect of any project to which the funds may be applied;

- (c) in the case of proposed applications of the Trust Property for amounts less than seventy-five thousand (\$75,000.00) dollars, a copy of the Ordinary Resolution by the Community Fund Trustees approving the Expenditures Beneficial to the Beneficiary;
- (d) in the case of proposed applications of the Trust Property for amounts of seventy-five thousand (\$75,000.00) dollars or more, but less than two hundred and fifty thousand (\$250,000.00) dollars:
 - (i) a copy of the Ordinary Resolution by the Community Fund Trustees recommending the Expenditures Beneficial to the Beneficiary; and
 - (ii) a copy of the Council Resolution approving the Expenditures Beneficial to the Beneficiary as recommended by the Community Fund Trustees;
- (e) in the case of proposed applications of the Trust Property for amounts of two hundred and fifty thousand (\$250,000.00) dollars or more:
 - (i) a copy of the Ordinary Resolution by the Community Fund Trustees recommending the Expenditures Beneficial to the Beneficiary;
 - (ii) a copy of the Council Resolution approving the Expenditures Beneficial to the Beneficiary as recommended by the Community Fund Trustees; and
 - (ii) a copy of the Ordinary Resolution of the Members approving the Expenditure Beneficial to the Beneficiary as

recommended by the Community Fund Trustees and approved by Council; and

- (f) in the event security arrangements must be implemented in connection with the proposed expenditure, the name of the lawyer or firm to whom funds will be paid in connection with the completion of those security arrangements;

- 1.14 **"Income"** means, for each Taxation Year of the Trust, the income or loss of the Trust for such year computed in accordance with the provisions of the *Income Tax Act* (other than subsections 75(2) and 104(6) of the *Income Tax Act*) regarding the calculation of income for the purposes of determining the "taxable income" of the Trust and shall, for greater certainty, include taxable capital gains, net of allowable capital losses, and any notional or deemed amounts required to be included in computing the taxable income of the Trust, but shall exclude capital dividends and the non-taxable portion of capital gains;
- 1.15 **"Income Tax Act"** means the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supplement) and its regulations, both as amended from time to time, and any legislation enacted in substitution for the *Income Tax Act* and its regulations;
- 1.16 **"Indian Act"** means the *Indian Act*, R.S.C. 1985, c. I-5 and its regulations, both as amended from time to time, and any legislation enacted in substitution for the *Indian Act* and its regulations;
- 1.17 **"Indian Referendum Regulations"** means the *Indian Referendum Regulations*, C.R.C. 1978, c.957, as am. SOR/94-369 and SOR/2000-392, as amended or replaced from time to time;
- 1.18 **"Initial Trustees"** means the Financial Trustees and the Community Fund Trustees first named at the beginning of this Agreement, and *"Initial Trustee"* means any one of the Initial Trustees;

1.19 **"Member"** means an individual whose name appears on the "band list," as defined in the *Indian Act*, of Peguis, whether or not the individual is ordinarily resident on any Reserve, and **"Members"** means more than one Member;

1.20 **"Ordinary Resolution"** means:

- (a) in respect of Community Fund Trustees, a resolution passed by at least three (3) Community Fund Trustees who voted in respect of that resolution at a duly convened meeting of Community Fund Trustees, or a written resolution signed by all the Community Fund Trustees entitled to vote on the resolution;
- (b) in respect of Financial Trustees, a resolution passed by at least four (4) Financial Trustees who voted in respect of that resolution at a duly convened meeting of Financial Trustees, or a written resolution signed by all the Financial Trustees entitled to vote on the resolution;
- (c) in respect of Members, a resolution passed by a majority of the votes cast by Members eligible to vote in respect of that resolution at a general meeting of Members called and held in accordance with Section 12.2; and
- (d) in respect of the Trustee Nominating Committee, a resolution passed by at least four (4) members of the Trustee Nominating Committee who voted in respect of that resolution at a meeting of the Trustee Nominating Committee held upon fifteen (15) days' written notice of the meeting specifying the place, date and time of the meeting, unless all members of the Trustee Nominating Committee agree to such shorter notice in writing of the meeting or waive such notice in writing of the meeting, or a written resolution

signed by all the members of the Trustee Nominating Committee entitled to vote on the resolution;

- 1.21 **"Per Capita Distribution"** means the distribution of funds out of the capital of the Trust Property made to the Beneficiary for the purpose of enabling the Beneficiary to make a distribution to Qualified Members, if any, in accordance with the provisions contained in Paragraph 8.2(a) and Section 8.4;
- 1.22 **"Person"** means and includes any individual, corporation (including a Crown Corporation), partnership, firm, joint venture, association, organization, foundation, trust, government or governmental authority of any jurisdiction whatsoever (whether federal, provincial, municipal or foreign) or First Nation (other than Peguis), and their respective heirs, successors, legal representatives and permitted assigns;
- 1.23 **"Primary Income for a Taxation Year of the Trust"** means such part of the Income for a Taxation Year of the Trust which arises from property received by the Trust from Peguis, including the sum of one hundred (\$100.00) dollars received by the Initial Trustees to initially settle the Trust and the balance of the Total Amount deposited by Canada, at the direction of Peguis, in the Trust pursuant to the Settlement Agreement, or from any property substituted for that property, which is attributed to the Beneficiary pursuant to the application of Subsection 75(2) of the *Income Tax Act*, or any other provision of the *Income Tax Act*, such that the Income so attributed is deemed to be income of the Beneficiary and not income of the Trust for purposes of the *Income Tax Act*;
- 1.24 **"Promissory Note"** has the meaning ascribed to such term under Clause 8.5(b)(i)(B), and **"Promissory Notes"** means more than one Promissory Note;

- 1.25 **"Qualified Member"** means a Member who was born on or before the Date of Certification and who is living, or is expected to be living, on the last day of the calendar year of the Date of Certification, and *"Qualified Members"* means more than one Qualified Member;
- 1.26 **"Reserve"** shall mean the Peguis Indian Reserve #1B, any land added to that Reserve from time to time, and any other land that has been or may be set apart as "reserve" as defined in the *Indian Act* for the use and benefit of Peguis from time to time;
- 1.27 **"Secondary Income for a Taxation Year of the Trust"** means Income for a Taxation Year of the Trust other than Primary Income for a Taxation Year of the Trust;
- 1.28 **"Settlement Agreement"** means that certain settlement agreement dealing with the claim submitted by Peguis to Canada under Canada's Specific Claims Policy relating to the purported surrender by Peguis, on or about September 24, 1907, of its rights and interests in the land referred to as the St. Peter's Reserve, to be entered into and made between Peguis and Canada, pursuant to which, among other things, Canada will be required to pay the Total Amount to Peguis;
- 1.29 **"Taxation Year of the Trust"** means a calendar year, unless the fiscal period in respect of which the Trust is required annually to compute its income for Canadian federal income tax purposes changes, in which event the new fiscal period shall become the Taxation Year of the Trust;
- 1.30 **"Total Amount"** means the aggregate payments to be made by Canada to Peguis totaling one hundred and twenty-six million one hundred and three thousand eight hundred and three (\$126,103,803.00) dollars in accordance with Article 2 of the Settlement Agreement;
- 1.31 **"Trust Property"** means all monies at any time on deposit in the Trust and, without limitation, includes:

- (a) the sum of one hundred (\$100.00) dollars received by the Initial Trustees to settle the Trust;
- (b) the portion of the Total Amount deposited by Canada in the Trust, at the direction of Peguis, in accordance with the Settlement Agreement;
- (c) all Eligible Investments in which those monies may from time to time be invested by the Financial Trustees, or into which those monies may be converted by the Financial Trustees at any time or from time to time, as well as any additions or accretions in respect of Eligible Investments; and
- (d) any sums repaid to the Financial Trustees in accordance with the provisions of this Agreement;

and all other monies, securities, property and assets which Peguis, or Canada at the direction of Peguis, or any other Person, may pay, donate, sell, lend or otherwise transfer, cause to be transferred to, vest or cause to be vested in the Financial Trustees for the use and benefit of the Beneficiary, and includes any substituted or additional property held in trust, together with all accretions to any property held in trust and all income derived from any property held in trust, less any amounts which have been paid or disbursed from any property held in trust (whether out of capital or income) in the normal course of the administration of the Trust or pursuant to the provisions of this Agreement;

- 1.32 **"Trustee Nominating Committee"** means the committee appointed by Council under Section 9.5; and
- 1.33 **"Trustees"** means the Financial Trustees and the Community Fund Trustees from time to time acting under this Agreement, and shall include the Initial Trustees and any Financial Trustee or Community Fund Trustee elected or appointed pursuant to the applicable provisions of Article 9, and

"Trustee" means any one of the Trustees.

2. REFERENCES TO ACTS PERFORMED BY THE TRUSTEES

For greater certainty, references to this "Agreement" shall be references to this trust agreement and references to Article(s), Section(s), Paragraph(s), Subparagraph(s), Clause(s) and Subclause(s) shall be references to article(s), section(s), paragraph(s), subparagraph(s), clause(s) and subclause(s) of this Agreement unless any such reference is expressly stated otherwise. Where any reference is made in this Agreement to an act to be performed by the Trust, the reference shall be construed and applied for all purposes as if it referred to an act to be performed by the Trustees, as the context of this Agreement requires, on behalf of the Trust or by some other Person duly authorized to do so by the Trustees, as the case may be, pursuant to the provisions of this Agreement.

3. HEADINGS

The division of this Agreement into Articles, Paragraphs, Subparagraphs and Clauses and the provision of headings are for convenience of reference only, and shall not affect the construction or interpretation of this Agreement.

4. CONSTRUCTION OF TERMS

In this Agreement, words referring to one Person shall, if the reference requires it, include a reference to more than one Person and vice versa. References to individuals of one gender shall include references to individuals of the other gender, and shall include references to Persons with no gender, as the circumstances may require. References to Persons with no gender shall include references to individuals of one gender or the other, or both, as the circumstances may require.

5. ACCRUAL METHOD OF CALCULATION

Except as otherwise specifically provided in this Agreement, all amounts to be calculated pursuant to this Agreement shall be calculated on an accrual basis in

accordance with Canadian generally accepted accounting principles, consistently applied.

6. HEAD OFFICE OF THE TRUST

The head office of the Trust created by this Agreement shall be located at Peguis Indian Reserve #1B in Manitoba or at any other place in Canada on any Reserve, as the Financial Trustees may from time to time designate.

7. CREATION OF THE TRUST

7.1 Name of Trust

The Trust created pursuant to the terms of this Agreement shall be known as the "Peguis First Nation Surrender Claim Trust". The name of the Trust may from time to time be amended and known by, and operate under, any other name or names as determined and set by Ordinary Resolution of the Members.

7.2 Settlement of Trust and Acknowledgement

Peguis, in its capacity as Settlor of the Trust, confirms that it has, at the time of the signing of this Agreement, paid the sum of one hundred (\$100.00) dollars to the Initial Trustees, and the Initial Trustees confirm receipt of that sum, for the purpose of creating and settling the Trust. The Initial Trustees acknowledge that they shall hold the Trust Property in trust for the use and benefit of Peguis upon the trusts, on the terms and subject to the conditions in this Agreement.

7.3 Nature of the Trust

The Trust is a trust established for the benefit of the Beneficiary. The Trust is not, and is not intended to be, and shall not be deemed to be, and shall not be treated as, a trust for "purposes", a general partnership, limited partnership, syndicate, association, joint venture, company,

corporation or joint stock company, nor shall the Trustees, the Beneficiary, the Members or any of them or any Person be, or be deemed to be, treated in any way whatsoever liable or responsible under this Agreement as partners, joint venturers or directors. The Trustees are not agents of the Beneficiary or the Members, and shall not have any power to bind the Beneficiary or the Members (but without in any manner limiting the ability of the Trustees to charge, encumber, assign or otherwise deal with the Trust Property in whole or in part).

7.4 Entitlements of Members and of the Beneficiary

- (a) All legal right, title and interest in the Trust Property is vested exclusively in the Financial Trustees.
- (b) The Financial Trustees and the Community Fund Trustees, in accordance with their respective rights, obligations and responsibilities set out in this Agreement, shall be solely responsible in conducting, managing and supervising the business and affairs of the Trust.
- (c) All beneficial right, title, interest, and benefit in the Trust Property is vested exclusively in the Beneficiary, and the Beneficiary shall be the sole entity entitled to enforce the obligations assumed by the Trustees under this Agreement.

7.5 Responsibilities of Financial Trustees

The financial administration of the Trust Property shall be the sole responsibility of the Financial Trustees. The Financial Trustees shall also, among other things:

- (a) engage professional financial management services to assist them in performing their duties under this Agreement;
- (b) call and hold general meetings of Members in accordance with

Section 12.2;

- (c) make the Per Capita Distribution, if any, in accordance with the provisions of Paragraph 8.2(a) and Section 8.4;
- (d) apply or distribute the Trust Property in accordance with Funding Directions issued by the Community Fund Trustees;
- (e) maintain records and prepare financial statements and reports in accordance with Article 11; and
- (f) attend meetings where required under this Agreement.

