

**Article 7: Numbers, Qualifications, Appointment
and Replacement of Trustees**

7.01 Number of Trustees

- (a) For the period commencing from the Effective Date of this Trust Agreement to and including the 90th day following the Effective Date of this Trust Agreement, there shall be three (3) Trustees, consisting of a Corporate Trustee, the Chief of the Band and one Councillor selected by Council;
- (b) From and after the 90th day following the Effective Date of this Trust Agreement, except during a vacancy, there shall at all times prior to the termination of this Trust Agreement be five (5) Trustees.

7.02 Conditions of Selection

- (a) For at least the first five years of this Trust Agreement, commencing from the Effective Date of the Trust Agreement, one of the Trustees shall be a Corporate Trustee;
- (b) The requirement to have a Corporate Trustee shall automatically extend in further five-year increments during the Term of the Trust, unless during the initial nine months of the fifth year of any five-year period, the Band by a vote of its Voting Members elects to terminate the requirement of a Corporate Trustee effective for the end of that five-year period. For such vote to be effective, not less than 25% of the Voting Members of the Band must vote and not less than two-thirds of those who voted must have approved the motion to terminate the requirement for a Corporate Trustee;
- (c) All Corporate Trustees, prior to assuming the duties of the Corporate Trustee, shall enter into a Trustee Services Agreement with the Band. The Trustee Services Agreement shall at all times be consistent with the terms of this Trust Agreement. In the event of an inconsistency between the Trustee Services Agreement and this Trust Agreement, this Trust Agreement shall prevail;
- (d) Except for the initial Non-Corporate Trustees referred to in Article 7.01(a) above, all Non-Corporate Trustees must:
 - (i) be a Member who has attained at least the age of eighteen years as of the date of his or her appointment as a Trustee;
 - (ii) not be a member of Council as of the date of his or her appointment as a Trustee;

- (iii) up to the time of applying for the position of a Non-Corporate Trustee not have been declared to be mentally incompetent by a court of competent jurisdiction in Canada or elsewhere;
 - (iv) not have been convicted of an offence under the Criminal Code of Canada that is an indictable offence or a dual offence which the Crown elected to proceed by way of indictment in the five-year period immediately prior to applying for the position of a Non-Corporate Trustee;
 - (v) not have been declared a bankrupt pursuant to provisions of the *Bankruptcy Act* in the five-year period immediately prior to applying for the position of a Non-Corporate Trustee;
 - (vi) be free of any drug whose use is prohibited under the laws of Canada and not have been convicted of an offence under such laws relating to the possession, possession for the purpose of trafficking, or trafficking of a prohibited drug in the five-year period immediately prior to applying for the position of a Non-Corporate Trustee;
- (e) At all times during this Trust, at least one Trustee, other than a Corporate Trustee shall be a non-resident of the Thunderchild Reserve.

7.03 Selection of Trustees

- (a) Council shall select all Trustees, including the Corporate Trustee;
- (b) The selection of a Corporate Trustee shall be subject to the negotiation of a satisfactory Trustee Services Agreement between the Band and the Corporate Trustee, approved on behalf of the Band by a Band Council Resolution. The initial term of such agreement shall not exceed three years, not including the Band's rights of renewal which may be exercised for up to a maximum of three years at a time beyond the initial term;
- (c) The selection of the Non-Corporate Trustees whose terms of office shall commence from and at any time after the 90th day following the Effective Date of this Trust Agreement, shall be made in accordance with the following procedures:
 - (i) Council shall appoint a Committee of three individuals as needed from time to time ("the Committee") who shall solicit applications from Members who desire to be considered for

the position of Non-Corporate Trustee;

(ii) An Applicant for the position of Non-Corporate Trustee shall provide the following to the Committee at the cost of the Applicant:

(1) a sworn Statutory Declaration stating:

- a) the Applicant's current place of residence and date of birth;
- b) particulars of the Applicant's criminal record for the previous five-year period including any current unconcluded criminal charges;
- c) that the Applicant has not been declared a bankrupt in the past five-year period;
- d) that the Applicant is free of any drug use prohibited under the laws of Canada and has not been convicted of an offence under such laws relating to the possession, possession for the purpose of trafficking, or trafficking of a prohibited drug in the past five-year period;
- e) if the Applicant is a current member of Council, that he/she will resign as a member of Council if selected as a Non-Corporate Trustee;

(2) in the discretion of the Committee and upon its request, one or more of the following:

- a) a current criminal records check from a police authority indicating the Applicant's criminal record;
- b) a current report from a licensed medical practitioner in the jurisdiction where the Applicant resides certifying that the Applicant has been tested and shown to be free of any prohibited drug use as of the date of the test;
- c) a current insolvency/bankruptcy search certificate from the Office of the Superintendent of Bankruptcy Canada with respect to the applicant;

