

TRUST AGREEMENT

**THIS AGREEMENT DATED FOR REFERENCE THE 27TH DAY OF APRIL, 1994 IS
BETWEEN:**

The Mississauga Band
also known as **THE MISSISSAUGA FIRST NATION**
hereinafter called "Mississaugi"
represented by the Council

- and -

CAROLYN BOYER
MARK CADA
GLORIA DAYBUTCH
JAMES W. MORNINGSTAR
ROGER JONES
hereinafter called "the Trustees"

WHEREAS

Mississaugi has made a Land Claims Settlement Agreement with Her Majesty the Queen in Right of Canada and Her Majesty the Queen in right of Ontario, to settle Mississaugi's claim concerning the northern boundary of the reservation made in the Treaty of September 9, 1850;

In the Land Claim Settlement Agreement, Her Majesty the Queen in right of Canada and Her Majesty the Queen in right of Ontario agreed to deposit specified amounts of money into the Mississaugi Trust Account described in that Agreement;

Mississagi wants to ensure that the money in the Trust Account is managed, used and invested prudently and wisely, for the benefit of the present and future generations of the people of Mississagi, and is therefore creating the Mississagi Trust;

The purpose of this Trust Agreement is to set clear rules for the administration and operation of the Mississagi Trust, and to set rules for the appointment and conduct of the Trustees; and

Mississagi has approved this Trust Agreement by a Vote held on _____, 1994, and has directed the Council to sign this Agreement; now

THEREFORE the parties to this Agreement agree as follows:

1. CREATION OF THE MISSISSAGI TRUST:

- 1.1 Mississagi and the Trustees agree that a trust now referred to as the Mississagi Trust is established pursuant to the terms of this Trust Agreement. Each of Mississagi and the Trustees acknowledges and agrees that the terms and provisions contained in this Trust Agreement are binding upon Mississagi and the Trustees.
- 1.2 Mississagi appoints the Trustees and the Trustees agree to hold the Trust Property in trust for Mississagi, upon the trusts set out in this Trust Agreement.
- 1.3 All beneficial right, title, interest and benefit in the Trust Property shall vest in Mississagi.
- 1.4 All legal right, title and interest in the Trust Property shall vest in the Trustees.

1.5 This Trust Agreement shall come into effect when each of the following has taken place:

- (a) Mississagi approves the Land Claim Settlement Agreement and authorizes the Council to enter into this Trust Agreement;
- (b) The Council by Resolution appoints the first Trustees;
- (c) The first Trustees sign this Trust Agreement;
- (d) A majority of the Council signs this Trust Agreement; and
- (e) Canada deposits Canada's Compensation and Ontario deposits Ontario's Compensation into the Trust Account.

2. **DEFINITIONS:**

Any words in this Trust Agreement which are not specifically defined in this Agreement and which are defined in the Land Claim Settlement Agreement shall have the same meaning as in the Land Claim Settlement Agreement.

"Band Corporation" means a company which has been incorporated pursuant to the laws of Canada or Ontario and which meets the following requirements:

- (a) the company's purposes include the holding of real property or chattels for the use and benefit of Mississagi;
- (b) no shares may be owned by anyone except Band Members and Mississagi; and
- (c) the operations and profits benefit all Band Members.

"Band Member" has the same meaning as "Member", and means a person whose name appears on Mississagi's Band List or who is entitled to be on the Band List pursuant to the provisions of the Indian Act.

"Chief" means the Chief of the Mississauga Band;

"Council" means the Council of the Mississauga Band;

"Financial Institution" means a Canadian chartered bank or a trust company incorporated under the laws of Ontario or Canada as is appointed pursuant to this Agreement from time to time.

"Fiscal Year", in respect of the Mississagi Trust, means the period from April 1 of one year to March 31 of the succeeding year, and, in respect of the first fiscal year of the Mississagi Trust, means the period beginning on the date the Trust is created and ending on the following March 31.

"General Band Meeting" means a meeting of Mississagi held pursuant to Article 5 or Article 19.

"Income" means all of the income derived from the Trust Property less the aggregate of:

- (i) all expenses incurred or payable in respect of or to protect the Trust Property or incurred or payable in connection with the management and administration of the Trusts now set out as determined by the Trustees to be chargeable to income;
- (ii) such or other sums in each year as the Trustees in their sole discretion consider to be proper allowances, reserves, deductions and disbursements in accordance with generally accepted accounting principles; and
- (iii) without limiting the generality of the foregoing, such sum in each year as the Trustees shall in their absolute discretion consider necessary and advisable from time to time as being on account of depletion, deterioration or obsolescence of any of the assets of the Trust Property.