7.6 Responsibilities of Community Fund Trustees

The Community Fund Trustees shall have no responsibility under this Agreement for the financial administration of the Trust Property. The Community Fund Trustees shall, among other things:

- (a) identify and determine proposed applications of the Trust Property to or for the benefit of the Beneficiary in accordance with the general principles, specific guidelines and restrictions contained in Article 8 of this Agreement;
- (b) approve, by Ordinary Resolution, proposed applications of the Trust Property to or for the benefit of the Beneficiary identified in Paragraph 7.6(a) that are less than seventy-five thousand (\$75,000.00) dollars;
- (c) recommend for approval to Council, by Ordinary Resolution, proposed applications of the Trust Property to or for the benefit of the Beneficiary identified in Paragraph 7.6(a) that are seventy-five thousand (\$75,000.00) dollars or more, but less than two hundred and fifty thousand (\$250,000.00) dollars;

- (d) recommend for approval to the Members, by Ordinary Resolution, proposed applications of the Trust Property to or for the benefit of the Beneficiary identified in Paragraph 7.6(a) that are two-hundred and fifty thousand (\$250,000.00) dollars or more;
- (e) provide the Financial Trustees with Funding Directions;
- (f) maintain records and prepare reports in accordance with Article 11; and
- (g) attend meetings where required under this Agreement.

8. USE OF TRUST PROPERTY

8.1 General Application of the Trust Property

The Financial Trustees have agreed to hold and administer the Trust Property, and the Financial Trustees and the Community Fund Trustees, as the context so requires, have agreed to pay, apply and distribute the Trust Property, on the terms and subject to the conditions set out in this Agreement for the benefit of Peguis and, without limiting the generality of the foregoing, to assist Peguis by the advancement of the interests of and quality of life of Peguis and its Members through the preservation, enhancement and application of the Trust Property.

8.2 Specific Guidelines for Application of Trust Property

The Trust Property shall be used, subject to obtaining the approval of Members by Ordinary Resolution in accordance with Paragraph 8.4(a), to make a transfer of funds out of the capital of the Trust Property to the Beneficiary for the purpose of enabling the Beneficiary to make a distribution, if any, to Qualified Members in accordance with the provisions contained in Section 8.4, and shall be applied towards Expenditures Beneficial to the Beneficiary that will enhance and supplement funding and programs provided by Canada, Manitoba or Peguis wherever possible and

also preserve, protect and advance the Treaty and aboriginal rights of Peguis and its Members so as to provide benefits from the Trust for all Members whether resident on or off Reserve. Without limitation of the foregoing, any portion of the Trust Property paid, applied or distributed to the Beneficiary, or to any other Person, by the Financial Trustees shall only be used as follows:

- (a) provided that the Members have given their approval by Ordinary Resolution in accordance with Paragraph 8.4(a), by making a transfer of funds out of the capital of the Trust Property to the Beneficiary for the purpose of enabling the Beneficiary to make a distribution, if any, to Qualified Members in accordance with the provisions contained in Section 8.4; and
- (b) by making payments or applications of funds out of the Trust Property for Community Purposes for the following purposes:
 - (i) to provide supplementary or enhanced health care related services or facilities for Members;
 - (ii) to enhance and promote educational opportunities, including but not limited to providing funding for the Beneficiary to enable it to build, to establish and operate schools or training facilities for Members, to provide scholarships and bursary funds for Members, and to recognize achievements by Members in educational endeavours;
 - (iii) to provide support and assistance to address the special needs of the elders of Peguis, their cultural contributions to the community and the Members, and their role as keepers of knowledge;
 - (iv) to provide assistance to the Beneficiary in its community development and improvement initiatives, including the

construction and maintenance of roads, bridges, ditches, water-courses, fences, buildings or permanent improvements, works or infrastructure on any Reserve, the purchase of industrial or manufacturing equipment or machinery to be owned by the Beneficiary for community purposes, and the promotion, establishment or enhancement of recreational facilities owned by the Beneficiary;

- (v) to promote the preservation, study and learning of the language and cultural heritage of the Beneficiary;
- (vi) to encourage community activities, including the annual Treaty Days, pow-wow and community gatherings;
- (vii) to acquire, establish, or build a credit union, bank or trust company to be owned by the Beneficiary;
- (viii) to provide funding to assist the Beneficiary in the provision of housing to Members;
- (ix) to promote or establish a business or commercial operation beneficial to the Beneficiary or its Members;
- (x) to protect, preserve and advance the aboriginal and Treaty rights of the Beneficiary and its Members;
- (xi) to pay the reasonable fees and honoraria (as approved in accordance with Section 14.1) and expenses of the Community Fund Trustees in connection with their consideration, determination and approval of Expenditures Beneficial to the Beneficiary for Community Purposes;
- (xii) to pay the reasonable fees and honoraria (as approved in accordance with Section 14.1) and expenses of the Financial Trustees in connection with their administration of the Trust

Property, including any form of financial, investment, management, legal or other education which will assist them in their duties as Financial Trustees; and

- (xiii) to pay the reasonable costs and expenses of professional management, accounting, legal and other services necessarily required by the Financial Trustees in their administration of the Trust Property and protection of the Trust Property;

and by making payments or applications of funds out of the Trust Property for any other activity, undertaking, project or initiative which the Community Fund Trustees may recommend or approve as consistent with the general guidelines for Community Purposes as provided in this Agreement, provided that, for greater certainty, the nature of a certain activity, undertaking, project or initiative considered as an Expenditure Beneficial to the Beneficiary for Community Purposes may, as the circumstances require, provide for Expenditures Beneficial to the Beneficiary of benefit to primarily or only Members ordinarily resident on Reserve or primarily or only Members ordinarily resident off Reserve from time to time.

8.3 Restrictions on Application of Trust Property

- (a) Subject to Paragraphs 8.2(a) and 8.3(b), the Trustees shall not, under any circumstance, make a payment or distribution of Trust Property to any Member or any other Person for the purpose of paying or reimbursing a disbursement incurred by a Member or such other Person. Without limiting the foregoing, in the event the Beneficiary receives a distribution of Trust Property, no portion of that distribution shall be used, either directly or indirectly, to make a payment or distribution to any Member or any other Person for that same purpose.

- (b) Paragraph 8.3(a) does not apply to:
- (i) the payment to any Person of a service fee, salary, or honorarium;
 - (ii) the reimbursement of any claim by any Person for reimbursement of expenses such Person has incurred on behalf of or against the Trust; or
 - (iii) the payment to any Person of an amount for the purpose of carrying out or furthering Community Purposes;

where the payment or reimbursement is made in accordance with this Agreement or, where this Agreement makes no express provision for the payment, in accordance with the administrative practices established by the Community Fund Trustees.

- (c) Under no circumstances shall any Trust Property be applied or distributed by the Trustees or, if received by the Beneficiary, used by the Beneficiary, directly or indirectly, to pay the debt or operational deficit of Peguis or to make any *per capita* distribution to the Members of Peguis other than the distribution, if any, made by the Beneficiary to Qualified Members in accordance with the provisions contained in Paragraph 8.2(a) and Section 8.4.

8.4 Provisions Governing Per Capita Distribution

The transfer of funds out of the capital of the Trust Property contemplated in Paragraph 8.2(a) to enable the Beneficiary to make a distribution, if any, to Qualified Members in accordance with the provisions contained in this Section shall be made by the Financial Trustees to the Beneficiary only if the Members have approved of the Per Capita Distribution. In order to determine whether the Members are in favour of the transfer of funds out of the capital of the Trust Property to enable the Beneficiary to make a

distribution to Qualified Members in accordance with the provisions contained in this Section 8.4, a vote of the Members shall be conducted within 60 days after the date of this Agreement in such manner as determined by the Initial Trustees (the "Member Per Capita Vote"). At the Member Per Capita Vote, two (2) questions shall be submitted to the Members, which shall be substantially in the following form:

1. Are you in favour of the Financial Trustees making a transfer of funds out of the capital of the Trust to Peguis in order to enable Peguis to make payments to Members in accordance with the provisions contained in Section 8.4 of the Trust Agreement? ("Question 1")
2. In the event a majority of Members vote in favour of Question 1, are you in favour of the base amount of the payments to Members, for the purposes of Section 8.4 of the Trust Agreement, to be:
 - (a) \$100
 - (b) \$500
 - (c) \$1,000("Question 2")

In the event a majority of Members vote against Question 1, the Financial Trustees shall not make a transfer of funds out of the capital of the Trust Property to the Beneficiary for the purpose of enabling the Beneficiary to make a distribution to Qualified Members in accordance with the provisions contained in this Section 8.4. In the event, however, that a majority of Members vote in favour of Question 1, the dollar amount in Question 2 receiving the highest number of votes shall be the base amount of the distribution for the purposes of this Section 8.4, and

thereafter the Per Capita Distribution shall be determined and made as follows:

- (a) Within the end of the calendar year of the date on which the Member Per Capita Vote referred to in this Section 8.4 was held, the Council shall execute and deliver to the Financial Trustees a certification, substantially in the form as set out in the attached Schedule "E" (referred to as the "*Certification*"), providing, among other things, a reasonable estimate of the number of Qualified Members who will have reached the age of fifty-five (55) years in the calendar year of the Date of Certification and the number of Qualified Members who will not have reached the age of fifty-five (55) years in the calendar year of the Date of Certification;
- (b) Provided the Total Amount, or a significant portion thereof, has been deposited in the Trust, the Financial Trustees shall, forthwith following the date of receipt of the Certification, transfer an amount to the Beneficiary calculated as follows:

$$(A \times B \times 1.5) + (A \times C) = D$$

where:

A is the base amount of the distribution to Qualified Members, up to a maximum of \$1,000, determined by the Members in accordance with this Section 8.4;

B is the total number of Qualified Members indicated in the Certification that Council has reasonably estimated will have reached, or are expected to reach, the age of fifty-five (55) years in the calendar year of the Date of Certification;

C is the total number of Qualified Members indicated in the Certification that Council has reasonably estimated will have

not reached, and are not expected to reach, the age of fifty-five (55) years in the calendar year of the Date of Certification; and

D is the amount of the Per Capita Distribution, being the total amount to be transferred out of the capital of the Trust Property by the Financial Trustees to the Beneficiary for the purpose of enabling the Beneficiary to make a distribution to Qualified Members;

- (c) The Beneficiary shall use the Per Capita Distribution received in accordance with this Section 8.4 to make the following distribution, in such manner and with such terms and conditions as Council considers appropriate:
 - (i) a sum equal to the base amount of the distribution determined by the Members in accordance with this Section 8.4 shall be paid to a parent, guardian or other person responsible for the care and custody of each Qualified Member who has not reached the age of eighteen (18) years on the date of payment of the distribution;
 - (ii) a sum equal to the base amount of the distribution determined by the Members in accordance with this Section 8.4 shall be paid to each Qualified Member who has reached the age of eighteen (18) years on the date of payment of the distribution but who has not reached, and will not reach, the age of fifty-five (55) years in the calendar year of the Date of Certification; and
 - (iii) a sum equal to 1.5 times the base amount of the distribution determined by the Members in accordance with this Section 8.4 shall be paid to each Qualified Member who has

reached, or is expected to reach, the age of fifty-five (55) years in the calendar year of the Date of Certification;

- (d) For greater certainty, the Financial Trustees shall not in any way be responsible for ascertaining or verifying the number of Members who are Qualified Members or the respective ages of Qualified Members, nor shall they be responsible in any way for making, or omitting to make, any payment of the distribution to any of the Qualified Members; and
- (e) In the event that the Per Capita Distribution exceeds the amount actually required by Peguis to make a distribution, if any, to Qualified Members in accordance with this Section 8.4, Peguis shall use or apply such excess for Community Purposes.

8.5 Provisions Governing Application of Trust Property

(a) Application of Trust Property

(i) Receipt of Funding Direction

The Community Fund Trustees may deliver a Funding Direction to the Financial Trustees, and upon receipt of a Funding Direction, the Financial Trustees shall pay or apply so much of the Trust Property as is specified in the Funding Direction to or for the benefit of the Beneficiary in connection with Expenditures Beneficial to the Beneficiary. Such payments shall be made firstly out of Secondary Income for a Taxation Year of the Trust, secondly, by repayment of Promissory Notes, and thirdly, out of Primary Income for a Taxation Year of the Trust or out of the capital of the Trust Property, as the Financial Trustees shall determine. Except pursuant to a Funding Direction from the Community Fund Trustees in accordance with this Subparagraph 8.5(a)(i), the

Financial Trustees shall not distribute Primary Income for a Taxation Year of the Trust to the Beneficiary.

