

***KAKISTUSTEHK NISICHAWAYASI NEHETHOWUK***

**(SUPREME LAW OF NCN)**

***OTHASOWEWIN***

**(CONSTITUTION)**

**APPROVED OCTOBER 4, 2017 FOR SUBMISSION TO NCN  
CITIZENS FOR RATIFICATION**

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## NISICHAWAYASI NEHETHOWUK OTHASOWEWIN

### PREAMBLE

- A. We, the *Nisichawayasi Asiniskaw Nehethowuk* are the people who live on the lands near where the Three Rivers Meet;
- B. We live according to the *Kihche’othasowewin* (the Great Law) which forms the basis for our spiritual and philosophical beliefs, values, principles and goals, and from this Great Law, our people developed customary law principles (also known as traditional laws) to define our rights and responsibilities;
- C. We, *have* exercised *Tipethimisowin* (sovereignty) within *N’tuskenan* (our sacred land) as entrusted to us by *Kehchi Manitou* (the Great Spirit) from *Michimahch’ohci* (time immemorial);
- D. *Kehchi Manitou*, through *Kehchi Othasowewin* (the Great Law), granted us, as the guardians of *N’tuskenan* (our sacred land), the responsibility to care for, and the right to use and benefit from its resources;
- E. Our customary laws are based on *mamawi nisitawenachikewin* (mutual recognition), *mamawi kistithichikewi* (mutual respect), *mamawi wichihitowin* (sharing), and *mamawi tipethimisowin kanawapatamasowin* (mutual responsibility) with all relations in *tapwetamowinihk* (honesty, truth, trust and understanding) within *N’tuskenan*;
- F. We continue to exercise our inherent right to govern ourselves and to make laws in the best interests of the *Nisichawayasi Nehethowuk*, in a manner that is consistent with our traditional teachings and practices, which are a vital and intrinsic part of our spiritual, cultural, social and economic well-being;
- G. We, *the Nisichawayasi Nehethowuk* will continue to exercise *Tipethemisowin* in our relations with all Nations and all creation upon *O’kawemaw Aski* (Mother Earth),

consistent with *Kihche' Othasowewin* and our vision for the future of the *Nisichawayasi Nehethowuk*;

NOW THEREFORE from this day forward as self-determining peoples, we accept the responsibilities inherent in governing ourselves and will continually seek the assistance of *Kiche Manitou* to guide us in governing ourselves with wisdom and respect for all of creation.

## CHAPTER 1

### PURPOSE, DEFINITIONS AND PRINCIPLES OF INTERPRETATION

#### 1.1 Purpose of Constitution

The purpose of this Constitution is to:

- (a) protect our people, our lands and our natural resources now and in the future;
- (b) promote responsible, sustainable economic development of our lands and resources for the benefit of our people;
- (c) promote the socio-economic sustainability and wellness of our people;
- (d) acquire additional lands for the benefit of our Nation;
- (e) protect, preserve and promote our culture, heritage, customs, language and beliefs;
- (f) preserve, secure and exercise all of the inherent sovereign rights and powers of our Nation;
- (g) establish a modern form of government that will provide structure and organization for managing relationships between our Citizens and our Government and our Government's relationships with other governments and other entities; and
- (h) protect our treaty relationships and guard against the erosion of our treaty rights and benefits.

## 1.2 Customary Law Principles

The *Nisichawayasi Nehethowuk* traditionally live by reference to *Kihche’othasowewin* (the Great Law of the Creator) and the customary law principles our people developed to reflect these beliefs, values and norms, to guide and direct the conduct of *Ethiniwuk* (individuals), *Ka’esiminisichik* (the family), *Ka’esi anisko’wahkometochik* (the extended family), *Ka’esi mamawe’minisichik* (the clan) and *Ka’esi’pisketuskan’nesichik* (the Nation). The following customary law principles based upon the oral teachings of our ancestors shall be used in interpreting this Constitution:

- (a) *Kwayaskonikiwin* (reconciliation) - the conduct of a person must be reconciled with *Kihche’othasowewin*, the Great law of the Creator;
- (b) *Kistethichikewin* (respect) - the conduct of a person must be based on the sacred responsibility to treat all things with respect and honour;
- (c) *Tawinamakewin* (consent) - a person is welcome in our territory if they consult with and seek the consent of we, the *Nisichawayasi Nehethowuk*, the inhabitants of *N’tuskenan*;
- (d) *Aski Kanache Pumenikewin* (responsibility for the land) - the conduct of a person must be in accordance with the sacred duty to protect *N’tuskenan*, the land, life, home and spiritual shelter entrusted to *Nisichawayasi Nehethowuk* by *Kihche’manitou* for our children *michimahch’ohchi*, since before the beginning of time;
- (e) *Ethinesewin* (wisdom) - duty to respect and seek traditional knowledge and wisdom, including the influence of the moons and seasons on climate, weather, animals, plants and *Ethiniwuk*, individuals as well as seasonal harvesting cycles and practices;
- (f) *N’totumakewin* (art of listening) – a person has a duty to first understand and then teach and share *Ethinesewin*;
- (g) *Ayakwamisiwin* (acting cautiously) - a person must be cautious in undertaking actions where there is uncertainty;

- (h) *Oh'chinewin* (cause and effect) - what a person does to all creation will come back to that person;
- (i) *Aniskowatesewew Kanache Pumenikewin* (sacred responsibility) - a person must act in accordance with the sacred responsibility to protect heritage resources;
- (j) *Kanatethechikewin* (sacredness) -a person has a sacred responsibility to ensure that our ancestors, their belongings or the things that they used on Earth are respected;
- (k) *Asehewewin* (spiritual responsibility) – a person is responsible for their thoughts, words and actions as their thoughts, words or actions could affect their whole being or that of another person;
- (l) *Ponethetamakewin* (forgiveness) – a person has a responsibility to forgive people or organizations that have harmed the person or their loved ones;
- (m) *Nehetho Tipethimisowin* (people's government) - the exercise of sovereignty by all persons must be in a manner that is consistent with *Kihche'othasowewin*, the Great Law of the Creator, and decision-making roles established in accordance with *Nehetho Tipethimisowin*); and
- (m) *Pastahowin* (breaching sacred laws) – a person has a responsibility to obey the sacred laws.

### **1.3 Language**

As preservation our culture and our language is of paramount importance, this Constitution shall be printed and published in *Nehethowewin* and English in the event of a conflict between the two language versions, both versions shall be treated equally.

### **1.4 Definitions.**

In this Constitution, unless the context requires otherwise the following terms when capitalized shall have the meanings set out below and grammatical variations of such terms shall have corresponding meanings

“Chief” means the NCN Citizen elected as chief pursuant to NCN’s Election Law (1998, c. E-1, as amended);

“Chief Executive Officer” or “CEO” means the person appointed by Resolution to hold the principal, non-political operations management position for the Nisichawayasihk Cree Nation;

“Chief and Council” means the elected governing body of the Nisichawayasihk Cree Nation;

“Chief Financial Officer” means the person appointed by Resolution to hold the principal, non-political financial management position for the Nisichawayasihk Cree Nation;

“Councillor” means the NCN Citizens elected as councillors pursuant to NCN’s Election Law (1998, c. E-1, as amended);

“Constitution” means the constitution ratified and approved by the Nisichawayasihk Cree Nation and any amendments thereto;

“General Assembly” means a meeting of NCN Citizens held in accordance with this Constitution;

“Majority” means fifty percent plus one (50% +1);

“Nisichawayasihk Cree Nation”, “NCN” or “Nation” means the *Nisichawayasi Nehethowuk*, the people who live near where the Three Rivers meet and whose ancestors were *Asiniskow Ethiniwuk*;

“*Nisichawayasi Aski Pumenikewin*” means the NCN land code approved by NCN Citizens;

“NCN Citizens” means a person who is considered to be *Nisichawayasi Nehethowuk* pursuant to and NCN citizenship law and includes any person who was considered a member of NCN pursuant to the NCN membership code dated May 24, 1988 including any amendments thereto;

“NCN Law” means a law of the Nisichawayasihk Cree Nation in force at the time this Constitution comes into effect or a law which is subsequently enacted by Chief and Council in accordance with Chapter 14 of this Constitution;

“NCN Electoral Officer” means the person appointed by Chief and Council pursuant to NCN’s Election Law (1998, c. E-1, as amended) to conduct elections or other votes;

“NCN Lands” means all lands held for the use and benefit of NCN and NCN Citizens including reserve lands, fee simple lands or any other type of landholding and includes without limitation all land and resources as defined in *Nisichawayasi Aski Pumenikewin*;

“Proposal” means a written proposal in a prescribed form to develop an NCN Law;

“Resolution” means a resolution passed at a duly convened meeting of Chief and Council;

## **1.5 Article and Section Headings**

The Article and section headings in this Constitution are for reference purposes only and shall not affect the meaning or interpretation of the Constitution.