"Land Claim Settlement Agreement" means the Agreement between Her Majesty the Queen in Right of Canada, Her Majesty the Queen in Right of Ontario, and Mississagi, dated for reference the ___ day of April, 1994;

"Permitted Investments" means:

- (a) Debt instruments issued or guaranteed by the Government of Canada, a province of Canada, or a Municipality of Canada;
- (b) Debt instruments issued or guaranteed by any of the following chartered banks including bankers' acceptances:
 - (i) The Bank of Montreal
 - (ii) The Bank of Nova Scotia
 - (iii) The Toronto-Dominion Bank
 - (iv) The Canadian Imperial Bank of Commerce
 - (v) The Royal Bank of Canada;
- (c) Investment Grade Commercial Paper issued by corporations rated R-1 or A-1 by the Dominion Bond Rating Service or the Canadian Bond Rating Service up to \$0.5 million per issuer;

- (d) Investment Grade Corporate Bonds rated A or better by the Dominion Bond Rating Service or the Canadian Bond Rating Service up to \$0.5 million per issuer;
- (e) Mortgage backed securities which are guaranteed by federal or provincial government agencies or by any of the above chartered banks;
- (f) Mutual or pooled fund of the above listed Permitted Investments not to exceed 15% of the book value of the Capital Account;
- (g) without being limited by subparagraphs (a) through (f) above, any investments which have been recommended by the Trustees and which have been approved by the Voters in the same manner as projects or proposals are approved pursuant to Article 5;

"Reserve" means the Mississauga No. 8 Reserve and any lands that are added to that Reserve from time to time;

"Trust Account" means the account in a bank into which Mississagi directs that Canada's Compensation and Ontario's Compensation shall be paid, pursuant to Schedule "C" to this Trust Agreement.

"Trust Property" comprising the Mississagi Trust shall be Canada's Compensation and Ontario's Compensation to be deposited by Canada and by Ontario into the Trust Account, as directed by the Council through the Direction which is Schedule "C" to this Trust Agreement, and shall include all property in which the same may be invested by the Trustees, or into which the same may be converted by the Trustees, and all additions and accumulations thereto.

"Vote" means a Vote conducted and held in a manner consistent with the Voting Guidelines of the Land Claim Settlement Agreement, except that the Council shall appoint the officer who shall have the same functions as the Ratification Officer, and that no Information Meetings shall be required.

"Voter" means a Member of Mississagi who is eighteen years of age or older on the day of the Vote.

3. PURPOSE OF THE TRUST

- 3.1 Mississagi and the Trustees acknowledge and agree that the Trust Property is intended to be held and shall be held as a long-term asset for the use and benefit of Mississagi, as beneficiary, to be administered by the Trustees upon the trusts set out in this Trust Agreement.
- 3.2 Mississagi and the Trustees wish to establish a Trust to be known as the **Mississagi Trust** to hold the Trust Property for the use and benefit of Mississagi.

4. CAPITAL AND REVENUE

- 4.1 The money paid to Mississagi by Canada and Ontario pursuant to the Land Claim Settlement Agreement ("Canada's Compensation" and "Ontario's Compensation") shall be paid into the "Trust Account" referred to in that Agreement, as directed by the Council in the Direction in Schedule "C" to this Trust Agreement.
- 4.2 In this Trust Agreement, the "Trust Account" shall be called the "Capital Account", and the money in the account shall be called "Capital Moneys". The income derived from the Capital Account shall be called "Revenue Moneys", shall be placed in the "Revenue Account", and shall be accounted for by the Trustees separately and shall not be co-mingled with the Capital Account.
- 4.3 If property, shares or other investments are acquired by the Trustees with Capital Moneys, these shall collectively be called "Capital Investments". If property, shares or other investments are acquired by the Trustees with Revenue Moneys, these shall collectively be called "Revenue Investments".

4.4 Mississagi can add other assets to the Capital Account or the Revenue Account from any source by Resolution of the Council. Any assets added to either of these accounts shall be governed by the terms of this Trust Agreement.