(ii) Limitations

(A) No distribution of Trust Property, other than distributions of Secondary Income for a Taxation Year of the Trust and payment on account of Promissory Notes, shall be made which would, if made, reduce the net realizable value of the Trust Property, less outstanding Promissory Notes and other liabilities, below the aggregate of the following amounts:

- (1) ninety million (\$90,000,000.00) dollars from the Total Amount received by the Financial Trustees in accordance with the terms of the Settlement Agreement;
- (2) fifteen (15%) percent of all amounts of income added to the capital of the Trust Property under Subparagraph 8.5(a)(iii); and
- (3) fifty (50%) percent of the value of any monies, securities, property and assets added to the Trust Property under Subparagraph 8.5(a)(iv).

(B) Any amount to be distributed by the Financial Trustees in accordance with Subparagraph 8.5(a)(i) shall be reduced by the total of all amounts paid in cash or in kind to the Beneficiary in whole or partial payment of an amount owing under any Promissory Notes issued and delivered to the Beneficiary, in payment of the obligation of the Financial Trustees to pay the Secondary Income for a Taxation Year of the

Trust that has not been paid to the Beneficiary in the Taxation Year of the Trust, that has not previously reduced an amount to be distributed by the Financial Trustees under Subparagraph 8.5(a)(i) in accordance with this Clause 8.5(a)(ii)(C).

(iii) Additions to Capital

Any income arising from the Trust Property which forms part of the basis for determining Primary Income for a Taxation Year of the Trust that has not been distributed in the Taxation Year of the Trust in which it arises, or within one hundred twenty (120) days of the end of that year, shall be added to the capital of the Trust Property.

(iv) Additions to Trust Property

Peguis, or any other person at the direction of Peguis, may add other monies, securities, property and assets to the Trust Property from any source as authorized and approved by Council by way of Council Resolution or by the Members by way of Ordinary Resolution. Any such addition to the Trust Property shall be governed by the terms of this Agreement as though it was a part of the portion of the Total Amount deposited by Canada, at the direction of Peguis, in the Trust pursuant to the terms of the Settlement Agreement.

(v) Application of the Trust Property by Initial Trustees

Notwithstanding anything to the contrary in this Agreement, the Initial Trustees shall not, at any time during the period they hold office, make any payment, application or distribution of the Trust Property other than the transfer of funds out of the capital of the Trust Property contemplated in

Paragraph 8.2(a) and made in accordance with Section 8.4, and the costs associated with the conduct of the Member Per Capita Vote referred to in Section 8.4.

(b) Income Payable to the Beneficiary

(i) Secondary Income

(A) Determination of Secondary Income For Taxation Year of the Trust: The Financial Trustees shall calculate the Secondary Income for each Taxation Year of the Trust.

(B) Payment of Secondary Income for a Taxation Year of the Trust: All of the Secondary Income for a Taxation Year of the Trust that has not been paid to the Beneficiary earlier in the Taxation Year of the Trust shall be payable to the Beneficiary on the last day of that Taxation Year. As soon as practicable and within six (6) months from the end of the Taxation Year of the Trust in which the Secondary Income for a Taxation Year of the Trust is earned, the Financial Trustees shall deliver to the Beneficiary a promissory note substantially in the form as set out in the attached Schedule "A" (referred to as a "*Promissory Note*") payable to the Beneficiary for the unpaid Secondary Income for a Taxation Year of the Trust. Each Promissory Note shall be issued as absolute payment by the Financial Trustees of the obligation to pay the unpaid Secondary Income for a Taxation Year of the Trust to the Beneficiary. For greater certainty, the Secondary Income for a Taxation Year of the Trust shall not be added to the capital of the Trust, but

shall be paid to the Beneficiary in the manner provided in this Clause 8.5(b)(i)(B).

- (C) Certificate by Accountants: The accountants instructed to prepare the Annual Audit of the Trust in accordance with Subparagraph 11.2(a)(iii) of this Agreement shall certify that, to the best of their knowledge, all steps or things necessary have been completed to entitle the Trust to deduct an amount for a Taxation Year of the Trust equal to the Secondary Income for a Taxation Year of the Trust paid or payable to the Beneficiary in that year in accordance with the *Income Tax Act* and the terms of this Agreement.
- (D) Promissory Notes: Each Promissory Note will be payable on demand and will bear no interest. The Financial Trustees may, at any time in their own discretion, or at any time if so requested by the Beneficiary, issue one or more Promissory Notes (each referred to as a "*Replacement Note*") to the Beneficiary in replacement of any or all Promissory Notes issued prior to that time provided that:
- (1) the aggregate face value of each Replacement Note so issued shall be equal to the aggregate face value of the Promissory Notes so replaced;
 - (2) the material terms of each Replacement Note shall be the same as those of the Promissory Notes so replaced; and

- (3) for all other purposes each Replacement Note shall be deemed to be a Promissory Note issued in accordance with the terms of this Agreement.

(E) Acknowledgement of Enforceability of Promissory Notes: At any time, on the request of the Beneficiary, and in any case at a time which is no more than five (5) years after the date which is the earliest of the time at which a particular Promissory Note (which has not been redeemed or replaced) was:

- (1) issued by the Trust; or
- (2) acknowledged by the Trust to be enforceable against the Trust Property in accordance with its terms;

the Financial Trustees shall acknowledge that each Promissory Note is enforceable against the Trust Property in accordance with the terms of that Promissory Note. The Financial Trustees acknowledge that each Promissory Note remains enforceable at law notwithstanding any lapse of time without any demand being made thereon and that the obligation to discharge each Promissory Note is not subject to any statutory or common law limitation period. For greater certainty, the Financial Trustees waive any rights they may have with respect to any limitation period that may be imposed pursuant to *The Limitation of Actions Act*, C.C.S.M. 1987, c.L150, or any other successor legislation or law that may

impose a time period within which an action must be taken to enforce any Promissory Note.

9. GENERAL PROVISIONS FOR THE TRUSTEES

9.1 Number of Community Fund Trustees

There shall at all times be five (5) Community Fund Trustees elected to act under this Agreement. If, for any reason, there are less than five (5) Community Fund Trustees at any time, the vacancy shall be filled in accordance with Section 9.11 but the Community Fund Trustees shall continue to act in accordance with the provisions of this Agreement, provided that if, for any reason, there are less than three (3) Community Fund Trustees at any time, the Community Fund Trustees shall be precluded from recommending or approving Expenditures Beneficial to the Beneficiary until there are at least three (3) Community Fund Trustees in office.

9.2 Number of Financial Trustees

There shall at all times be seven (7) Financial Trustees, of which five (5) shall be elected and two (2) shall be appointed, to act under this Agreement. If, for any reason, there are less than seven (7) Financial Trustees at any time, the vacancy shall be filled in accordance with Section 9.11 but the Financial Trustees shall continue to act in accordance with the provisions of this Agreement, provided that if, for any reason, there are less than four (4) Financial Trustees at any time, the Financial Trustees shall be precluded from making distributions of Trust Property to or for the benefit of the Beneficiary in respect of Expenditures Beneficial to the Beneficiary until there are at least four (4) Community Fund Trustees in office, but shall continue to preserve and protect the Trust Property.

9.3 **Basic Qualifications of Trustees**

- (a) Except for a Corporate Trustee, each Trustee shall be an individual willing to assist in carrying out the objects of the Trust, shall be at least 18 years of age at the time of becoming a Trustee and shall not be otherwise disqualified from acting as a Trustee in accordance with Section 9.8 or by law.
- (b) At all times, at least five (5) Financial Trustees and at least four (4) Community Fund Trustees shall be Members, of which at least four (4) Financial Trustees and at least three (3) Community Fund Trustees shall ordinarily reside on Reserve during their respective terms of office and at least one (1) Financial Trustee and at least one (1) Community Fund Trustee shall ordinarily reside off Reserve during their respective terms of office.
- (c) At least one (1) Financial Trustee, to be appointed by Council, who need not be a Member, shall be a chartered accountant, and at least one (1) Financial Trustee, to be appointed by Council, who need not be a Member, must be either a Corporate Trustee, lawyer, engineer, school principal or other person who is a member of a professional body which regulates his or her employment or business activities.
- (d) Except for the Initial Trustees, no member of Council may be a Trustee, and no person may be both a Financial Trustee and a Community Fund Trustee at the same time.

9.4 **Term of Initial Trustees**

Notwithstanding anything to the contrary in this Agreement, the Initial Trustees shall only hold office until replacement Trustees are elected at a general meeting of Members called in accordance with the provisions of Sections 9.7 and 12.2 within a reasonable period of time after the date of

the settlement of this Trust. In the absence of exceptional circumstances, the period that is within one year of the date of the settlement of this Trust may be considered a reasonable period of time.

9.5 Trustee Nominating Committee

- (a) For the purpose of electing persons to the offices of Financial Trustees and Community Fund Trustees, the Council shall appoint by Council Resolution a Trustee Nominating Committee comprised of seven (7) Members, including at least three (3) Members who reside off Reserve.
- (b) A Member appointed to the Trustee Nominating Committee shall cease to act on the Trustee Nominating Committee when the Member:
 - (i) dies;
 - (ii) resigns; or
 - (iii) is removed by Council from the Trustee Nominating Committee by Council Resolution.
- (c) A vacancy created by the removal of a Member from the Trustee Nominating Committee shall be filled by Council Resolution.
- (d) A quorum at any meeting of the Trustee Nominating Committee shall be constituted by four (4) members of the Trustee Nominating Committee, provided at least one of such members resides off Reserve, and, notwithstanding any vacancy in the Trustee Nominating Committee, a quorum of the Trustee Nominating Committee may exercise all the powers of the Trustee Nominating Committee.

- (e) the Trustee Nominating Committee may adopt any rules and regulations which they may, from time to time, consider proper to govern their own procedure, by consensus or, failing consensus, by Ordinary Resolution.

9.6 Application and Assessment of Qualifications

- (a) The Trustee Nominating Committee shall consider applications from Members to act either as a Community Fund Trustee or a Financial Trustee.
- (b) The Trustee Nominating Committee shall have authority to recommend suitable and reasonable eligibility criteria, and to amend such criteria from time to time, to apply in the consideration of applications for election to the position of Trustee by the committee, not contrary to this Agreement. The eligibility criteria shall be set out in writing and shall be approved by Ordinary Resolution at any general meeting of Members called in accordance with Section 12.2. For greater certainty, it shall not be necessary for the eligibility criteria to be the same for both the offices of Financial Trustee and Community Fund Trustee.

9.7 Nomination and Election

- (a) The Trustee Nominating Committee shall, by consensus, and failing consensus, by Ordinary Resolution, nominate for election those applicants it considers most qualified to assume the duties and responsibilities in relation to the offices of Financial Trustee or Community Fund Trustee, as the case may be, from among the applications submitted to stand for election by the Members, providing summary reasons for nomination of each candidate nominated for election, including the qualifications of each nominee.

- (b) In the event of one or more vacancies or contemplated vacancies in the office of Community Fund Trustees, the Trustee Nominating Committee shall provide the Council with a list setting out the names of not more than three (3) applicants nominated for election for each vacancy in the office of Community Fund Trustees and in the event of one or more vacancies or contemplated vacancies in the office of Financial Trustees, the Trustee Nominating Committee shall provide the Council with a list setting out the names of not more than three (3) applicants nominated for election for each vacancy in the office of Financial Trustees, together with summary reasons for nomination of each candidate nominated for election.
- (c) The Trustee Nominating Committee shall provide the Council with the list referred to in Paragraph 9.7(b):
 - (i) in the case of contemplated vacancies arising from the replacement of the Initial Trustees, within six (6) months of the Members' approval of the eligibility criteria referred to in Paragraph 9.6(b); and
 - (ii) in all other cases, within sixty (60) days of the Members' approval of the eligibility criteria referred to in Paragraph 9.6(b).
- (d) Within thirty (30) days after the receipt of the list or lists of nominations, the Council shall post such list or lists in the administrative offices of Peguis and shall conduct a vote by the Members in a manner similar to the *Indian Referendum Regulations* made under the *Indian Act*, with such modifications thereto as determined by the Council to be necessary or advisable,, for the election of Community Fund Trustees or Financial Trustees, or both, as the case may be, including, where applicable, the

election of up to three (3) alternate Financial Trustees and up to two (2) alternate Community Fund Trustees.

- (e) The Members shall cast their vote by ballot for the election of Community Fund Trustees or Financial Trustees, or both, as the case may be, and the nominee or nominees having the highest number of votes shall be elected Community Fund Trustees or Financial Trustees, as the case may be, and the nominee or nominees having the following highest number of votes shall be elected alternate Financial Trustees or alternate Community Fund Trustees (collectively the "*Alternate Elected Trustees*", and individually "*Alternate Elected Trustee*"), as the case may be. Each person elected as an Alternate Elected Trustee shall be eligible, for a period of two (2) years from the date such individual was elected as an Alternate Elected Trustee, to be appointed by Council to fill a vacancy in the office of Financial Trustee or Community Fund Trustee, as the case may be, in accordance with the provisions of Section 9.11.
- (f) Notwithstanding any of the foregoing, there shall not at any time be more than three (3) Alternate Elected Trustees eligible to be appointed to the office of Financial Trustee and more than two (2) Alternate Elected Trustees eligible to be appointed to the office of Community Fund Trustee.

