

SCHEDULE 24-1

CONFIDENTIALITY AGREEMENT (CNP)

between:

MANITOBA HYDRO

- and -

DATED

, 200

SCHEDULE 24-1

CONFIDENTIALITY AGREEMENT (CNP)

MADE effective as of the ____ day of _____, 200_.

BETWEEN:

MANITOBA HYDRO

(hereinafter referred to as “**Hydro**”)

- and -

(each individually referred to as the “**Recipient**”).

WHEREAS on [insert date] Tataskweyak Cree Nation and War Lake First Nation operating as Cree Nation Partners, York Factory First Nation, Fox Lake Cree Nation and The Manitoba Hydro-Electric Board entered into the **Joint Keeyask Development Agreement** (the “**JKDA**”) with respect to the development of the Keeyask Generating Station on the lower Nelson River in northern Manitoba (the “**Keeyask Project**”);

AND WHEREAS the **Recipient** is acting on behalf of or in the interests of the Cree Nation Partners and/or the Cree Nation Partners Limited Partnership and, on behalf of the Cree Nation Partners and/or the Cree Nation Partners Limited Partnership, has entered and will enter into various discussions, processes and committees and/or negotiations with **Hydro** with respect to the implementation of the **JKDA** and the development and operation of the **Keeyask Project**;

AND WHEREAS **Hydro** may provide to the **Recipient** or the **Recipient** may come into the receipt of certain confidential information relating to the business and affairs of **Hydro** relating to the **Keeyask Project**;

NOW THEREFORE, IN CONSIDERATION of the premises and mutual covenants contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties covenant and agree as follows:

1. The following capitalized terms shall have the following ascribed meanings when used in this Agreement:

“**Confidential Information**” shall mean any **Information** marked by **Hydro** as “Confidential” or, if the **Information** is verbal, specified verbally by **Hydro** as confidential at the time of its disclosure.

“**Information**” shall mean any and all information disclosed after the date of this agreement, whether written, verbal, in the form of computer data or programs or in any other form whatsoever, concerning the **Keeyask Project** and related thereto, including but not limited to project plans, designs, costs, estimates, prices, finances, marketing plans, research, forecasts, analyses, development, know-how or collective bargaining agreements or positions with respect thereto.

“**Top Secret Information**” shall mean any **Information** marked by **Hydro** as “Top Secret” or, if the **Information** is verbal, specified verbally by **Hydro** as top secret at the time of its disclosure, and confirmed as such by **Hydro** in writing within five (5) business days of such disclosure.

2. Notwithstanding the definition of “**Information**” in section 1 of this Agreement, “**Information**” shall not include information that:
 - (a) at the time of its disclosure by **Hydro** is generally available to the public;
 - (b) subsequently becomes generally available to the public through no fault or breach on the part of the **Recipient**;
 - (c) the **Recipient** can demonstrate to have had rightfully in his possession prior to disclosure to the **Recipient** by **Hydro**;
 - (d) is independently developed by the **Recipient** without the use of any Information;
 - (e) the **Recipient** rightfully obtains from a third party who has the right to transfer or disclose it; or,
 - (f) is subpoenaed, ordered, or required to be disclosed or made public by any Canadian regulatory or judicial authority.

3. **Hydro** acknowledges and agrees that the **Recipient** shall be entitled to use **Information** only in the following manner:
 - (a) in order to analyze, assess and evaluate the **Keeyask Project** and the participation of the Cree Nation Partners and the Cree Nation Partners Limited Partnership in the **Keeyask Project**;
 - (b) to discuss and consult with Chiefs and Councils of Tataskweyak Cree Nation and War Lake First Nation, members, employees and advisors or the Cree Nation Partners Limited Partnership, its general partner board members, its employees or advisors in respect of all matters relating to any such analysis, assessment and

evaluation of the **Keeyask Project**, and the participation of the the Cree Nation Partners or the Cree Nation Partners Limited Partnership in the **Keeyask Project**; and