5. **AUTHORIZING THE SPENDING OF TRUST PROPERTY:**

- 5.1 All disposition of Trust Property (except to make investments pursuant to Article 6.4, to buy land pursuant to Article 13 or to pay expenses or make loans pursuant to Article 14) must be consistent with Article 6 and must first meet the following requirements:
- (a) The project or proposal must be detailed in writing with a budget, and submitted to the Trustees;
 - (b) The Trustees must have considered it and recommended it at a duly called meeting of the Trustees;
 - (c) If the Trustees have recommended the project or proposal, they shall then call a General Band Meeting to be held on the Reserve at a date and time of their choosing;
 - (d) Notice of the date, place and time of the General Band Meeting shall be posted at the Administration Office on the Reserve and at such other places as the Trustees deem advisable, at least thirty days before the date set for the meeting, and shall be sent by mail to Voters who do not live on the Reserve at least thirty days before the date set for the meeting;
 - (e) The notice shall state that the purpose of the meeting will be to consider spending a specific amount of the Trust Property for the specified project or proposal. The notice shall provide details of the project or proposal and its budget. The notice shall include a statement of whether matching or additional funding is available for the project or proposal from other sources. The notice shall state that the Trustees have recommended that the project or proposal is worthy of consideration by the Band Members.

- (f) For a project or proposal to be approved by Mississagi, a Vote in which at least 35% of the Voters participate, and in which a majority of those who vote, vote in favour of the project or proposal, is required. The Vote may take place at the General Band Meeting but shall be conducted by secret ballot.
- (g) The ballot shall describe the project or proposal briefly, and shall state the amount of the Trust Property it is proposed should be spent, and shall ask: "Do you approve of this spending by the Trustees for this project or proposal? YES_____ NO_____".

5.2 If the spending of the Trust Property is approved as set out in Article 5.1(f), the Trustees shall spend up to, but no more than, the approved amount for that project.

5.3 More than one project or proposal may be considered at any meeting of the Trustees or at any General Band Meeting.

6. HOW THE TRUST PROPERTY CAN BE USED:

6.1 The Trust Property, whether in cash or in any other form, shall not be used directly or indirectly for per capita distribution to Band Members except as specifically provided in subparagraphs 6.2(c) and 6.3(r).

6.2 The Capital Moneys shall be used only for:

- (a) acquiring land in accordance with the terms of this Trust Agreement, to be added to the Mississauga Reserve, including by the Trustees transferring the land to Canada;
- (b) investing in Permitted Investments;

- (c) distributing up to one thousand dollars (\$1,000.00) to each Band Member, but only after more than six months have passed from the date of execution of this Trust Agreement, and only if the Trustees in their absolute discretion have established rules for the distribution that ensure that there is no discrimination between Band Members on the basis of gender or residence, and that minors and persons under disabilities are properly protected.

6.3 The Revenue Moneys shall be used only for:

- (a) acquiring land in accordance with the terms of this Trust Agreement, to be added to the Reserve;
- (b) investing in Permitted Investments;
- (c) acquiring land to be held for investment or development purposes, whether or not the land is to be added to the Reserve;
- (d) the building, establishment and operation of a school or schools;
- (e) scholarship and bursary funds for Band Members;
- (f) construction and maintenance of roads, bridges, ditches, water-courses, fences, buildings or permanent improvements, works or infrastructure on the Reserve;
- (g) the purchase of industrial or manufacturing equipment or machinery for Mississagi or for a Band Corporation;
- (h) to pay expenses necessarily incidental to the management of lands, buildings or businesses which are owned by Mississagi or a Band Corporation;
- (i) to establish and build a credit union or a bank or a trust company to be owned by Mississagi or a Band Corporation;
- (j) to promote the health of the Members of Mississagi generally;
- (k) to promote or establish a business or commercial operation owned by Mississagi or a Band Corporation;
- (l) to establish or enhance recreational facilities owned by Mississagi or a Band Corporation;

- (m) to preserve, study or promote Ojibway or Mississagi language and cultural heritage;
- (n) to lend money or other assets to Mississagi, Band Corporations or Mississagi joint ventures, for any purpose listed above;
- (o) to fund the research, development or negotiation of claims by Mississagi against Canada, Ontario, or both Canada and Ontario.
- (p) to hire people to work for Mississagi or Mississagi Band Corporations in the field of community development or resource development;
- (q) to pay the expenses of the Trustees and the Trust in connection with the administration and operation of the Trust;
- (r) Beginning two years after the date that this Trust Agreement comes into effect, make *per capita* distributions to Band Members, without discrimination on the basis of gender or residence, in any amount up to two per cent (2%) of the income derived from the Trust Property in any year, subject to the same rules as are made by the Trustees pursuant to Article 6.2(c) of this Trust Agreement.