9.8 Ceasing to be a Trustee

The term and office of a Trustee shall be automatically terminated and vacated by the Trustee if the Trustee shall:

- (a) die;
- (b) have a trustee or guardian appointed on his behalf pursuant to *The Mental Health Act*, C.C.S.M. 1998, c.M110;

- (c) be declared bankrupt or be insolvent;
- (d) become the donor under a Power of Attorney which has come into or which remains in force because of the donor's lack of mental capacity;
- (e) be convicted of an indictable offence, fraud, or any offence involving the Trust Property or the exercise of his or her responsibilities as a Trustee;
- (f) in respect of meetings of the Trustees proper notice of which has been received by the Trustee in accordance with Section 12.01, fail to attend two (2) consecutive meetings in any Taxation Year of the Trust without an excuse acceptable to the other Financial Trustees or Community Fund Trustees, as the case may be, or in any event fail to attend three (3) meetings in any Taxation Year of the Trust;
- (g) fail to disclose a material conflict of interest, or vote on any resolution in which he or she has a material conflict of interest, pursuant to Article 13;
- (h) cease to be a resident of Canada for Canadian income tax purposes; or
- (i) be elected as a member of Council.

9.9 Resignation of Trustee

Any Trustee may resign by delivering thirty (30) days written notice to the Council and to the other Trustees then in office of his or her intention to resign. Any resignation shall be effective on the thirtieth (30th) day following delivery of notice, unless part or all of the required notice period is waived by the Council, in which case the resignation shall be effective on the date approved by Council Resolution.

9.9 Removal of Trustees

- (a) By Council at the Request of the Trustees: The Council may, by Council Resolution, remove any individual or Corporate Trustee from the office of Community Fund Trustee or Financial Trustee, as the case may be, upon receipt of a resolution signed by all of the remaining Community Fund Trustees or Financial Trustees entitled to vote thereon, as the case may be, requesting such removal together with an explanation of the reasons for their request, provided that at least three (3) Community Fund Trustees or at least four (4) Financial Trustees, as the case may be, have signed such resolution.
- (b) By the Members at the Request of the Trustees: In the event that the Council has failed, neglected, refused or decided not to remove an individual or Corporate Trustee from the office of Community Fund Trustee or Financial Trustee, as the case may be, upon request of the remaining Community Fund Trustees or Financial Trustees, as the case may be, provided in accordance with Paragraph 9.9(a), the Members may, by Ordinary Resolution, remove the individual or Corporate Trustee from the office of Community Fund Trustee or Financial Trustee, as the case may be, upon a motion brought for this purpose by the remaining Community Fund Trustees or Financial Trustees, as the case may be, at any general meeting of Members called by Council in accordance with Section 12.2 or at a special public meeting of Members called by the remaining Community Fund Trustees or the remaining Financial Trustees, as the case may be, upon thirty (30) days written notice posted in the administrative offices of Peguis.
- (c) By the Members in their Discretion: The Members may, by Ordinary Resolution passed at any general meeting of Members

called in accordance with Section 12.2, remove any individual or Corporate Trustee from the office of Community Fund Trustee or Financial Trustee, as the case may be, provided that prior to voting on a resolution to this effect, the individual(s) or Corporate Trustee(s) proposed to be removed from the office of Community Fund Trustee or Financial Trustee, as the case may be, shall be given an opportunity to speak to the Members and to answer any questions raised or allegations made.

- (d) Effective Date of Termination: The removal of an individual or Corporate Trustee from the office of Community Fund Trustee or Financial Trustee made in accordance with any of Paragraphs 9.10(a), (b) or (c) shall be effective on the later of:
 - (i) the date the individual or Corporate Trustee receives the written notice, signed by the Chief or the person(s) designated in the applicable resolution to sign the notice, of his or its removal from the office of Trustee; and
 - (ii) the date of removal specified in the applicable resolution.

9.11 Appointment of Trustees to Fill Vacancy

If one or more of the events described in Sections 9.8, 9.9 and 9.10 occurs and there is a vacancy in the office of Trustee, the Council shall fill the vacancy by:

- (a) in the case of an appointed Financial Trustee, by appointment of a Financial Trustee by Council Resolution as soon as reasonably possible, but in any event within thirty (30) days of the date that the vacancy occurs;
- (b) in the case of an elected Trustee, by selection of a Financial Trustee or Community Fund Trustee, as the case may be, from

among the Alternate Elected Trustees, as the case may be, by Council Resolution as soon as reasonably possible, but in any event within thirty (30) days of the date the vacancy occurred; and

- (c) in the event there are no remaining Alternate Elected Trustees eligible for appointment to the office of Financial Trustee or Community Fund Trustee, or both, as the case may be, by appointing a Trustee Nominating Committee in accordance with Section 9.6 and by calling a general meeting of Members for the election of Trustees in accordance with Sections 9.7 and 12.2.

9.12 Consent and Acknowledgement Required

A person elected or appointed to the office of Financial Trustee or Community Fund Trustee, as the case may be, shall not be considered a trustee under this Agreement until such person shall execute a consent and acknowledgement, as set forth in Schedule "C" to this Agreement confirming such person's willingness to take office as a trustee in accordance with the provisions of this Agreement and to participate in any ongoing orientation or education process pertaining to his or her function as a trustee.

10. LIABILITY AND INDEMNITY OF TRUSTEES

10.1 Liability

- (a) The Trustees shall not be liable or accountable for any loss or damage to the Trust Property, or any part of the Trust Property, resulting from the exercise of a discretion or authority conferred upon them by this Agreement or any other statute or law, as long as they are acting honestly and in good faith with a view to the best interests of the Beneficiary and as long as individual Trustees exercise the care, diligence and skill of an individual of ordinary

prudence in managing his or her own affairs, and Corporate Trustees exercise the care, diligence and skill of a prudent trustee.

- (b) No Trustee shall be liable or accountable for the acts, omissions, receipts, neglects or defaults of any other Trustee or Person employed or engaged by the Trust, and no Trustee, other than a Corporate Trustee, shall be liable only because that Trustee joined with the other Trustees in arriving at a decision or in taking action which is found to be in breach of the terms of this Agreement.
- (c) A Trustee shall be presumed to be acting honestly and in good faith with a view to the best interests of the Beneficiary and to be exercising the care, diligence and skill of an individual of ordinary prudence in managing his or her own affairs, in the case of an individual Trustee, and the care, diligence and skill of a prudent trustee, in the case of a Corporate Trustee, unless it can be rebutted by evidence to the contrary.

10.2 Indemnity

The Trustees, and each of them, shall be indemnified from the Trust Property and held harmless from and against all claims whatsoever, including without limitation, costs, charges and expenses in connection with any claims whatsoever which are brought, commenced or prosecuted against them, or any one of them, for or in respect of any act, deed, matter or thing whatsoever made, done, permitted by them to be done, or not done in or about the performance of the duties of their office, and also from and against all other costs, charges and expenses, including, for greater certainty, any death duties, taxes and other charges arising in connection with the Trust Property or any part of the Trust Property, except that no Trustee shall be indemnified in respect of any claim or loss not arising from a Trustee acting honestly and in good faith with a view to the best interests of the Beneficiary and exercising the care, diligence and

skill of an individual of ordinary prudence in managing his or her own affairs, in the case of an individual Trustees, and the care, diligence and skill of a prudent trustee, in the case of a Corporate Trustee.

10.3 Bonding

Unless the Members by resolution so require, the Trustees shall not be required to give any bond or security in connection with the administration of the Trust Property and the performance of the trusts created by this Agreement in any country, state, province, territory or other jurisdiction, despite the laws of that country, state, province, territory or other jurisdiction.

10.4 Duty of Enquiry

No Trustee who replaces another Trustee shall be required or be under any duty to examine, question or verify, or audit the books, records or accounts of, any former Trustee.

10.5 Trustees' Own Acts

Subject to the disclosure requirements of Article 13, it shall not be considered a breach of a Trustee's responsibility if that Trustee carries on a business which competes with any business that the Trust carries on or invests in. It shall not be considered a breach of a Trustee's responsibility if that Trustee, directly or indirectly, owns, acquires or disposes of shares or securities in any corporation in which the Trust also owns shares or securities.

11. MANAGEMENT OF THE TRUST

11.1 Record of Decisions and Meetings

The Financial Trustees, the Community Fund Trustees and the Trustee Nominating Committee shall each maintain written records containing

minutes of their meetings and resolutions, and shall make these records available to the Council and to Members for review at any reasonable time upon reasonable notice in writing. In addition, the Financial Trustees shall maintain written records containing minutes of general meetings and resolutions of Members, and shall make these records available to the Council and to Members for review at any reasonable time upon reasonable notice in writing.

11.2 Annual Audit by Financial Trustees

- (a) The Financial Trustees shall:
 - (i) maintain adequate records of all transactions affecting the Trust Property;
 - (ii) prepare, for each Taxation Year of the Trust, financial statements in accordance with "Generally Accepted Accounting Principles" established from time to time by the Auditing and Assurance Standards Board;
 - (iii) within ninety (90) days of the end of each Taxation Year of the Trust, have a chartered accountant or firm of chartered accountants licensed to practice in the Province of Manitoba, independent of the Council and the Trustees, audit the financial statements (referred to as the "*Annual Audit*") referred to in Subparagraph (ii) in accordance with "Generally Accepted Auditing Standards" established from time to time by the Auditing and Assurance Standards Board;
 - (iv) provide a copy of each Annual Audit:
 - (A) to the Council within thirty (30) days of receipt; and

- (B) to any Member, without charge, upon reasonable request in writing; and
- (v) post in the administrative offices of the Council, in an area to which the public has access, a copy of the Annual Audit within thirty (30) days of receiving it;
- (b) in the event any Annual Audit is not unqualified, the Trustees shall take appropriate remedial action;
- (c) the Annual Audit shall include a written annual report from the Financial Trustees which shall contain, among other things:
 - (i) a description of expenditures of Trust Property by category with sufficient detail to permit the reader to compare the expenditures of Trust Property with the expenditures defined in this Agreement to be Expenditures Beneficial to the Beneficiary;
 - (ii) a full reconciliation of expenditures and disbursements in respect of Expenditures Beneficial to the Beneficiary relating to Community Purposes;
 - (iii) copies of minutes of meetings and resolutions of the Financial Trustees for the previous Taxation Year of the Trust; and
 - (iv) copies of minutes of general meetings and resolutions of Members for the previous Taxation Year of the Trust;
- (d) the Financial Trustees shall also prepare a written annual report on the Eligible Investments of the Trust Property and shall attach such report to the Annual Audit of the Trust given to the Council;

- (e) the Financial Trustees shall, within one hundred and fifty (150) days of the end of each Taxation Year of the Trust, call a general meeting of Members in accordance with Section 12.2 for the purpose of, among other things, permitting the Members an opportunity to:
 - (i) receive from the Financial Trustees a presentation of the Annual Audit for the previous Taxation Year of the Trust and to comment on that audit;
 - (ii) receive from the Financial Trustees a presentation on the activities of the Trust in the previous Taxation Year of the Trust and to comment on those activities; and
 - (iii) discuss such other matters relating to the operation of the Trust in the present Taxation Year of the Trust; and
- (f) the Financial Trustees shall attend the general meeting of Members called by Council for the purposes described in Paragraph (e) and carry out the functions described therein. Unless the Financial Trustees shall designate another person, the chairperson of the Financial Trustees shall answer all questions concerning the Annual Audit for the preceding Taxation Year of the Trust.

11.3 Annual Activity Report by Community Fund Trustees

- (a) The Community Fund Trustees shall:
 - (i) prepare for each Taxation Year of the Trust a written activity report (referred to as the "*Annual Activity Report*") which shall include, among other things:
 - (A) details of their recommended expenditures of Trust Property determined by the Community Fund Trustees to be Expenditures Beneficial to the

Beneficiary for Community Purposes and submitted to the Financial Trustees in a Funding Direction;

- (B) the achievement of any general objectives of benefit to Peguis or its Members by the determination of expenditures for Community Purposes;
 - (C) any Expenditures Beneficial to the Beneficiary under consideration for Community Purposes;
 - (D) any other plans or projects defined for the ensuing year; and
 - (E) copies of minutes of meetings and resolutions of the Community Fund Trustees for the previous Taxation Year of the Trust; and
- (ii) provide a copy of each Annual Activity Report:
- (A) to the Council within ninety (90) days of the end of each Taxation Year of the Trust; and
 - (B) to any Member without charge, upon reasonable request in writing.
- (b) The Community Fund Trustees shall attend the general meeting of Members referred to in Paragraph 11.2(e). Unless the Community Fund Trustees shall designate another person, the chairperson of the Community Fund Trustees shall present the Annual Activity Report for the previous Taxation Year of the Trust and answer all questions concerning the Annual Activity Report.