- (c) to discuss and consult with the respective Chiefs and Councils of Fox Lake Cree Nation and York Factory First Nation and their respective employees and advisors, York Factory First Nation Limited Partnership and FLCN Keeyask Investments Inc. and their respective board members, employees and advisors, **Hydro**, its employees, **Hydro** consultants, representatives of the Government of Manitoba, Ministers of the Provincial and Federal Crown and their responsible senior officials, in respect of matters relating to the participation of the Cree Nation Partners, Cree Nation Partners Limited Partnership, Fox Lake Cree Nation, York Factory First Nation, York Factory First Nation Limited Partnership and FLCN Keeyask Investments Inc. in the **Keeyask Project**.
4. **Hydro** acknowledges and agrees that the **Recipient** shall be entitled to use **Confidential Information** only in the following manner:
- (a) in order to analyze, assess and evaluate the **Keeyask Project** and the participation of the Cree Nation Partners or the Cree Nation Partners Limited Partnership in the Keeyask Project;
 - (b) to discuss and consult with Chiefs and Councils of Tataskweyak Cree Nation and War Lake First Nation, employees and advisors, the Cree Nation Partners Limited Partnership, its general partner board members, employees or advisors who have also signed a Confidentiality Agreement satisfactory to **Hydro** in respect of all matters relating to any such analysis, assessment and evaluation of the **Keeyask Project**, and the participation of the Cree Nation Partners or the Cree Nation Partners Limited Partnership, in the **Keeyask Project**;
 - (c) to discuss and consult with **Hydro**, its employees, **Hydro** consultants, representatives of the Government of Manitoba, Ministers of the Provincial and Federal Crown and their responsible senior officials, in respect of matters relating to the participation of the Cree Nation Partners or the Cree Nation Partners Limited Partnership in the **Keeyask Project**.
 - (d) to discuss and consult with the respective Chiefs and Councils of Fox Lake Cree Nation and York Factory First Nation, their respective employees or advisors, and York Factory First Nation Limited Partnership and FLCN Keeyask Investments Inc., and their respective board members, employees or advisors who have also signed a **Confidentiality Agreement** satisfactory to **Hydro**. **Hydro** agrees to advise the **Recipient** of such signatories under this subparagraph (d) and of all signatories under subparagraph (b), by providing a current listing of all such signatories to the address of the General Counsel for the Cree Nation Partners set out in section 13 of this Agreement and to provide updates of such listing as required from time to time; and,

- (e) to prepare or have prepared high-level summaries of such Confidential Information for the purpose of discussion with the Cree Nation Partners' members (but not other third parties) in order to inform such members of the Cree Nation Partners' analysis, assessment and evaluation of the **Keeyask Project** and the participation of the Cree Nation Partners or the Cree Nation Partners Limited Partnership in the **Keeyask Project**. If the **Recipient** desires to disclose such Confidential Information to members of the Cree Nation Partners in unaltered form, the **Recipient** shall consult and receive the consent of **Hydro** in advance of such disclosure.
5. **Hydro** acknowledges and agrees that the **Recipient** shall be entitled to use **Top Secret Information** only in the following manner:
- (a) subject to subparagraph 5(b), in order to analyze, assess and evaluate the **Keeyask Project** and the participation of the Cree Nation Partners or the Cree Nation Partners Limited Partnership in the **Keeyask Project**;
 - (b) to discuss and consult with a limited, core group of individuals from the Cree Nation Partners, their respective Chiefs and Councils, or from the Cree Nation Partners Limited Partnership and/or its general partner board members, its employees and advisors, who have also signed a Confidentiality Agreement satisfactory to **Hydro**, in respect of all matters relating to any such analysis, assessment and evaluation of the **Keeyask Project**, and the participation of the Cree Nation Partners or the Cree Nation Partners Limited Partnership in the **Keeyask Project**, and to discuss and consult with a limited core group of individuals, identified by **Hydro** as entitled to receive and use **Top Secret Information**, representing Fox Lake Cree Nation and York Factory First Nation, York Factory First Nation Limited Partnership and FLCN Keeyask Investments Inc. in respect of all matters relating to the aforesaid analysis, assessment, evaluation and participation in the **Keeyask Project**. Cree Nation Partners and the Cree Nation Partners Limited Partnership and **Hydro** shall consult as to the core group of individuals representing the Cree Nation Partners, and the Cree Nation Partners Limited Partnership, who will be entitled to receive and use **Top Secret Information**. **Hydro** agrees to advise the **Recipient** of the core group of individuals entitled to receive and use **Top Secret Information** from Tataskweyak Cree Nation, War Lake First Nation, Cree Nation Partners Limited Partnership, Fox Lake Cree Nation, York Factory First Nation, York Factory First Nation Limited Partnership and FLCN Keeyask Investments Inc., by providing a current listing of such individuals to the address of the General Counsel for the Cree Nation Partners set out in section 13 of this Agreement and to provide updates of such listing as required from time to time.
6. Upon **Hydro**'s request or upon the expiry or termination of the **JKDA**, the **Recipient** shall within 30 days:

- (a) deliver to **Hydro** all copies whether written, in the form of computer data or otherwise, of all **Information, Confidential Information and Top Secret Information** in the possession of the **Recipient**;
 - (b) where the return of any **Information, Confidential Information and Top Secret Information** is not practicably possible, permanently erase or destroy such **Information, Confidential Information and Top Secret Information** in the **Recipient's** possession and/or control upon the prior consent of **Hydro**; and
 - (c) certify in writing to **Hydro** within fourteen (14) days of **Hydro's** request for return of any **Information, Confidential Information or Top Secret Information** that to the best of the **Recipient's** knowledge, this section 6 has been complied with and that no such **Information, Confidential Information or Top Secret Information** remains in possession or control of the **Recipient** except that the **Recipient** shall be entitled to retain one copy of such **Information, Confidential Information and Top Secret Information** as may reasonably be required for the **Recipient's** internal record-keeping purposes. The **Recipient** shall, in the certification referenced in this paragraph 6(c), provide a detailed summary of the **Information, Confidential Information and Top Secret Information** retained for such internal record-keeping purposes in a form satisfactory to **Hydro**.
7. The **Recipient** specifically acknowledges and agrees that except as provided in the preceding sections 3, 4 and 5, the **Recipient** shall maintain the **Information, Confidential Information and Top Secret Information** in strict confidence and shall not disclose it to any third party for any reason whatsoever without the prior written consent of **Hydro**. If a **Recipient** is unclear as to whether **Information** is Confidential or Top Secret, the **Recipient** shall promptly discuss and receive direction from **Hydro** with respect to such categorization. The **Recipient** acknowledges that the **Information, Confidential Information and Top Secret Information** are the sole and exclusive property of **Hydro**.
8. The **Recipient** hereby consents to the release of the **Recipient's** name to legal counsel or other designated representative for each of the Cree Nation Partners, Cree Nation Partners Limited Partnership, Fox Lake Cree Nation, York Factory First Nation, York Factory First Nation Limited Partnership and FLCN Keeyask Investments Inc. for the purposes of providing a current listing of parties who have signed a Confidentiality Agreement satisfactory to **Hydro** in relation to the **Keeyask Project** and that such listing, including the **Recipient's** name, may be distributed amongst the respective Chiefs and Councils, employees and advisors of each of the Cree Nation Partners, Cree Nation Partners Limited Partnership, Fox Lake Cree Nation, York Factory First Nation, York Factory First Nation Limited Partnership and FLCN Keeyask Investments Inc..
9. **Hydro** does not make any express or implied representation or warranty to the **Recipient** as to the accuracy or completeness of any information given to the **Recipient**, including **Information, Confidential Information and Top Secret Information**. Neither **Hydro**

nor its representatives shall have any liability whatsoever to the **Recipient** or any other person, directly or indirectly, arising out of the furnishing of the **Information, Confidential Information** or **Top Secret Information** or use made of the **Information, Confidential Information** or **Top Secret Information** by the **Recipient**, the Cree Nation Partners or the Cree Nation Partners Limited Partnership or their representatives, except as may be specifically provided for in any other agreement in writing and made between **Hydro** and Cree Nation Partners or the Cree Nation Partners Limited Partnership and excepting any **Information, Confidential Information** or **Top Secret Information** that is either negligently given or which constitutes willfully given misinformation.