6.4 The Trustees are permitted to purchase Permitted Investments from the Capital Account and the Revenue Account, and to dispose of those Permitted Investments, as the Trustees in their absolute discretion consider appropriate from time to time.

6.5 No funds shall be withdrawn or expended from the Capital Account or Revenue Account except by means of a Trust Property Direction, as set out in Schedule "A" to this Agreement.

7. AMENDING OR REVOKING THE TRUST:

7.1 Mississagi shall not revoke or amend this Trust except as provided in this Trust Agreement.

8. THE TRUSTEES:

- 8.1 Each Trustee who has signed this Agreement shall be a Trustee of the Mississagi Trust, and shall act as a Trustee according to the terms and conditions of this Trust Agreement. The Trustees shall have all the legal obligations of a Trustee, whether those obligations are part of the common law or are set out in any statute of Ontario regulating the conduct and obligations of Trustees, or in the terms of this Trust Agreement.
- 8.2 Each Trustee accepts the appointment as Trustee and accepts the duties of a Trustee as set out in this Trust Agreement. The Trustees agree to carry out their duties according to the terms and conditions of this Trust Agreement.
- 8.3 It is a condition of becoming a Trustee after the execution of this Trust Agreement, whether in substitution or replacement of a Trustee, that a proposed Trustee shall, prior to taking office as a Trustee, agree in writing to become a Trustee, and to be bound by the terms of this Trust Agreement.
- 8.4 A Trustees' Certificate executed in the form set out in Schedule "B" to this Trust Agreement and certified by the Chief shall be conclusive evidence for any person or corporation dealing with the Trustees that the Trustees named therein are the current Trustees of the Mississagi Trust, provided that such Trustees' Certificate is dated not more than 45 days prior to the date upon which the Trustees' Certificate is to be relied upon by such person or corporation.
- 8.5 There shall always be five Trustees, except when a vacancy as described in Article 8.14(b) to 8.14(i) occurs.

- 8.6 Four of the Trustees shall be Band Members. At least three of the Trustees shall reside on the Reserve. Each Trustee must be over the age of thirty at the time he or she becomes a Trustee.
- 8.7 One Trustee shall be appointed by the Council, by Resolution, as an independent trustee. This person shall not be a Band Member.
- 8.8 At least two months before the terms of the Trustees expire, the Council shall post a notice in the Mississagi Administration Office inviting Band Members to seek nomination as Trustees.
- 8.9 The first Trustees shall establish rules for the election of future Trustees, other than the independent trustee, which rules shall be considered by the Council and, if approved by the Council, shall be posted prior to the first election of Trustees at the same time as the notice pursuant to Article 8.8 is posted prior to that election. If rules for the election of Trustees are not approved by the Council before the time of the notice pursuant to Article 8.8, the election of Trustees shall be conducted in the same manner as the election of the Council, except that:
- (a) every Voter may vote in the election of Trustees;
 - (b) the Council shall appoint the election officials;
 - (c) any appeals in respect of the election shall be decided by the Council.
- 8.10 The Trustees other than the independent trustee shall be elected every three years.
- 8.11 If one or more of the events described in Article 8.14 (b) to 8.14 (i) occurs and there is a vacancy among the Trustees, it shall be filled by the Council by Resolution as soon as reasonably possible, but in any event within thirty days of the date that the vacancy occurs. A Trustee appointed in this manner shall serve out the term of the Trustee he or she replaced.

- 8.12 The term of the original Trustees shall begin on the date this Trust Agreement comes into effect.
- 8.13 Each Trustee shall serve for a term of three years, subject to the provisions of this Article 8.
- 8.14 A Trustee shall serve until
- (a) his or her term expires;
 - (b) he or she resigns;
 - (c) he or she dies;
 - (d) he or she is bankrupt, or charged with an indictable offence, with fraud, or with any offence involving the Trust Property or the exercise of his or her responsibilities as a Trustee;
 - (e) he or she fails to attend three consecutive meetings of the Trustees, of which meetings he or she has received notice, and the other four Trustees vote to remove him or her;
 - (f) he or she fails to disclose an interest, or votes on any contract or proposed contract in which he or she has an interest, contrary to Article 12 of this Agreement;
 - (g) he or she is declared by a court of competent jurisdiction to be mentally incompetent or incapable of managing his or her affairs;
 - (h) he or she is a resident of the Reserve at the time he or she becomes a Trustee, and later ceases to reside on the Reserve, and the other four Trustees vote to remove him or her for that reason;
 - (i) he or she is elected as a member of the Council.