11.4 Meeting with Council

The Financial Trustees or the Community Fund Trustees, or both, shall meet with the Council when asked by the Council to do so upon fifteen (15) days' written notice of the meeting provided by the Council specifying the place, date and time of the meeting and describing the issues to be dealt with at the meeting in sufficient detail to permit the Financial Trustees or the Community Fund Trustees, or both, as the case may be, to adequately prepare for the meeting, and shall fully and fairly answer all questions that are asked of them concerning the Trust, the Trust Property, or its administration.

11.5 Meeting with Members

The Financial Trustees or the Community Fund Trustees, or both, shall meet with the Members when asked by a petition signed by at least one hundred (100) Members upon fifteen (15) days' written notice of the meeting provided by any of those Members having signed the petition specifying the place, date and time of the meeting and describing the issues to be dealt with at the meeting in sufficient detail to permit the Financial Trustees or the Community Fund Trustees, or both, as the case may be, to adequately prepare for the meeting, and shall fully and fairly answer all questions that are asked of them concerning the Trust, the Trust Property, or its administration.

11.6 Rules and Regulations

Subject to Section 12.1, the Trustees may adopt any rules and regulations, which they may, from time to time, consider proper to govern their own procedure, by consensus or, failing consensus, by majority decision.

11.7 Execution of Documents

Any and all bills of exchange, promissory notes, cheques, powers of attorney, transfers, papers, documents, or other instruments in writing required at any time and from time to time to be signed in connection with the Trust shall be validly signed if signed by any two (2) of the Financial Trustees, at least one (1) of whom must be a Member.

11.8 Decisions of Trustees

Except as otherwise specifically provided for in Section 12.1, it shall not be necessary for the Trustees to hold meetings to arrive at any decision, but all decisions of the Trustees shall be made by Ordinary Resolution, unless otherwise expressly provided in this Agreement. Any written resolution of Trustees may be executed by facsimile transmission or in any number of counterparts, or both, each of which shall be deemed to be an original and all of which shall together constitute but one and the same written resolution.

12. MEETINGS

12.1 Meetings of Trustees

The Financial Trustees and the Community Fund Trustees shall respectively meet at least once every two (2) months or more frequently, as may be required. The conduct of all of their meetings shall be governed by the following rules:

- (a) a quorum at each meeting of Financial Trustees shall be four (4) Financial Trustees and a quorum at each meeting of Community Fund Trustees shall be three (3) Community Fund Trustees;
- (b) no Trustee may attend by, or vote by, proxy on any decision of the Trustees;

- (c) a Trustee may participate in the meeting by means of telephone or other communication facilities that permit all persons participating in the meeting to hear each other, and a Trustee participating in such a meeting by those means shall be considered present at the meeting and at the place of the meeting;
- (d) at the first meeting of the Financial Trustees and at the first meeting of the Community Fund Trustees in any calendar year, the Financial Trustees and the Community Fund Trustees present at their respective meetings shall each appoint one (1) Financial Trustee and one (1) Community Fund Trustee, as the case may be, to chair their respective meetings for that year. The chairperson shall not have any additional rights to vote on any matter, other than his or her right to vote in his or her capacity as a Trustee. If the chairperson is not in attendance at a meeting, the Trustees who are present shall appoint one (1) Trustee present to chair the meeting;
- (e) the Trustee appointed to chair the meetings in any year, or any three (3) Community Fund Trustees or any four (4) Financial Trustees then holding office, upon written request, as applicable, shall have the right to call additional meetings of the Trustees in that year as shall be deemed necessary;
- (f) all Trustees shall be given at least fifteen (15) days notice in writing of the place, date and time of every meeting, unless all Trustees agree to shorter notice in writing or waive the required notice in writing; and
- (g) minutes of the meetings of the Financial Trustees and of the Community Fund Trustees shall be kept in writing and shall be signed by the Trustee appointed as chair upon approval by all of the Financial Trustees or Community Fund Trustees, as the case

may be. Those minutes shall also indicate which Trustees were in favour of an intended action and which Trustees opposed that action.

12.2 General Meetings of Members

The Financial Trustees and the Community Fund Trustees shall meet with the Members at least once a year at a general meeting of Members. General meetings of Members concerning the Trust, the Trust Property, or its administration, shall be called by the Financial Trustees in any of the following circumstances:

- (a) by Ordinary Resolution of the Financial Trustees;
- (b) within fifteen (15) days of receiving a copy of an Ordinary Resolution of the Community Fund Trustees requesting the Financial Trustees to call a general meeting of Members and describing the matters that are to be dealt with at the general meeting and, if any vote will be required by the Members, the nature of any special business that is to be dealt with at the general meeting in sufficient detail to permit each Member entitled to vote to form a reasoned judgment thereon;
- (c) within fifteen (15) days of receiving a copy of a Council Resolution requesting the Financial Trustees to call a general meeting of Members and describing the matters that are to be dealt with at the general meeting and, if any vote will be required by the Members, the nature of any special business that is to be dealt with at the general meeting in sufficient detail to permit each Member entitled to vote to form a reasoned judgment thereon;
- (d) within fifteen (15) days of receiving a petition signed by at least one hundred (100) Members requesting the Financial Trustees to call a general meeting of Members and describing the matters that are to

be dealt with at the general meeting and, if any vote will be required by the Members, the nature of any special business that is to be dealt with at the general meeting in sufficient detail to permit each Member entitled to vote to form a reasoned judgment thereon;

and shall be held in accordance with the rules and regulations attached in Schedule "D" to this Agreement, which may be amended from time to time in accordance with Section 17.2. All of the Trustees shall attend all general meetings of Members and shall, unless otherwise provided in this Agreement, fully and fairly answer all questions that are asked of them concerning the administration of the Trust. Only Members who are "electors" under the *Indian Act* shall be entitled to receive notice of, to attend at, and to vote at any general meeting of Members concerning the Trust, the Trust Property, or its administration.

13. TRUSTEES' STATEMENT OF INTEREST

- 13.1 A Community Fund Trustee shall, other than in the case of the Per Capita Distribution, if any, fully disclose any interest in a contract or proposed contract with the Trust or in a proposed application of Trust Property to or for the benefit of the Beneficiary which that Community Fund Trustee has or may have to the other Community Fund Trustees and to the Council.
- 13.2 A Financial Trustee shall, other than in the case of the Per Capita Distribution, if any, fully disclose any interest in a contract or proposed contract with the Trust or in a proposed application of Trust Property to or for the benefit of the Beneficiary which that Financial Trustee has or may have to the other Financial Trustees and to the Council.
- 13.3 Without limiting the generality of Sections 13.1 and 13.2, if a Financial Trustee or a Community Fund Trustee:

- (a) has an interest in a proposed application of Trust Property to or for the benefit of the Beneficiary or in an Expenditure Beneficial to the Beneficiary, not in common with the other Members;
- (b) has an interest in a contract or proposed contract in respect of which a proposed application of Trust Property is being considered;
- (c) owns, either directly or beneficially, any interest in any property, business or undertaking in respect of which a proposed application of Trust Property is being considered;
- (d) is the holder of a Third Party Interest in respect of which a proposed application of Trust Property is being considered; or
- (e) is a director, a shareholder or an officer of, or is "related" (as that term is defined in the *Income Tax Act*) to, any Person (including a corporation) who has an interest of the type described in Paragraphs 13.3(a), (b) or (c) or who is the holder of a Third Party Interest described in Paragraph 13.3(d) or is otherwise not in an "arm's length" (as that term is defined in the *Income Tax Act*) relationship with such Person;

then that Trustee shall, other than in the case of the Per Capita Distribution, if any, state in writing to the Community Fund Trustees or Financial Trustees, as the case may be, and to the Council, the nature and extent of his or her interest or the Third Party Interest.

13.4 The statement of interest described in Section 13.3 shall be made:

- (a) at the meeting of Trustees at which a proposed application of Trust Property to or for the benefit of the Beneficiary or an Expenditure Beneficial to the Beneficiary is first being considered by the Community Fund Trustees or the Financial Trustees, as the case may be;

- (b) at the meeting of Trustees at which a contract or proposed contract is first being considered by the Community Fund Trustees or the Financial Trustees, as the case may be;
- (c) at the meeting of Trustees at which a Third Party Interest or an interest in any property, business or undertaking in respect of which a proposed application of Trust Property is first being considered;
- (d) at the meeting of Council next following the date upon which the Trustee knew or ought reasonably to have known that the provisions of any of Paragraphs 13.3 (a), (b), (c), (d) or (e) apply;
- (e) if the Trustee did not have any interest as described in Section 13.3 at the time of the relevant meeting described in Paragraphs 13.4(a), (b) and (c) above, then, if the contract has not then been made or if the application of Trust Property to or for the benefit of the Beneficiary has not been determined or the Expenditure Beneficial to the Beneficiary made, at the first such meeting of Trustees after he or she becomes so interested;
- (f) if the Trustee becomes interested in a contract or an Expenditure Beneficial to the Beneficiary, or becomes the holder of a Third Party Interest, after the contract is signed or the expenditure is made, then at the first meeting described in Paragraph 13.4(d) after he or she becomes so interested; and
- (g) if a Person who is interested in a contract or in an Expenditure Beneficial to the Beneficiary, or is the holder of a Third Party Interest, is appointed as a Trustee after that contract is signed or expenditure made or Third Party Interest acquired, then at the first meeting described in Paragraph 13.4(d) after he or she becomes a Trustee.

- 13.5 Where a Trustee has notified the other Community Fund Trustees or Financial Trustees, as the case may be, and the Council of his or her interest, as required above, the Community Fund Trustees or the Financial Trustees, as the case may be, and the Council shall promptly convene a joint meeting to discuss the disclosure, and the Council shall determine whether the interest is material and provide a Council Resolution to the Community Fund Trustees and Financial Trustees setting out the Council's decision within three (3) working days of the joint meeting.
- 13.6 Pending the determination of materiality by Council, the Financial Trustees, other than the disclosing Financial Trustee(s), may proceed with the contract or they may make alternative arrangements in order to implement a Funding Direction, as they, in their absolute discretion, determine to be in the best interests of the Beneficiary. The provisions of Sections 13.8 and 13.9, as applicable, shall apply to the disclosing Community Fund Trustee(s) or Financial Trustee(s), as the case may be, and such disclosing Trustee(s) shall be relieved of responsibility for any decision of the Community Fund Trustees or Financial Trustees, as the case may be, in relation to the contract or interest in question made by the other Trustees in the best interests of the Beneficiary, having made the required full disclosure.
- 13.7 If a Trustee fails to disclose a conflict of interest in an Expenditure Beneficial to the Beneficiary, contract or Third Party Interest as required, and the Financial Trustees enter into that contract or make that expenditure, the Council, in consultation with the Community Fund Trustees or Financial Trustees, as the case may be, shall determine whether the conflict was material and whether the defaulting Trustee failed to disclose it on a timely basis. If the Council determines that the conflict was material and that there was failure to disclose it on a timely basis, the Council shall advise the other Community Fund Trustees or Financial Trustees, as the case may be, by Council Resolution of their

determination and the defaulting Trustee shall immediately cease to be a Trustee. A Trustee who has failed to disclose a material interest shall not be entitled to participate in a decision of the Council pursuant to this Section 13.7, except as requested to explain the conflict and answer questions concerning the conflict.

13.8 A Financial Trustee who is determined by Council Resolution to have a material conflict of interest(s) as described above:

- (a) shall not participate in, or be present during, any discussion regarding; or
- (b) make, or second, any motion with respect to or vote on any motion involving;

any Expenditure Beneficial to the Beneficiary, contract or proposed contract or Third Party Interest in respect of such material conflict of interest(s), other than to answer questions raised by the other Financial Trustees concerning the contract or expenditure or the Financial Trustee's interest(s).

13.9 A Community Fund Trustee who is determined by Council Resolution to have a material conflict of interest(s) as described above:

- (a) shall not participate in, or be present during, any discussion regarding; or
- (b) make, or second, any motion with respect to or vote on any motion involving;

any application of Trust Property to or for the benefit of the Beneficiary, contract or proposed contract or Third Party Interest in respect of such material conflict of interest(s), other than to answer questions raised by the other Community Fund Trustees concerning the contract or expenditure, or the Community Fund Trustee's interest(s).

- 13.10 Notwithstanding anything in this Article 13 to the contrary, the remaining Community Fund Trustees shall not be prohibited from discussing proposed contracts, determining Expenditures Beneficial to the Beneficiary or issuing Funding Directions to the Financial Trustees.
- 13.11 Notwithstanding anything in this Article 13 to the contrary, the remaining Financial Trustees shall not be prohibited from entering into a contract or making Expenditures Beneficial to the Beneficiary in accordance with a Funding Direction, provided that four (4) of the remaining Financial Trustees then in office approved of such contract or Funding Direction.
- 13.12 Where an Expenditure Beneficial to the Beneficiary or a contract has been approved in accordance with the provisions of this Article 13, all necessary documents may be executed by any of the Trustees after the approval, subject to the provisions of this Agreement governing the execution of documents, whether or not the Trustees executing such documents have a material conflict of interest.
- 13.13 A Trustee who acts in breach of the requirements of this Article 13 shall forthwith be removed by the Council as a Trustee and shall account to and reimburse the Trust for all benefit accruing to that Trustee as a consequence of that breach.