## **1.6 Plural, Gender, Etc.**

Words importing the singular number only shall include the plural and vice versa, as the context may require. Where the masculine or neutral is used, same shall be interpreted to include the feminine and vice versa as the context may require. Words importing persons shall include firms, governments and corporations as the context requires.

## **1.7 Days**

Any reference to “days” in this Constitution shall mean calendar days.

## **2.7 Number of Days**

Where there is a reference to a number of days between two events, in calculating the number of days, the day on which the first event occurs shall be excluded and the day on which the second event happens shall be included.



## 2.8 Weekends or Holidays

Where the time for the doing of an act expires or falls on a Saturday, Sunday or a federal or provincial holiday, the act may be done on the next day that is not a Saturday, Sunday or holiday.

## CHAPTER 2

### FUNDAMENTAL RIGHTS AND FREEDOMS

#### 2.1 *Nisichawayasi* Nehethowuk Fundamental Rights and Freedoms

*Nisichawayasi Nehethowuk* shall be entitled to the following rights and freedoms in relation to our Nation:

- (a) citizenship;
- (b) political and electoral rights related to the election of Chief and Council;
- (c) reasonable access to information about the administration of the Nation's government operations, financial management, assets and investments;
- (d) participation in traditional harvesting, gathering and other cultural practices related to the sustainable use of the lands, waters and resources of *N'tuskenan*;
- (e) peaceful use and enjoyment of our lands and entry onto and exit from *N'tuskenan* as long as NCN Laws are obeyed;
- (e) access to programs and services established or delivered by the *Nisichawayasi Nehethowuk Okimawin*;
- (f) safety within *N'tuskenan*;
- (g) treaty and aboriginal rights.

## **2.2 Rights in Canadian Constitution and International Law**

The *Nisichawayasi Nehethowuk* are also entitled to all rights and freedoms established by the *Canadian Charter of Rights and Freedoms*, Canadian human rights legislation and international laws such as the Universal Declaration for Human Rights and the Universal Declaration for the Rights of Indigenous Peoples.

## **2.3 Responsibilities of *Nisichawayasi Nehethowuk***

In exercising their rights under this Constitution, *Nisichawayasi Nehethowuk* shall act in a respectful manner in their interactions with each other, members of Chief and Council and the *Nisichawayasi Nehethowuk Okimawin*.

# **CHAPTER 3**

## **CANADIAN LAWS**

### **3.1 Application Other Laws**

Laws of Canada and Manitoba shall apply to the *Nisichawayasi Nehethowuk* and their lands unless replaced by an NCN Law. This Article shall not be construed or interpreted in any way to limit the jurisdiction of *Nisichawayasi Nehethowuk Okimawin*.

### **3.2 Resolution Conflict of Laws**

Where there is a conflict between *Nisichawayasi Nehethowuk* laws and the laws of Canada or Manitoba, the *Nisichawayasi Nehethowuk* law shall prevail to the extent of the inconsistency subject to any contrary conflict rules established by agreement. Laws of Canada and Manitoba shall continue to apply to *Nisichawayasi Nehethowuk* and its lands unless replaced by an NCN Law.

## **CHAPTER 4**

### **JURISDICTION**

#### **4.1 Jurisdiction**

The jurisdiction of the *Nisichawayasi Nehethowuk Okimawin* extends over all persons, including *Nehetho* (Citizens), property, lands, air, water, resources and activities occurring on lands used by *Nisichawayasi Nehethowuk*.

## **CHAPTER 5**

### **GOVERNING STRUCTURES**

#### **5.1 Government**

The *Nisichawayasi Nehethowuk Okimawin* (Government) shall consist of the General Assembly, Chief and Council and the *Nisichawayasi Court*.

## **CHAPTER 6**

### **GENERAL ASSEMBLY**

#### **6.1 Attendance at General Assemblies**

All *Nisichawayasi Nehethowuk* have the right and responsibility to attend General Assemblies.

#### **6.2 General Assembly Meetings**

The General Assembly shall meet at least twice annually so Chief and Council can provide information to *NCN Citizens*, seek their advice and direction and so *NCN Citizens* can raise issues of concern to them.