9. AUTHORITY OF THE TRUSTEES

9.1 The Trustees are authorized and empowered to:

- (a) Retain, dismiss and replace 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 Trustees in carrying out their responsibilities and duties under this Trust Agreement, but the Trustees shall not be bound to act upon such advice, and shall not be responsible for any loss caused by so acting or not so acting, provided the decision to act or not act was reasonably taken;
- (b) Establish the Capital Account and Revenue Account and make such arrangements governing banking procedures as they from time to time deem advisable, including, if they wish, the delegation of authority to sign cheques and withdraw moneys from the Capital Account or the Revenue Account, to no fewer than three of the Trustees for the purposes permitted by this Trust Agreement, provided that such delegation shall be in writing signed by all five Trustees voting on the delegation at a Trustee meeting;
- (c) make, and change from time to time, such rules as they deem appropriate and reasonable to govern their procedures, provided that such rules shall not be inconsistent with this Trust Agreement or any laws which govern trustees generally;
- (d) Institute, prosecute, settle and defend any lawsuits or other proceedings affecting them as Trustees, or the Trust Property or any part of it, and make application to any court of competent jurisdiction in respect of this Trust Agreement;

- (e) pay reasonable salaries, wages, fees and costs for the services of the persons or organizations referred to in subparagraph (a) above, including any amounts associated with the research, preparation, negotiation, settlement and implementation of this Trust Agreement and all documentation related thereto;
- (f) pay out of the Revenue Account reasonable compensation to Trustees for services provided under this Trust Agreement. These payments may be reviewed by the Council, or by the Voters at a special meeting of Band Members called by the Council or by a court of competent jurisdiction.
- (g) pay out of the Revenue Account reimbursement to Trustees of expenses reasonably incurred by them in carrying out the terms of this Trust Agreement;
- (h) If the Trustees in carrying out any direction consider it necessary in the exercise of an absolute discretion to engage a Financial Institution to carry out some or all of the directions set out in this Agreement, they may employ such a Financial Institution to carry out some or all of the directions set out in this Agreement, and compensate such Financial Institution in such manner as the Trustees consider appropriate.

10. DUTIES OF THE TRUSTEES:

- 10.1 The Trustees shall maintain a written record of all decisions made by the Trustees and make these records available to the Council and to Band Members on request;
- 10.2 The Trustees shall on an annual basis obtain an audited statement of their administration of the Trust Property, and shall provide a certified copy of that statement to the Council.

- 10.3 The Trustees shall prepare a written annual report on the investments of the Trust Property, and shall attach the annual audited statement to the annual report. A copy of the annual report and audited statement shall be sent to each household on the Reserve and to each Band Member living off the Reserve at the address of that Band Member last known to the Council.
- 10.4 The Trustees shall meet and consult with the Council when requested by the Chief to do so.

11. MEETINGS OF THE TRUSTEES:

- 11.1 The Trustees shall meet at least three times each calendar year, and the conduct of all their meetings shall be governed by the following rules:
- (a) At any duly constituted meeting of the Trustees, there must be at least four Trustees present. Decisions and actions of the Trustees must be unanimous among the Trustees present, except where this Trust Agreement specifically provides otherwise. Where a Trustee at a meeting cannot vote because of an interest or interests in a contract or proposed contract, pursuant to Article 12 of this Trust Agreement, it shall be sufficient if the remaining Trustees at the meeting vote in favour of the decision;
 - (b) All meetings of the Trustees shall take place on the Reserve;
 - (c) At the first meeting of the Trustees in any calendar year, the Trustees shall appoint one Trustee to chair the meetings for that year.
 - (d) The Trustee appointed to chair the meetings in any year shall have the right to call such meetings of the Trustees in that year as he or she decides are necessary;
 - (e) All Trustees shall be given thirty (30) days' notice in writing of the place, date and time of every meeting, unless all Trustees agree to shorter notice;

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

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

12. TRUSTEES' DISCLOSURE OF INTEREST:

12.1 If a Trustee:

- (a) is a party to a contract or proposed contract of the Trustees pursuant to this Trust Agreement, or
- (b) is a director, an officer or materially interested in, or has close connection to any person who is a party to a material contract or proposed contract which the Trustees have executed or propose to execute pursuant to this Trust Agreement,

that Trustee shall disclose in writing to the Trustees the nature and extent of his or her interest in the contract or proposed contract, or his or her directorship, position as an officer, material interest or close connection as the case may be.