14. COMPENSATION AND REIMBURSEMENT OF TRUSTEE

14.1 Trustees' Compensation

- (a) The Trustees' compensation in connection with the performance of their duties under this Agreement shall be determined by the Members at any general meeting of Members duly called from time to time, having reasonable regard to the nature of the duties of the Trustees, the experience and qualifications of each Trustee, and the intentions of Peguis that:

- (i) the Trustees, as voluntary applicants, may receive modest compensation as honoraria, in particular for any income loss in relation to services provided as Trustees; and
- (ii) the professional Trustees may receive compensation which is appropriate as provided in Section 14.3,

and in each case the Members may also take into consideration in their determination of reasonable compensation, the diversity and extent of the Trust Property under administration, the effort expended, and the care and skill demonstrated by the Trustees in discharging their respective responsibilities.

- (b) The Trustees' compensation determined in accordance with this Section shall be charged against the Income or capital of the Trust Property, or any combination thereof, in the proportion the Financial Trustees, in their discretion, consider appropriate.

14.2 Reimbursement of Expenses

All costs, charges and expenses, including the Trustees' compensation and out-of-pocket expenses incidental to the carrying out of the terms of this Agreement, shall be paid out of the Trust Property and shall be a first charge on the Trust Property, and the Financial Trustees shall allocate these costs, charges and expenses between the Income and capital of the Trust Property in the proportion the Financial Trustees, in their discretion, consider appropriate.

14.3 Professional Advisors as Trustee

Subject to the disclosure requirements of Article 13, any Trustee who is a Corporate Trustee, chartered accountant or solicitor, or engaged in any other profession or business, may make and be paid all usual professional and other charges for work done by it, him or his firm or any member of

his firm in relation to the administration of this Trust in the same manner and in all respects as if he were not a Trustee, and also his reasonable charges in addition to disbursements for all work and business done and all time spent by him and his firm or any member of his firm in connection with matters arising in connection with this Trust including matters which might or should have been dealt with by a Person who is not a chartered accountant or a solicitor or other professional Person, but which the Trustees might reasonably require to be done by a chartered accountant or solicitor or other professional Person.

15. POWERS AND AUTHORITY OF THE TRUSTEES

15.1 General

Subject to any restrictions placed on the powers of the Trustees under this Agreement, the Trustees may do any act or thing in the investment, management, supervision and administration of the Trust which they believe is wise and proper, and in the best interests of the Beneficiary, just as if the Trust Property belonged to them. The Trustees shall have all of the powers and capacities that a natural person would have in the investment, management, supervision and administration of their own properties except as expressly limited by the terms of this Agreement. Without restricting the generality of the foregoing, with no intent to limit the scope of the Trustees' authority and only for the purposes of greater certainty, the Trustees are hereby authorized from time to time in their uncontrolled discretion to undertake the activities described below. Where specific references are made to "Financial Trustees" only they shall have the powers mentioned below:

- (a) Investments: The Financial Trustees shall invest or re-invest the Trust Property in Eligible Investments and may sell or otherwise dispose of or encumber any part or all of the Trust Property at any

time, and at prices and on the terms, as the Financial Trustees in their absolute discretion may deem advisable.

It shall be an obligation of the Financial Trustees to consider the impact of inflation on the real value of the Trust Property, and they may structure any transaction or distribution out of the Trust Property so as to minimize the effect of such inflation as in their absolute discretion they consider appropriate.

As required by Paragraph 7.5(a), the Financial Trustees are authorized and shall retain the services of one or more professional financial managers or advisors to whom some or all of the Financial Trustees' authority to make investments pursuant to this Paragraph 15.1(a) may be delegated. The Financial Trustees are authorized to revoke or suspend any delegation from time to time and to change the financial managers or advisors to whom any delegation has been made.

- (b) Purchase from Beneficiary: In addition to Eligible Investments, the Financial Trustees may acquire at any time as an investment, and may hold as part of the Trust Property, property owned by the Beneficiary, at prices and upon the terms, all as the Financial Trustees in their absolute discretion consider appropriate.
- (c) Securities Transactions: The Financial Trustees may vote all investments forming the Trust Property, and exercise all rights arising from their ownership of such investments. They may sell or exercise any subscription rights and in connection with the exercise of subscription rights may use any portion of the Trust Property for that purpose. They may consent to and join in any plan for reconstruction, reorganization, amalgamation, or consolidation of any company. They may consent to and join in the sale of the

assets of any such company. In pursuance of any such plan they may accept any shares or securities in exchange.

- (d) Proxy: The Financial Trustees may appoint any Person or Persons as their proxy or proxies to vote any shares and securities held as Trust Property.
- (e) Title to Assets: The Financial Trustees may register any property in the names of their nominee(s) or in their own names or unregistered or in any such form that title shall pass by delivery, but without increasing or decreasing their liability as Financial Trustees.
- (f) Distributions: The Financial Trustees may make any distributions which may be required in whole or in part in assets forming the Trust Property. Every distribution, and valuation of the Trust Property, shall be binding upon the Beneficiaries.
- (g) Lending: The Financial Trustees may lend the Trust Property or any part to any Person, except a Trustee, the Chief or a member of the Council, for any security which they, acting reasonably and prudently, in their absolute discretion may think is sufficient; provided that the aggregate amount of such loans outstanding at any time shall not exceed ten (10%) percent of the Trust Property.
- (h) Valuation of Assets: The Financial Trustees may, in their absolute discretion, determine in the case of investments purchased or sold at a premium or discount or in the case of any monies received, whether any premium, discount or amount received shall be credited to or charged against capital or Income of the Trust Property.
- (i) Agents: The Financial Trustees may engage or employ and compensate agents, accountants, solicitors, brokers and other assistants and advisors which they believe will be helpful, for the

proper settlement or administration of the Trust, and without any liability for any neglect or default of any Person so engaged or employed, if the Person was selected and retained with reasonable care. The Financial Trustees may retain, dismiss and replace agents, including lawyers, accountants, bookkeepers, investment advisors, realtors, appraisers, auctioneers, architects, engineers and other independent advisors or organizations qualified in the field for which their advice and opinions are sought, to assist the Financial Trustees or Community Fund Trustees in carrying out their responsibilities and duties under this Trust, and the Financial Trustees and Community Fund Trustees shall not be bound to act upon this advice, and shall not be responsible for any loss caused by acting or not acting, provided the decision to act or not act was taken reasonably and in good faith.

- (j) Situs of Assets: The Financial Trustees may hold the Trust Property or any part of it at any place or places, and move the same from time to time from place to place inside or outside of the Province of Manitoba.
- (k) Self-Dealing: Except in respect of services which the Financial Trustees consider necessary for the proper administration of the Trust, the Trustees shall have no right to engage in any business transactions with themselves on behalf of the Trust. In respect of services which they consider necessary for the proper administration of the Trust, the Financial Trustees may engage in such transactions if they are, in the opinion of the Trustees, on the same basis as may be reasonably negotiated with any other Person, subject to Article 13.
- (l) Transfer of Trust Fund to Other Trust: The Financial Trustees may transfer the whole or any portion of the Trust Property to any other

trust or settlement whether established pursuant to the laws of the Province of Manitoba or any other jurisdiction, to be held by the trustee(s) of that other trust or settlement, provided that:

- (i) the Financial Trustees have recommended to the Council that the transfer be made;
 - (ii) the Council has, by Council Resolution, accepted the recommendation of the Financial Trustees;
 - (iii) the Members have, by a vote in which not less than ninety (90%) percent of the Members entitled to vote cast a vote and not less than seventy-five (75%) percent vote to approve the transfer, the vote being conducted in a manner similar to the *Indian Referendum Regulations*;
 - (iv) the other trust or settlement shall not infringe the rule against perpetuities or accumulations applicable to that trust; and
 - (v) the Beneficiary shall be the sole beneficiary of the other trust.
- (m) Suits by the Trustees: The Financial Trustees may institute, prosecute, settle and defend any lawsuits or other proceedings affecting them as the Financial Trustees, or affecting the Community Fund Trustees or all or any part of the Trust Property, and may make application to any Court of competent jurisdiction in respect of the Trust.

16. TERMINATION

16.1 Duration

This Trust shall continue indefinitely, subject, however, to earlier termination by a vote in which not less than ninety (90%) percent of the

Members entitled to vote cast a vote and not less than seventy-five (75%) vote to approve the termination of the Trust, the vote being conducted in a manner similar to the *Indian Referendum Regulations* made under the *Indian Act*.

16.2 Reversion of Trust Property

Upon termination of the Trust, the Trust Property then remaining shall be transferred to Peguis, to be applied by Peguis as determined by a vote in which not less than ninety (90%) percent of the Members entitled to vote cast a vote and not less than seventy-five (75%) percent vote to approve of the application of the Trust Property, the vote being conducted in a manner similar to the *Indian Referendum Regulations* made under the *Indian Act*.

16.3 Termination Report

Within three (3) months after termination of the Trust, the Financial Trustees shall provide the Council with a final accounting of their administration of the Trust (referred to as the "*Termination Report*"), together with all the records, account books and other documents relating to the Trust in the possession of the Financial Trustees and the Community Fund Trustees shall provide the Council with all the records and documents relating to the Trust in the possession of the Community Fund Trustees. The Financial Trustees' final accounting shall also be provided to the Members, together with any additional explanation and information as Members may reasonably require.

16.4 Discharge of Trustees

The Trustees shall be fully and finally discharged from their responsibilities of the Trust upon written notification from the Council of its approval of the Termination Report prepared by the Financial Trustees. If, within three (3) months after the Council has received the Termination Report, it has not

notified the Trustees of its approval of the Termination Report prepared by the Financial Trustees, the Financial Trustees shall bring their accounts before a Court of competent jurisdiction for review and approval and for the purpose of seeking a discharge.

17. AMENDMENT TO THE TERMS OF THE TRUST

17.1 Legal Requirement

This Agreement may be amended to deal with changes in the law applicable to the Trust, provided that the proposed amendments have been approved by Council Resolution in accordance with its established procedures after receipt of a written opinion from legal counsel explaining the significance of changes in the law and the legal implications and benefits of the proposed amendments.

17.2 Administrative Requirements

Provisions of this Agreement which are of an administrative or procedural nature and which legal counsel for each of Peguis, the Financial Trustees and the Community Fund Trustees have advised does not substantially alter the entitlements or obligations of the parties to this Agreement, including the beneficial interest of the Beneficiary, may be amended at any time by the Financial Trustees by Ordinary Resolution together with the approval of Council obtained by Council Resolution.

18. NOTICE

18.1 Whenever notice is required be given to any party in accordance with this Agreement, notice shall be given in writing by delivering it personally or sending it by registered mail:

- (a) to the Council and the Beneficiary at:

Peguis First Nation
Post Office Box 10,
Peguis Reserve, Manitoba
R0C 3J0

- (b) to the Financial Trustees and the Community Fund Trustees at the addresses set out in Schedule "B" attached.

Any notice or communication shall be sufficient if delivered personally, or if delivered by registered mail, and shall be effective on delivery if delivered personally or within four (4) business days after mailing, if mailed. In the event of an anticipated or actual stopping of postal service, registered mail shall not be used.

19. ASSIGNMENT OF BENEFICIARY'S INTEREST

Income payable to the Beneficiary may be assigned by it to one or more other trusts established for the benefit of the Beneficiary. The Financial Trustee shall, upon receipt of a written direction from the Council, make payments of Income to which the assignment relates to such one or more other trusts. Any assignment made shall not operate to assign or otherwise convey the Beneficiary's right to Income or income interest under this Trust. The Beneficiary may revoke any assignment at any time upon direction from the Council, by Council Resolution, to the Financial Trustees.

20. GOVERNING LAW

This Agreement and its provisions shall be construed, governed and enforced in accordance with the laws of the Province of Manitoba, which, together with the federal laws of Canada of general application in the Province of Manitoba, shall be the proper law of this Trust, including the law relating to the determination of its essential validity. Subject to the provisions of this Agreement, and provided legal counsel for each of Peguis, the Financial Trustees and the Community Fund

Trustees explaining the significance of the following actions, the Financial Trustees may select the laws of another jurisdiction to be the proper law of the Trust and to govern it in all respects, and the Financial Trustees may remove the Trust Property in whole or in part to any other jurisdiction, whether or not that other jurisdiction is also the proper law of the Trust.

21. ADJUSTMENTS FOR INFLATION

Dollar amounts specified in Section 1.11, Section 1.13 and Section 7.6 of this Agreement are to be adjusted for changes in the Consumer Price Index for Canada which have occurred from the date this Agreement is signed to the relevant date upon which reference to such dollar amount is made for purposes of this Agreement.