- (3) any other information as may be requested and reasonably required by the Committee;
- d) The Committee shall consider the information provided under Article 7.03(c) and shall prepare a written report for Council which shall include the following information:
 - (i) the names of all Members who have applied to be appointed as a Non-Corporate Trustee;
 - (ii) a list of all names that the Committee concludes meet the minimum criteria for being appointed as a Non-Corporate Trustee together with a copy of all supporting material provided by each Applicant in this category;
 - (iii) a list of all names that the Committee concludes does not meet the minimum criteria for being appointed as a Non-Corporate Trustee, together with an explanation for why that conclusion was reached and copies of any material in the Committee's possession that is relevant to that conclusion;
- (e) Upon receipt of the Committee's report made pursuant to Article 7.03(d) above, Council may request from any of the Members who have applied to be appointed as a Non-Corporate Trustee, such additional information as Council deems necessary to assist it in deciding on the appointment(s);
- (f) For the appointment of the four Non-Corporate Trustees whose terms are to commence from and after the 90th day following the Effective Date of this Trust Agreement, Council shall appoint two such trustees to terms concluding at the end of December 31, 2006, and two such trustees to terms concluding at the end of December 31, 2007;
- (g) Save in the case of the appointment of a replacement Non-Corporate Trustee appointed to fill a vacancy left by another Non-Corporate Trustee or as provided for in Articles 7.01(a), 7.03(f) and 7.04(c), all Non-Corporate Trustees shall be appointed to four-year terms, commencing on January 1 in the first year of the term and ending on December 31 in the last year of the term. The term of a replacement Non-Corporate Trustee shall be for the remainder of the term of the Non-Corporate Trustee whose position was replaced for being vacant. To fill a vacancy herein, Council may waive the requirement for a Committee and select a replacement Non-Corporate Trustee in the absence thereof. Such selection

shall nevertheless comply with the eligibility requirements for a Non-Corporate Trustee set out in this Trust Agreement:

- (h) Regardless of a Committee's report or conclusions, Council may appoint any Member who applies for the position of Non-Corporate Trustee that it reasonably concludes, on the information available to it, meets the criteria for such appointment in all the circumstances.
- (i) All information provided to the Committee herein by an applicant Member is and shall be kept "Confidential" and upon completion of a Committee's Report all such written information, together with all copies thereof, shall be turned over to Council for safekeeping or destruction at Council's option.

7.04 Corporate Trustee's Term Ceases

- (a) In the case of a Corporate Trustee, its term shall cease:
 - (i) in accordance with the provisions for termination contained in the Trustee Services Agreement;
 - (ii) in the event of a material breach of this Trust Agreement by the Corporate Trustee, upon a date fixed by the unanimous decision of the members of Council and the Non-Corporate Trustees;
 - (iii) immediately following the last day of the period in which the Band votes to terminate the requirement for a Corporate Trustee under Article 7.02(b) above.
- (b) In the event a Corporate Trustee's term is terminated in circumstances described in Article 7.04(a)(i) or (ii) above, Council shall take diligent action to replace the departing Corporate Trustee as soon as possible with a replacement Corporate Trustee;
- (c) In the event the Corporate Trustee's position is terminated by a Band vote pursuant to Article 7.02(b), an additional Non-Corporate Trustee shall be appointed for a term commencing on the day following the end of the Corporate Trustee's term and ending on December 31 in the year that the most recently appointed Non-Corporate Trustees' terms are scheduled to expire. Such selection shall be made by Council on the same basis and following the same procedure as for all other Non-Corporate Trustees, other than replacement Non-Corporate Trustees.

7.05 Non-Corporate Trustee's Term Ceases

- (a) In the case of a Non-Corporate Trustee, he or she shall hold office until the end of his or her appointed term, unless sooner terminated by one of the following events:
 - (i) he or she dies;
 - (ii) he or she resigns;
 - (iii) he or she is elected as a member of Council;
 - (iv) he or she is declared to be mentally incompetent by a court of competent jurisdiction in Canada or elsewhere;
 - (v) he or she is convicted of an indictable offence or a dual offence in which the Crown has elected to proceed by indictment under the Criminal Code of Canada;
 - (vi) he or she has been declared a bankrupt or filed for bankruptcy protection;
 - (vii) he or she has been charged with a criminal offence relating to:
 - 1) possession for the purpose of trafficking or trafficking in a prohibited drug under legislation passed by Canada in respect of such offences;
 - 2) the Trust Property; or
 - 3) his or her duties as a Trustee.
 - (viii) he or she fails, without cause, to attend three consecutive meetings of the Trustees of which prior notice was given;
 - (ix) he or she fails to provide Council with the Trustee's Undertaking in accordance with Article 7.06(b) on or before the 1st of the month immediately following the commencement of his or her appointed term;
 - (x) he or she ceases to be a Member;
 - (xi) he or she changes the location of his or her residence resulting in the composition of the Non-Corporate Trustees

being in breach of Article 7.02(e) above;

- (xii) he or she is otherwise in material breach of this Trust Agreement, and by a unanimous decision of the members of Council and the remaining Trustees, a date is fixed for his or her termination.
- (b) In the event a Non-Corporate Trustee's term as Trustee is terminated by reason of a circumstance described in Article 7.05(a) above, Council shall take diligent action to fill the vacancy created thereby. Subject to Article 7.03(g) above, Council shall select a replacement Trustee to fill the vacancy on the same basis and following the same procedures as for all other Non-Corporate Trustees.

7.06 Trustees' Undertakings

Every Trustee, on being appointed a Trustee and before assuming the duties of a Trustee, shall:

- (a) In the case of the initial Trustees, execute this Trust Agreement on behalf of the Trustees;
- (b) In the case of subsequent Non-Corporate Trustees, agree to become a party to and be bound by the provisions of this Trust Agreement by executing a Non-Corporate Trustee's Undertaking, in the form for same set out in Schedule "K";
- (c) In the case of a Corporate Trustee enter into a Trustee Services Agreement which will contain a provision stating that the Corporate Trustee is bound by the provisions of this Trust Agreement and in the event of a conflict between the Trustee Services Agreement and this Trust Agreement, this Trust Agreement shall prevail.

7.07 Trustees' Training

Except for the initial Non-Corporate Trustees, all subsequent Non-Corporate Trustees, upon being appointed, shall participate in such training as the Corporate Trustee or Council may require in order to assist them in the understanding and fulfillment of their duties and obligations relative to this Trust Agreement. Where training is provided by the Corporate Trustee, it shall provide to Council copies of all training materials, including written, audio/visual, and software course materials.