12.2 The disclosure of interest described in Paragraph 12.1 shall be made:

- (a) at the meeting at which a proposed contract is first considered by the Trustees;
- (b) if the Trustee was not interested in the proposed contract at the time of that meeting, then at the first meeting after he or she becomes so interested;

- (c) if the Trustee becomes interested in a contract after it is made, then at the first meeting after he or she becomes so interested; and
- (d) if a person who is interested in a contract is appointed as a Trustee after that contract is executed, then at the first meeting after he or she becomes a Trustee.

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

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

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

13. BUYING LAND

13.1 According to the Land Claim Settlement Agreement, Ontario may buy any of the **Little Chiblow Private Lands** from the landowners. If Ontario buys any of those lands, it must offer them to Mississagi, and Mississagi must buy those lands from Ontario.

If Ontario offers any Little Chiblow Private Lands to Mississagi, the Trustees shall buy those lands, using money from the Capital Account. The Trustees shall not need the permission of the Council or the Members to buy those lands, notwithstanding Article 13.11.

- 13.2 According to the Land Claim Settlement Agreement, Ontario may buy any **Other Private Lands** within the Reserve. If Ontario buys any of these lands, it must offer the lands to Mississagi at the fair market value price (or less) at which it bought the lands.

When the Council by resolution directs the Trustees to buy Other Private Lands that have been offered to Mississagi by Ontario, the Trustees shall buy those lands, using money from the Capital Account.

- 13.3 Within one month after they have bought any Little Chiblow Private Lands or Other Private Lands, the Trustees shall make a written report to the Council on the buying of the lands, stating which lands were bought and the price and expenses that were paid.
- 13.4 Where the Council by resolution directs the Trustees to buy land which has not been offered to Mississagi pursuant to the Land Claim Settlement Agreement, and the land is Little Chiblow Private Land or Other Private Land which is offered for sale by the owner, and the total purchase price of the land is less than \$100,000.00, the Trustees shall buy that land in the name of Mississagi, using money from the Capital Account.
- 13.5 Where the Council by Resolution directs the Trustees to buy land which is not Little Chiblow Private Land or Other Private Land, and the total purchase price is less than \$100,000.00, the Trustees shall buy that land in the name of Mississagi, using money from the Capital Account.

- 13.6 The Trustees shall buy land, the total purchase price of which is over \$100,000.00 and which is not Little Chiblow Private Land or Other Private Land, using money from the Capital Account, and the total purchase price is more than \$100,000.00, only if the purchase of the land has been approved in the same manner as projects or proposals are approved pursuant to Article 5.
- 13.7 The Trustees shall make their best efforts to take whatever steps are required of them by the Council to ensure that land acquired pursuant to this Trust Agreement is added to the Reserve. These steps may include selling or transferring the land to Her Majesty the Queen in right of Canada, or making other arrangements with Her Majesty the Queen in right of Ontario. In this Article, the terms "buy" and "acquire" include any transaction which involves the spending of Trust Property with the object that land become part of the Reserve.
- 13.8 In buying any land, the Trustees are authorized to use money from the Capital or Revenue Account to pay the expenses and costs of buying the land, including paying any costs of surveys, legal fees, title searches, environmental reviews and all applicable taxes.
- 13.9 Within one month after the Trustees buy any land, they shall provide the Council with copies of the signed Agreement to Purchase, and of all documents collected or prepared by the Trustees or their lawyers relating to the title to that land and the condition of the land.
- 13.10 The Trustees may bring to the attention of the Council any land near the Reserve which is for sale.

13.11 The Trustees shall not bear the responsibility to acquire any land, other than land acquired pursuant to Article 13.6, if the Council has not given the Trustees direction by resolution in writing to buy the land. The Council shall be responsible to bring to the attention of the Trustees any Little Chiblow Private Lands or Other Private Lands which the Council wants the Trustees to buy on behalf of Mississagi.

14. TRUST INCOME AND EXPENSES

14.1 All income from Trust Property shall be used first to pay the Trust's expenses which are deductible from any taxable income of the Trust. As Mississagi and the Trustees wish to conduct their business so as to keep any taxes payable to a minimum, the Trustees may pay directly to Mississagi any income from Trust Property which would otherwise be taxable, on the condition that Mississagi shall use the money only for the purposes and pursuant to the approvals set forth in this Trust Agreement.

14.2 The Trustees shall seek competent advice on the best ways to invest the Trust Property and to avoid paying tax on the income or any capital gains of the Trust Property, and shall take such steps consistent with the purposes of the Trust as they feel are reasonable to avoid taxation of such income.

