

SCHEDULE 12-2

REVENUE ADVANCE AGREEMENT

between

FOX LAKE CREE NATION,

-and-

THE MANITOBA HYDRO-ELECTRIC BOARD,

-and-

FLCN KEEYASK INVESTMENTS INC.

DATED • , 200 .

SCHEDULE 12-2
REVENUE ADVANCE AGREEMENT (FLCNKII)

THIS MEMORANDUM OF AGREEMENT made the • day of •, •.

BETWEEN:

FOX LAKE CREE NATION,

-and-

THE MANITOBA HYDRO-ELECTRIC BOARD,

-and-

FLCN KEEYASK INVESTMENTS INC.

WHEREAS:

- A. **Fox Lake** and **Hydro** entered into the **Fox Lake Advance Agreements**, pursuant to which **Hydro** agreed to provide the **Fox Lake Advances** to **Fox Lake** on the terms and conditions set out in the **Fox Lake Advance Agreements**;
- B. The parties hereto wish to amend and restate the **Fox Lake Advance Agreements** and consolidate such agreements into this Agreement in the manner and on the terms and conditions set forth in this Agreement;

NOW THEREFORE in consideration of the premises and of the payment of the sum of one (\$1) dollar by each party to the other, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1

INTERPRETATION

1.1 Unless the context otherwise requires, the following terms, when the first letter is capitalized and the term is in bold, shall have the respective meanings set out below and grammatical variations of such terms shall have corresponding meanings, and where the first letter of the term is capitalized and the term is in bold but not set out below, the term shall have the meaning accorded to it in the **JKDA**:

“**Anniversary Date**” has the meaning attributed thereto in the **JKDA**.

“**Assignment and Pledge**” an irrevocable assignment to be given by **FLCNKII** in favour of **Hydro** of all **FLCNKII**'s **Distributions**, up to the aggregate amount of the **Fox Lake Advances**, plus interest on such advances as provided in this Agreement, which irrevocable assignment shall include an assignment and pledge to **Hydro** and a grant to **Hydro** of a security interest in all of **FLCNKII**'s **Units**, as provided in the **FLCNKII Financing Agreement**.

“**Distributions**” means all distributions which **FLCN Corp.** is or may become entitled to receive as a **Limited Partner**.

“**FLCNKII**” means FLCN Keeyask Investments Inc..

“**FLCNKII Financing Agreement**” means a financing agreement to be entered into between **Hydro** and **FLCNKII** whereby **Hydro** makes certain credit facilities available to **FLCNKII** on the terms and conditions set out therein.

“**Fox Lake**” means Fox Lake Cree Nation.

“**Fox Lake Advances**” means the advance in the sum of two hundred and seventy-nine thousand (\$279,000) dollars made by **Hydro** to **Fox Lake** pursuant to an agreement dated September 9, 2002, and the advance in the sum of two hundred and thirty-nine thousand (\$239,000) dollars made by **Hydro** to **Fox Lake** pursuant to an agreement dated December 13, 2002.

“**Fox Lake Advance Agreements**” means the agreements evidencing the **Fox Lake Advances**, dated September 9, 2002 and December 13, 2002, respectively.

“**Hydro**” means The Manitoba Hydro-Electric Board.

“**JKDA**” means the Joint Keeyask Development Agreement between **Hydro**, **York Factory**, **Fox Lake**, and **CNP**, relating to the creation of the **Keeyask LP** and the development and operation of the **Keeyask Project**, including all schedules and all amendments thereto and extensions thereof.

“**Keeyask LP**” means the Keeyask Hydro Power Limited Partnership.

“**Maturity Date**” means the fiftieth anniversary of the **Final Closing Date**.

“**Prime Rate**” means a rate of interest per annum equal to the **Prime Rate** of interest established and published from time to time by the Royal Bank of Canada for commercial borrowings.

“**Units**” mean issued and outstanding units in the **Keeyask LP**.

ARTICLE 2

THE ADVANCES

Acknowledgement of Payment and Amount Outstanding

2.1 **Hydro** and **Fox Lake** acknowledge payment of the **Fox Lake Advances** by **Hydro** to **Fox Lake** on September 9, 2002 and December 13, 2002, respectively, and **Hydro** and **Fox Lake** acknowledge and agree that the full amount of the **Fox Lake Advances**, together with all interest accrued thereon, remains outstanding as of the date hereof.

ARTICLE 3

REPAYMENT AND SECURITY

Repayment

3.1 **Fox Lake** hereby agrees to repay, or to cause **FLCNKII** to repay, to **Hydro**, on demand, the total amount of the **Fox Lake Advances**, being the sum of five hundred and eighteen thousand (\$518,000) dollars, plus interest thereon or on the amount thereof from time to time outstanding, at the **Prime Rate**, calculated and compounded annually, not in advance, from the date of advance to the date of payment.

Security

3.2 As security for the repayment of the **Fox Lake Advances**, plus interest thereon calculated as aforesaid, **FLCNKII** shall execute and deliver in favour of **Hydro** in form and content satisfactory to **Hydro**:

- (a) a guarantee of the due payment and discharge of all of **Fox Lake's** indebtedness and liability to **Hydro** with respect to the repayment of the **Fox Lake Advances** plus interest thereon as aforesaid; and
- (b) the **Assignment and Pledge**.