AS WITNESSED BELOW the Settlor and Initial Trustees have executed this Agreement on the day first above written.

SIGNED, SEALED AND DELIVERED
in the presence of:

PEGUIS FIRST NATION
by its Chief and Council

FINANCIAL TRUSTEES

Witness

Witness

Witness

Witness

Witness

COMMUNITY FUND TRUSTEES

Witness

Witness

Witness

Witness

Witness

SCHEDULE "A"

PROMISSORY NOTE

FOR VALUE RECEIVED the Peguis First Nation Surrender Claim Trust promises to pay to or to the order of Peguis First Nation the sum of _____ (\$_____) dollars, on demand, without interest on the principal amount outstanding from time to time.

The Trustees waive presentment, protest and notice of dishonour of this note.

DATED this _____ day of _____, 20__.

Witness
(as to all)

Financial Trustee

Financial Trustee

Financial Trustee

Financial Trustee

Financial Trustee

Each as a Financial Trustee of the
**PEGUIS FIRST NATION
SURRENDER CLAIM TRUST**

SCHEDULE "B"

LIST OF TRUSTEES PEGUIS FIRST NATION SURRENDER CLAIM TRUST

Financial Trustees (7)

1. Full Name: _____
Address: _____
Town/City: _____
Postal Code: _____
Telephone (Home): _____
Telephone (Work): _____
Cell: _____
E-mail Address: _____
Fax: _____

2. Full Name: _____
Address: _____
Town/City: _____
Postal Code: _____
Telephone (Home): _____
Telephone (Work): _____
Cell: _____
E-mail Address: _____
Fax: _____

3. Full Name: _____
Address: _____
Town/City: _____
Postal Code: _____
Telephone (Home): _____
Telephone (Work): _____
Cell: _____
E-mail Address: _____
Fax: _____

4. Full Name: _____
Address: _____
Town/City: _____
Postal Code: _____
Telephone (Home): _____
Telephone (Work): _____
Cell: _____
E-mail Address: _____
Fax: _____
5. Full Name: _____
Address: _____
Town/City: _____
Postal Code: _____
Telephone (Home): _____
Telephone (Work): _____
Cell: _____
E-mail Address: _____
Fax: _____
6. Full Name: _____
Address: _____
Town/City: _____
Postal Code: _____
Telephone (Home): _____
Telephone (Work): _____
Cell: _____
E-mail Address: _____
Fax: _____
7. Full Name: _____
Address: _____
Town/City: _____
Postal Code: _____
Telephone (Home): _____
Telephone (Work): _____
Cell: _____
E-mail Address: _____
Fax: _____

Community Fund Trustees (5)

| | | |
|----|-------------------|-------|
| 1. | Full Name: | _____ |
| | Address: | _____ |
| | Town/City: | _____ |
| | Postal Code: | _____ |
| | Telephone (Home): | _____ |
| | Telephone (Work): | _____ |
| | Cell: | _____ |
| | E-mail Address: | _____ |
| | Fax: | _____ |
| | | |
| 2. | Full Name: | _____ |
| | Address: | _____ |
| | Town/City: | _____ |
| | Postal Code: | _____ |
| | Telephone (Home): | _____ |
| | Telephone (Work): | _____ |
| | Cell: | _____ |
| | E-mail Address: | _____ |
| | Fax: | _____ |
| | | |
| 3. | Full Name: | _____ |
| | Address: | _____ |
| | Town/City: | _____ |
| | Postal Code: | _____ |
| | Telephone (Home): | _____ |
| | Telephone (Work): | _____ |
| | Cell: | _____ |
| | E-mail Address: | _____ |
| | Fax: | _____ |
| | | |
| 4. | Full Name: | _____ |
| | Address: | _____ |
| | Town/City: | _____ |
| | Postal Code: | _____ |
| | Telephone (Home): | _____ |
| | Telephone (Work): | _____ |
| | Cell: | _____ |
| | E-mail Address: | _____ |
| | Fax: | _____ |

5. Full Name: _____
Address: _____
Town/City: _____
Postal Code: _____
Telephone (Home): _____
Telephone (Work): _____
Cell: _____
E-mail Address: _____
Fax: _____

SCHEDULE "C"

Consent and Acknowledgement Peguis First Nation Surrender Claim Trust

I, _____, of the _____ of _____, in the Province of _____, Canada, hereby accept and consent to and acknowledge my appointment as a Trustee of the Peguis First Nation Surrender Claim Trust by the resolution of the Council of the Peguis First Nation dated _____, a copy of which is attached as Appendix A.

I pledge that I will act as a Trustee to the best of my knowledge, ability and skill, in utmost good faith, with due care and diligence at all times in accordance with the terms of the Trust Agreement, a copy of which is attached as Appendix B.

I have read the Trust Agreement and understand that I will be liable for breach of the duty of care to which I am bound to exercise as a Trustee at law, and in particular for any fraudulent or negligent act or omission by me, but that I am otherwise indemnified and saved harmless from claims and costs arising from the performance of my duties as a Trustee from the Trust Property in accordance with the terms of the Trust Agreement. I also understand that the Trust Agreement provides for strict and detailed guidelines in relation to the disclosure of conflicts of interest, the breach of which could result in the withdrawal of my appointment, accounting for profit or returns received and other civil or criminal penalties.

I acknowledge and agree that I may be obliged to participate in the financial management and investment or Trust management orientation and training workshops or programs to assist me and the other Trustees in the better management and administration of the Peguis Settlement Trust.

This Consent and Acknowledgement signed this _____ day of _____, _____ at _____, Manitoba.

Signature of Witness

Signature of Trustee

SCHEDULE "D"

General Meetings of Members Regulations

The within regulations dealing with general meetings of Members may be referred to as the "General Meeting of Members Regulations."

1. NOTICE OF GENERAL MEETING

- 1.1 Giving and Posting Notice: Notice of a general meeting of Members concerning the Trust, the Trust Property, or its administration, shall be given by the Financial Trustees no less than thirty (30) days before the day on which the general meeting is to be held:

- (a) to each Trustee; and
- (b) to the Chief and each Councillor; and

shall be posted in at least one (1) conspicuous place within the administrative offices of Peguis and published in at least one (1) issue of a newspaper having a general circulation in Winnipeg and Selkirk, Manitoba, no less than thirty (30) days before the day on which the general meeting is to be held.

- 1.2 Contents of Notice: Notice of a general meeting of Members shall:

- (a) commence with the words "NOTICE OF GENERAL MEETING OF PEGUIS FIRST NATION SURRENDER CLAIM TRUST" in capital letters;
- (b) specify the place, date and time of the meeting;
- (c) describe the matters that are to be dealt with at the meeting and, if any vote will be required by the Members, the nature of any special business that is to be dealt with at the meeting in sufficient detail to permit each Member entitled to vote to form a reasoned judgment thereon; and
- (d) contain such other information as the Financial Trustees may approve.

2. QUORUM AT GENERAL MEETING

- 2.1 Quorum: A quorum of Members is present at a general meeting of Members if the greater of:

- (a) two hundred (200) Members who are "electors" under the *Indian Act*; or
- (b) four (4%) percent of the Members who are "electors" under the *Indian Act*;

are present in person.

- 2.2 Opening Quorum Sufficient: If a quorum of Members is present at the opening of a general meeting of Members, the Members present may proceed with the business of the meeting, notwithstanding that a quorum is not present throughout the meeting.
- 2.3 Adjournment: If a quorum of Members is not present at the opening of a general meeting of Members, the Members present may adjourn the meeting to a fixed time and place, but shall not transact any other business.

3. PROCEEDINGS AT GENERAL MEETINGS

- 3.1 Chairman: A majority of the Financial Trustees present shall appoint any individual to act as Chairperson at a general meeting of Members.
- 3.2 Moving and Seconding of Resolutions: Each resolution proposed at a general meeting of Members shall be presented or read by the mover and seconded, and if duly moved and seconded, shall be placed before the meeting by the Chairperson and thereupon be open for consideration by the general meeting.
- 3.3 Withdrawal and Amendment of Resolutions: After a proposed resolution has been placed before the general meeting by the Chairperson, it shall be deemed to be in the possession of the Members present but may be withdrawn or amended by resolution passed by those Members present. A motion that is withdrawn is neither defeated nor carried. A vote in favour of any resolution amending a proposed resolution shall not have the effect of passing the amended proposed resolution, and the amended proposed resolution shall be open for consideration.
- 3.4 Call for Vote: The Chairperson may, after there has been a reasonable period of consideration of a proposed resolution that has been placed before the general meeting, call for a vote on the proposed resolution.

3.5 Voting on Resolutions:

- (a) Only Members who are "electors" under the *Indian Act* (including the Chief, the Councillors and those Trustees who are Members) shall be entitled or permitted to vote on a proposed resolution at a general meeting of Members.
- (b) Voting on a proposed resolution shall be by show of hands of those in favour of the proposed resolution, and then of those against the proposed resolution, or in such other manner as a majority of the Financial Trustees present may approve.
- (c) In the case of an equality of votes, the Chairperson shall not have a casting vote in addition to the vote to which he or she is entitled in his or her capacity as a Member, and the proposed resolution shall not pass.

3.6 Passing of Resolutions: A proposed resolution before the Members shall be passed if it is voted in favour of by a majority of Members present at the opening a general meeting of Members who are "electors" under the *Indian Act*.

SCHEDULE "E"

Form of Certification

PEGUIS FIRST NATION SURRENDER CLAIM TRUST **WE**
HEREBY CONFIRM, for the purposes of Section 8.4 of the Peguis First Nation
Surrender Claim Trust, that as of the Date of Certification, being the _____ day
of _____, 2009, a reasonable estimate of:

1) the number of Qualified Members **who will have** reached the
age of fifty-five (55) years of age in the calendar year of the Date of Certificate, is
_____ individuals; and

2) the number of Qualified Members **who will not have** reached
the age of fifty-five (55) years of age in the calendar year of the Date of
Certificate, is _____ individuals.

Capitalized terms in this Form of Certification shall have the meaning ascribed to
such terms under the Peguis First Nation Surrender Claim Trust.

This Form of Certification signed the _____ day of _____, 2009,
at the _____ of _____ in the Province of Manitoba

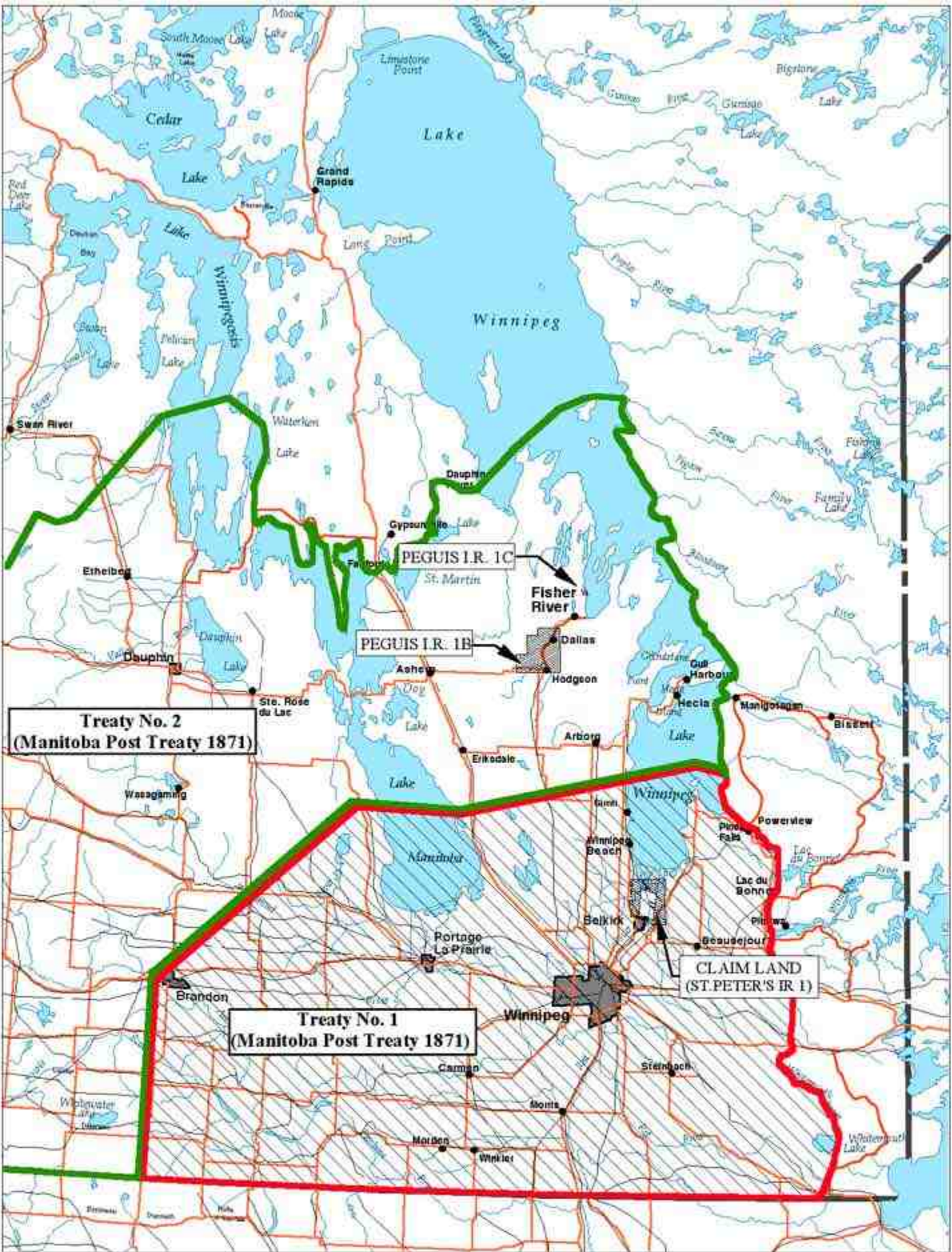
Witness
(as to all)