14.3 The Trustees may pay money to Mississagi to meet any of the purposes of the Trust set out in Articles 6, 9, 13 and 14 of this Trust Agreement.

14.4 The Trustees, after seeking advice on the tax implications of doing so, may pay part of the income on Trust Property to Mississagi, in addition to any amounts paid pursuant to Article 14.3 provided that Mississagi immediately lends that money back to the Trust, either with or without interest as the Council and Trustees (with tax advice) may decide, and on such security as the Council may decide. Such loans shall be repaid by the Trust to Mississagi within two years of the date of the loan.

15. INVESTMENT AUTHORITY OF THE TRUSTEES

- 15.1 In addition to the spending authority of the Trustees, the Trustees have and shall exercise the following investment powers, subject to the following restrictions:
- (a) They shall negotiate the best available interest rate on Trust Property money (taking into account all effects of possible taxation as well);
 - (b) Trust Property money which is not needed for short-term spending may be invested in Permitted investments.
 - (c) The Trustees shall not mortgage, pledge, hypothecate or encumber the Trust Property or any interest therein, except as security for a loan pursuant to Article 14.4, unless such property was already so encumbered at the time it was acquired, for any purpose whatsoever during the time this Trust Agreement is in effect.

16. ACCOUNTABILITY OF TRUSTEES

- 16.1 The Trustees shall maintain proper records of all transactions affecting the Trust Property and shall cause to be prepared, for each Fiscal Year, financial statements respecting the Trust Property prepared in accordance with Canadian generally accepted accounting principles, consistently applied. The Trustees shall have the financial statements audited by a qualified independent auditor, and the Trustees shall engage the appointed auditor to submit or file his or her report on the financial statements for the fiscal year to the Trustees and Council, within ninety (90) days of the end of each Fiscal Year.

16.2 At the request of the Council, the Trustees shall provide the Council with a copy of all ledgers, registers and documents or recordings of transactions affecting or evidencing the Trust Property.

17. HOW LONG THE TRUST SHALL LAST

17.1 Because Canadian law contains a "rule against perpetuities", which limits how long a trust can last, this Trust, unless terminated sooner, shall terminate twenty years after the death of the last surviving descendant of Queen Elizabeth the Second who is alive at the time this Trust Agreement comes into effect.

17.2 When the Trust Agreement is terminated the Trust Property shall be transferred to Mississagi.

17.3 The Trust shall also be terminated if all the Trust Property has been expended or transferred to Mississagi.

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

18. LIABILITY OF TRUSTEES:

18.1 The Trustees shall not be liable or accountable for any loss or damage resulting from the exercise of a discretion or their refusal to exercise a discretion, or for any loss that may happen as a result of any investment made by them in Permitted Investments or in land for investment purposes, as long as they are acting in good faith.

- 18.2 One Trustee shall not be accountable for the acts, neglects or defaults of any other Trustee and shall not in any case be liable, answerable or accountable for any loss of money or security or other property unless the same happens through his or her own fraudulent or negligent act. Due care and good faith of each Trustee shall be presumed unless it is rebutted by evidence to the contrary.
- 18.3 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, or 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.
- 18.4 If the Trustees make a payment in good faith, pursuant to the rules referred to in Article 5.2(c), to a Band Member by making that Band Member's payment to his or her parent or legal guardian, *de facto* guardian, or personal representative, and obtain a receipt for such payment, the Trustees shall not be liable for any damage suffered directly or indirectly by the Member as a result of that payment.

19. CHANGING THE TERMS OF THE TRUST

- 19.1 The terms of the Trust and of this Trust Agreement may not be changed until two years after the Trust Agreement has come into effect.

- 19.2 At any time after two years have passed since the Trust Agreement shall have come into effect, the terms of the Trust or of this Trust Agreement may be changed. Such change shall be made if:
- (a) a majority of the Voters of Mississagi vote in favour of the change at a duly called General Band Meeting. The General Band Meeting and vote shall be conducted in the same way as meetings and votes held pursuant to Article 5;
 - (b) Thirty days' advance written notice of the place, date and time of any General Band Meeting to discuss or vote on proposed changes to the terms of the Trust or Trust Agreement shall be posted at the Mississagi Administration Office;

20. BANKING:

- 20.1 All income from Trust Property shall be paid first into the Revenue Account before any of it can be spent by the Trustees pursuant to this Trust Agreement.
- 20.2 The Capital Account and the Revenue Account may, upon thirty days' written notice to the bank in which the Trust Account has been opened, be transferred to any Financial Institution in Canada, provided that the Trustees and that Financial Institution have entered into a written agreement consistent with the terms of this Trust Agreement.