Set-Off

3.3 **Hydro** may at any time and from time to time after demand, without notice to **Fox Lake** or **FLCNKII**, any notice being expressly waived by each of them, set-off and compensate and apply any and all amounts of the **Fox Lake Advances** outstanding from time to time, together with interest thereon, against and on account of any indebtedness and liability of any nature or kind of **Hydro** to **Fox Lake**, or on account of any indebtedness and liability of any nature or kind of **Hydro** to **FLCNKII**, except for amounts payable or which may become payable, if any, by **Hydro** to **Fox Lake**, as the case may be, pursuant to an adverse effects settlement, and any advances to be made from time to time by **Hydro** to **FLCNKII** pursuant to the **FLCNKII Financing Agreement**.

Application of Distributions and Demand

3.4 The parties agree that the **Fox Lake Advances**, together with interest thereon as hereinbefore provided, are repayable on demand. Notwithstanding the foregoing, the parties agree that:

- (a) if **FLCNKII** owns **Class K Common Units**, on the **Final Closing Date** the amount of the **Fox Lake Advances**, together with all interest accrued and accruing thereon as hereinbefore provided, will be amortized over a twenty-five year period commencing on the tenth **Fiscal Year** ending following the **Final Closing Date** and ending on the first **Fiscal Year** ending following the twenty-fifth **Anniversary Date**. The blended annual payments for principal and interest so amortized will be paid in priority out of the seventy (70%) per cent, or eighty (80%) per cent, as the case may be, of all distributions on **FLCNKII's Class K Common Units** being used to repay the **Construction Credit Facility** and the **Operating Credit Facility**, as described in subsection 5.3.16 of the **JKDA**. If the amount of such distributions in any year are less than the amount of the annual amortized payment owing by **FLCNKII** in that year, then the amount of such deficiency will be paid in priority out of distributions in subsequent years, until the entire balance of the **Fox Lake Advances**, plus all interest as hereinbefore provided, is repaid in full, but no interest will be charged on overdue interest in the case of any such deficiency;
- (b) if **FLCNKII** owns **Class K Preferred Units**, the amount of the **Fox Lake Advances**, together with all interest accrued and accruing thereon as hereinbefore provided, will be repaid in the same manner described in (a) above, except that the blended annual payments for principal and interest, so amortized, will be paid in priority out of the **Preferred Participating Distribution** on **FLCNKII's Class K Preferred Units**.

ARTICLE 4

FURTHER ASSURANCES AND REPORTING

Further Assurances

4.1 Each of **Fox Lake** and **FLCNKII** hereby agree that, from time to time subsequent to the date of this Agreement, each of them will, at the request of **Hydro**, execute and deliver all such documents and do all such other acts and things as **Hydro**, acting reasonably, may from time to time request be executed or done in order to better evidence or perfect or effectuate any provision of this Agreement or of any agreement or other document executed pursuant to this Agreement or any of the obligations intended to be created hereby or thereby.

Discharge

4.2 **Hydro** agrees to release and discharge all assignments and security hereunder and any related registrations when all amounts owing to it hereunder have been repaid in full.

Similar Agreements

4.3 **Hydro** agrees that if it agrees to amend, revise, vary, or alter the terms of the **CNP Revenue Advance Agreement** in a manner which creates more favourable terms for **CNP** in respect of revenue advances than those granted to **Fox Lake** hereunder, **Hydro** shall offer the same or similar terms to **Fox Lake**.

ARTICLE 5

MISCELLANEOUS

Termination of Prior Agreements

5.1 This Agreement supersedes and replaces each of the **Fox Lake Advance Agreements** and the **Fox Lake Advance Agreements** shall be deemed to have been terminated as of the date hereof.

Time

5.2 Time shall be of the essence in this Agreement.

Amendments

5.3 No amendment, change to, or modification of this Agreement is valid unless it is in writing and signed by all of the parties hereto.

Laws

5.4 This Agreement will be interpreted, implemented and enforced in accordance with the laws in force in the Province of Manitoba.

Notice

5.5 All notices and other communication provided for in this Agreement shall be in writing, and shall be given by personal delivery or sent by registered mail or facsimile, charges pre-paid and confirmed by telephone, to the applicable addresses or facsimile numbers set out in this section, or to addresses or facsimile numbers which a party may from time to time designate to the other parties. Any such communication shall be deemed to have been validly and effectively given on the date of such delivery, if such date is a business day and such delivery has been made during the normal business hours of the recipient; otherwise, it shall be deemed to have been validly and effectively given on the business day next following such date of delivery. The addresses for the parties are:

To Fox Lake:

Project Manager – Negotiations Office
Fox Lake Cree Nation
102-720 Broadway
Winnipeg, Manitoba, R3G 0X1

Fax Number:

To **FLCNKII**:

FLCNKII
Attention: President
Project Manager – Negotiations Office
Fox Lake Cree Nation
102-720 Broadway
Winnipeg, Manitoba, R3G 0X1

To **Hydro**:

Manitoba Hydro
Attention: General Counsel
3rd Floor, 820 Taylor Avenue
Winnipeg MB R3C 2P4
Fax Number: 204-474-4947

Binding Effect, Enurement

5.6 This Agreement and the covenants contained herein will enure to and be binding upon the successors and any permitted assigns of the parties hereto.

Headings

5.7 The headings contained in this Agreement are for convenience of reference only and will not affect the interpretation of this Agreement.

Counterparts

5.8 This Agreement may be executed in several counterparts each of which when executed shall be an original and all of which taken together shall be deemed to constitute one and the same instrument.

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

FOX LAKE CREE NATION

Chief •

Councillor •

Councillor •

Councillor •

FLCN KEEYASK INVESTMENTS INC.

Per: _____

Per: _____

THE MANITOBA HYDRO-ELECTRIC BOARD

Per: _____

Per: _____