Each as a member of Chief and
Council of the
PEGUIS FIRST NATION

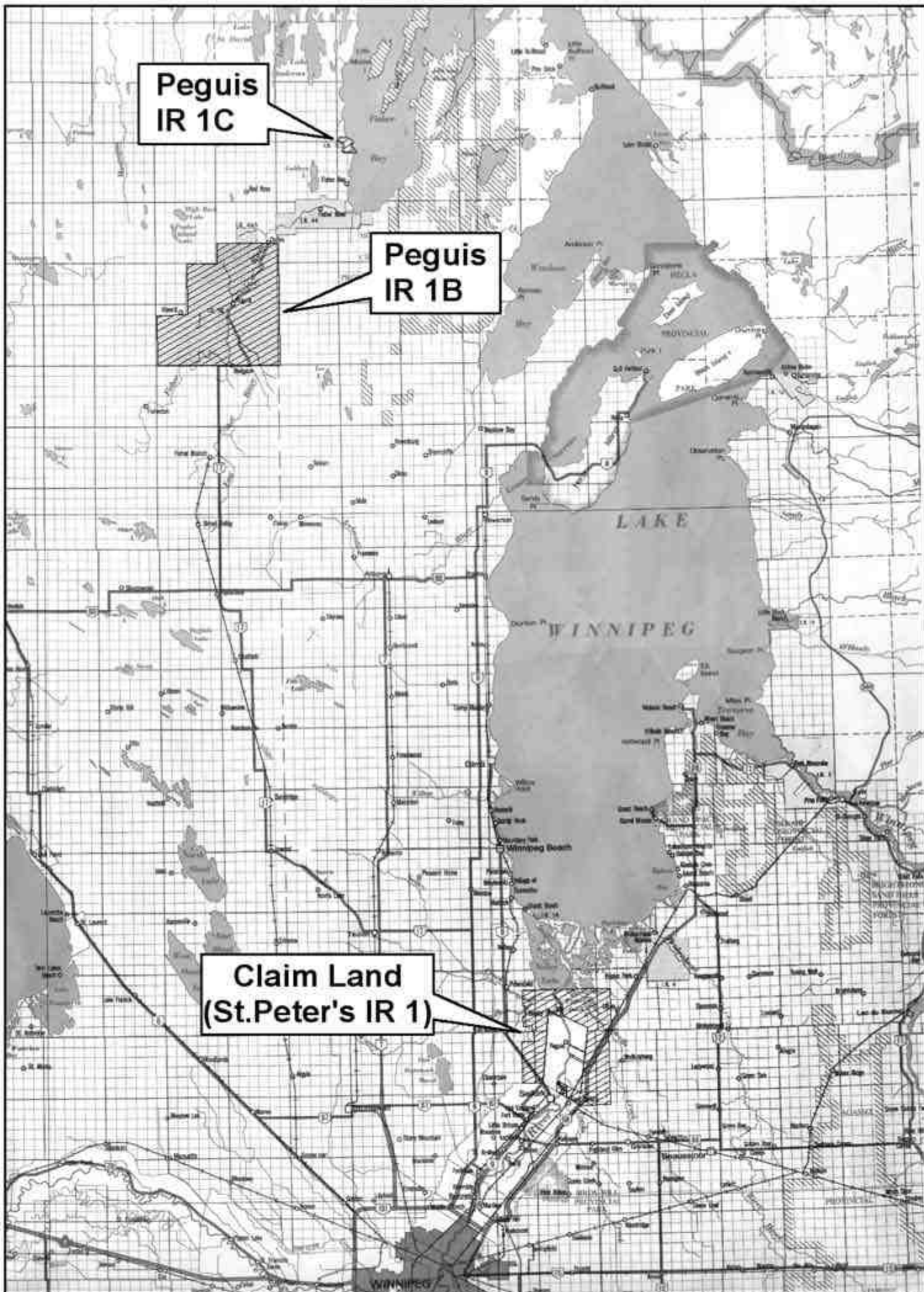
TRUST AGREEMENT

Peguis First Nation Surrender Claim Trust

Peguis First Nation

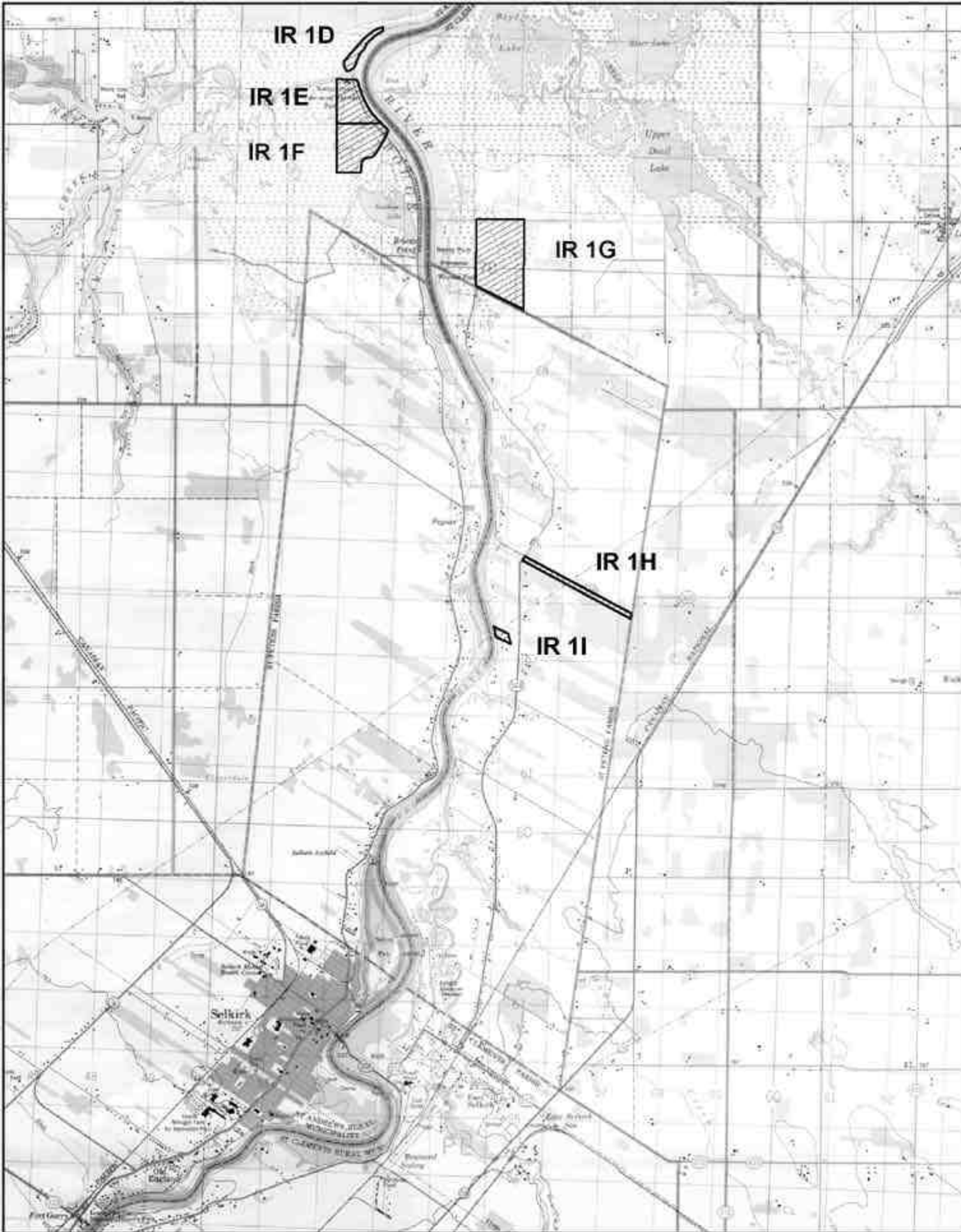


Treaty One and Treaty Two Locations



**Locations of Claim Land (St. Peter's IR 1)
and Peguis IR 1B & Peguis IR 1C**



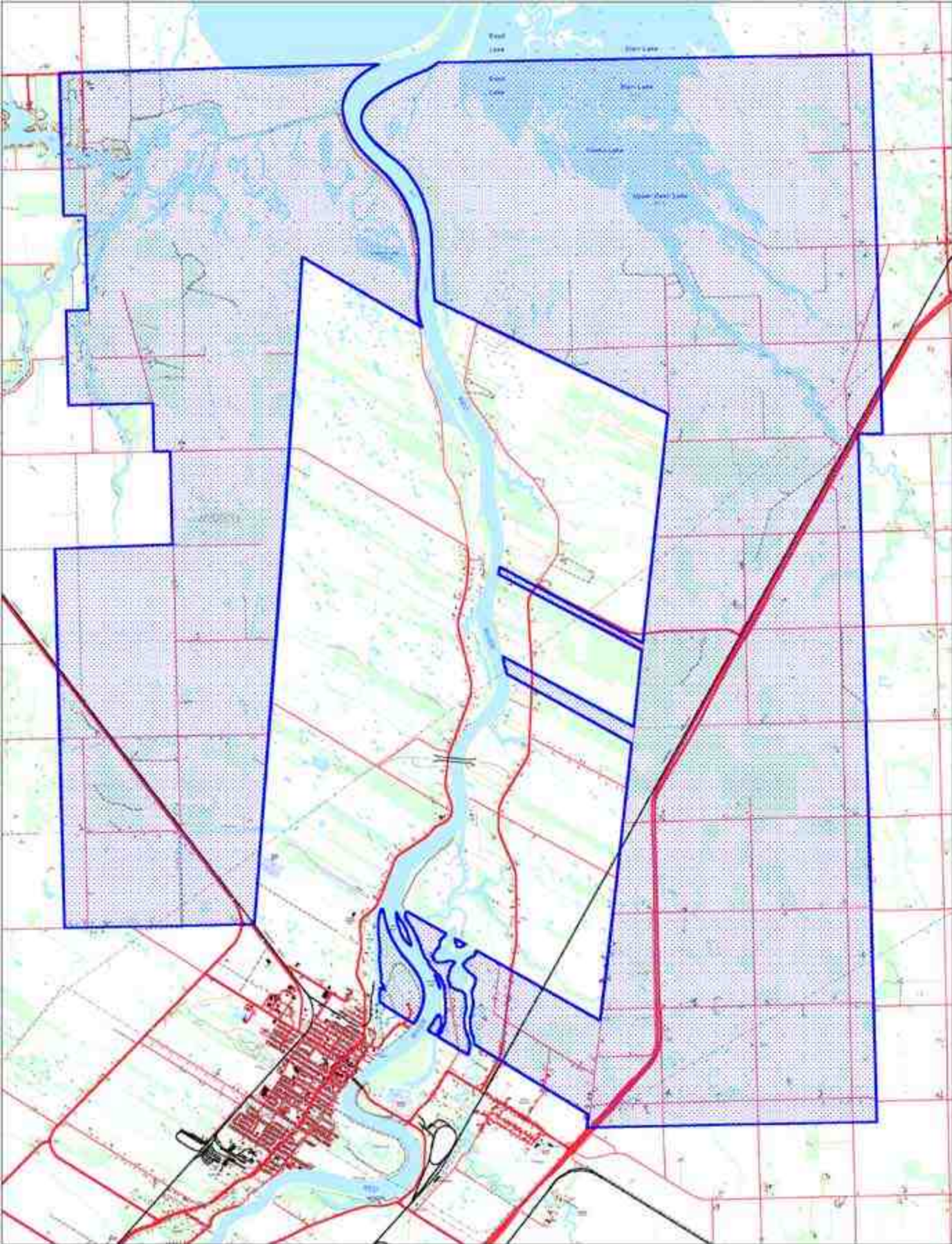


Returned Reserve Land

- By Order in Council dated April 20, 1993 approximately 511 acres of the Claim Land were returned to the Peguis First Nation as Reserve.



Scale 1:100,000



St. Peter's Indian Reserve 1

**The Claim Land For Purposes
of Claim Negotiations**

39,393 acres



Scale 1:100,000