21. NOTICE

21.1 Whenever in this Trust Agreement it is required that notice be given to any party, such notice shall be given in writing by delivering it personally or sending it by registered mail:

(a) To Mississagi, in care of the Council at:

P.O. Box 1299

Blind River, Ontario

POR 1BO

(b) To each Trustee at the address for him or her set out in Schedule "D" to this Trust Agreement.

22. INTERPRETATION

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

22.2 In this Trust Agreement words in the singular include the plural and words in the plural include the singular.

22.3 In this Trust Agreement words referring to male persons include female persons and corporations.

22.4 This Trust Agreement shall be construed under and regulated by the applicable laws of the Dominion of Canada and the Province of Ontario, and the parties agree that at all times the principal place of administration of the Trust created by this Trust Agreement shall be the Reserve.

In Witness Whereof the Council and the Trustees have executed this Agreement at Mississagi on the _____ day of _____, 1994.

Douglas Daybird
Chief

Lida Cheblow
Councillor

Royal M. [unclear]
Councillor

Laureo A. Boyer
Councillor

Ted Boyer Jr.
Councillor

Ewa Momenegster
Councillor

Jim [unclear]
Councillor

Arnie Jacqueline Ralph
Councillor

Gloria [unclear]
Trustee

Roger James
Trustee

Carolyn M. Boyer
Trustee

J. [unclear]
Trustee

Paul [unclear]
Trustee

SCHEDULE "A"

Sample Trust Property Direction

To: (Name of Financial Institution)

Provided that attached to this Trust Property Direction is Trustees' certificate dated not more than 45 days prior to the date hereof. You are authorized and directed to:

_____ **Pay by way of bank draft , cash, certified cheque, money order or other similiar negotiable instrument drawn on the Capital Account**

or

_____ **Pay by way of bank draft, cash, certified cheque, money order or similar negotiable instrument, drawn on the Revenue Account**

to the following payee(s):

the sum of \$ _____.

Dated at _____ **this** _____ **day of** _____, 199_____.

Trustees of the Mississagi Trust

Witness

Trustee

Witness

Trustee

Witness

Trustee

Witness

Trustee

Witness

Trustee

SCHEDULE "B"

Sample of Trustees' Certificate

TRUSTEES' CERTIFICATE

This certificate shall be conclusive for any person(s) or corporation(s) dealing with the Trustees of the Mississagi Trust that the Trustees named in this Certificate and the signatures thereto:

- (a) are the current Trustees of the Mississagi Trust, and
- (b) are authorized to deal with any third party.

PROVIDED THAT SUCH CERTIFICATE IS DATED NOT MORE THAN 45 DAYS PRIOR TO THE DATE UPON WHICH SUCH CERTIFICATE IS TO BE RELIED ON BY ANY PERSON, CORPORATION OR OTHERWISE.

DATED AT _____ THIS _____ day of _____, 1994.

Witness

Trustee

Witness

Trustee

Witness

Trustee

Witness

Trustee

Witness

Trustee

I certify that the above-named Trustees are the Trustees of the Mississagi Trust.

Chief, Mississauga First Nation

SCHEDULE "C"

DIRECTION TO CANADA AND ONTARIO FROM THE COUNCIL

TO: Canada, as represented by the Minister of Indian Affairs and Northern Development;

AND TO: Ontario, as represented by the Minister Responsible for Native Affairs;

You are authorized and directed to pay and transfer Canada's Compensation and Ontario's Compensation pursuant to the Mississagi Land Claim Settlement Agreement, dated for Reference the 27th day of April, 1994, to the following financial institution: Toronto-Dominion Bank, General Delivery, Wikwemikong, Ontario, P0P 2J0.

The receipt by the Treasurer or other proper officer of the financial institution shall be a complete discharge to you of the obligation to pay that amount.

Dated at Mississagi, in the Province of Ontario this _____ day of _____, 1994.

Witness

Douglas Waples
Chief

Witness

Linda Cheblow
Councillor

Witness

Ray M. King
Councillor

Witness

Laurie A. Boyer
Councillor

Witness

Red Boyer Sr.
Councillor

Witness

Ewa M. Moringstad
Councillor

Witness

Jim C. ...
Councillor

Witness

Janie Judith McRae
Councillor