10. The **Recipient** shall not be restricted by this Agreement from disclosure of **Information, Confidential Information** and **Top Secret Information**, or subject to liability for such disclosure when, in the reasonable opinion of the legal counsel of the **Recipient**, disclosure is required to be made by the laws of Manitoba or Canada. Prior to making such disclosure, the **Recipient** shall give **Hydro** prompt notice of the **Information, Confidential Information** or **Top Secret Information** that the **Recipient** proposes to disclose, together with a letter from legal counsel of the **Recipient** detailing the requirement for disclosure.
11. In the event disclosure is required as a result of any manner of legal process, the **Recipient** shall give **Hydro** prompt notice of such process and agrees, subject to not being in violation of any outstanding court order or other legal process, to take such steps as may be necessary to maintain the confidentiality of the **Information, Confidential Information** or **Top Secret Information**, as applicable, and to cooperate fully with **Hydro** in respect of any actions **Hydro** may wish to take to maintain the confidentiality of the **Information, Confidential Information** or **Top Secret Information**, as applicable.
12. The **Recipient** will not use the **Information, Confidential Information** or **Top Secret Information** in any manner that causes the **Recipient**, the Cree Nation Partners or the Cree Nation Partners Limited Partnership or **Hydro** to be in breach of any applicable law, or that causes **Hydro** to lose any rights under applicable law.
13. Any notice, direction or other instrument required or permitted to be given under this Agreement shall be in writing, and may be given by delivering it or sending it by facsimile as follows:
 - (a) if to **Hydro**:
820 Taylor Avenue
Winnipeg, Manitoba R3C 2P4
Attention:
Fax No. (204)
 - (b) if to the **Recipient**: [insert appropriate address]

Fax No. (204)

with a copy to: General Counsel
 Campbell Marr LLP
 10 Donald Street
 Winnipeg, Manitoba
 R3C 1L5
 Fax no. (204) 943-7997

or such other address as such party may notify the other of in writing. Any notice, direction or other instrument shall, if delivered, be deemed to be given or made at the time of delivery and, if sent by facsimile, be deemed to be given or made on the day following the day on which it was sent.

14. This Agreement shall be governed by and construed in accordance with the laws of the Province of Manitoba and the federal laws of Canada applicable therein.
15. This Agreement and the obligations of confidentiality and non-disclosure contained herein shall survive and continue in full force and effect, notwithstanding the termination of any other agreement or understanding between the **Recipient** and **Hydro** or between **Hydro** and the Cree Nation Partners or the Cree Nation Partners Limited Partnership and the completion of any agreement or agreements pertaining to the **Keeyask Project** or any other transaction arising out of or related to the **Keeyask Project** between **Hydro** and the Cree Nation Partners or the Cree Nation Partners Limited Partnership.
16. The parties acknowledge that remedies at law may be inadequate to protect against a breach of this Agreement and hereby in advance, agree to the granting of injunctive relief without proof of actual damages. The parties further agree that the obtaining of injunctive relief is without prejudice to or in substitution of exercising rights and remedies otherwise available to **Hydro**.
17. Any confidentiality agreement previously executed by the **Recipient** in relation to the **Keeyask Project** shall survive, but shall only be effective with respect to information received up to the effective date of this agreement. After the effective date of this agreement, **Information** provided to a **Recipient** who has executed this agreement shall be governed only by the provisions by this agreement.
18. The obligations of each **Recipient** shall be several and not joint.
19. This Agreement may be executed in any number of counter-parts and shall be binding upon the **Recipient** when executed by the **Recipient**.

20. A facsimile of the signature of a party to this Agreement shall be binding and as effective as if it were an original signature.

21. The Preamble hereto shall be deemed to form an integral part of this Agreement.

IN WITNESS WHEREOF the parties have executed this Agreement effective as of the date first above written.

(Witness)

Name (print): _____

MANITOBA HYDRO

Per: _____