### **6.3 Freedom of Speech at General Assemblies**

All *Nisichawayasi Nehethowuk* shall have the right to speak at General Assemblies in accordance with the rules of procedure, relevant customary law practices and any limitations on freedom of expression that can reasonably be justified in a free and democratic society. **6.4**

#### **Council Reports**

Each member of Chief and Council shall post written reports on their activities including travel expenditures on the NCN website at least quarterly and all senior public servants and boards of directors shall provide written reports on their activities to Chief and Council at least quarterly, with the exception of finance reports which shall be provided monthly when directed by Chief and Council.

## **CHAPTER 7**

### **CHIEF AND COUNCIL**

#### **7.1 Seat of NCN Government and Composition Chief and Council**

NCN Government shall be located on Reserve Lands at Nelson House, Manitoba where democratic elections for one chief and the required number of councillors shall be held at least once every four years. in accordance with the *Election Law* (1998, c. E-1, as amended).

#### **7.2 Principles of Governance For Chief and Council**

As public confidence and public trust are essential elements of good governance, Chief and Council shall:

- (a) at all times act in the collective best interest of the Nation;
- (b) act honestly and in good faith in representing the interests of the Nation;
- (c) be accountable to *Nisichawayasi Nehethowuk* by conducting its business in an open, fair and transparent manner;

- (d) exercise its powers and carry out its responsibilities in a manner that
  - (i) balances current and future needs of the *Nisichawayasi Nehethowuk* and its ongoing vision of economic independence and self-sufficiency;
  - (ii) ensures the role of Chief and Council is clearly separated from the day to day management of business operations owned or operated by the *Nisichawayasi Nehethowuk Okimawin*;
  - (iii) ensures Chief and Council provides strategic and policy direction to the *Nisichawayasi Otutoskiwuk* (public service) in a manner that prevents individual members of Chief and Council from politically interfering with the day to day management or administration of programs and services but actions by a member of Chief and Council carrying out a duty or exercising a power in accordance with an NCN Law shall not be considered political interference;
- (d) fulfill all of its obligations under this Constitution and other NCN Laws;
- (e) review, approve and amend all NCN Laws in accordance with the law-making procedures set out in Chapter 14 of this Constitution; and
- (f) uphold all decisions made by Chief and Council regardless of the differing views an individual member of Chief and Council may have.

### **7.3 Laws**

Chief and Council shall have the authority to make laws in accordance with this Constitution, and without limiting the generality of the foregoing, shall have the authority to make laws in relation to:

- (a) citizenship;
- (b) elections;
- (c) finance, financial management and taxation to the extent necessary to maintain the financial integrity of the Nation;

- (d) *Nuskomowin* (community dialogue and decision-making);
- (e) government structures, including the public service and public institutions;
- (f) lands, resources and their use;
- (g) *Nisichawayasi* corporations and trusts;
- (h) culture and heritage, including language preservation;
- (i) health, education and social services;
- (j) peace, order and public safety, including emergency preparedness;
- (k) the establishment of advisory committees or councils;
- (l) marital property including access to the marital home;
- (m) justice matters; and
- (n) economic development.

## CHAPTER 8

### CHIEF AND COUNCIL ROLES AND RESPONSIBILITIES

#### 8.1 Chief's Primary Function

The Chief shall be the head of the Chief and Council and is responsible for presiding over all meetings of Chief and Council. The Chief shall provide leadership so the *Nisichawayasi Nehethowuk Okimawin* (Government) functions well and is accountable to *Nisichawayasi Nehethowuk*.

#### 8.2 Chief's Primary Responsibilities

In addition to the duties of all members of Chief and Council, the Chief's primary responsibilities include:

- (a) providing leadership so Chief and Council will operate as a unified team;

- (b) ensuring Chief and Council consistently follows its own internal operating rules and procedures;
- (c) representing the *Nisichawayasi Nehethowuk* at ceremonial and other special functions;
- (d) collaborating with other members of Chief and Council regarding portfolio assignments and responsibilities and in the event that consensus is not reached, assign portfolios;
- (e) honoring all motions, resolutions, policies and procedures passed at duly convened meetings of Chief and Council;
- (f) acting as the primary spokesperson for the *Nisichawayasi Nehethowuk* in all indigenous organizations and media communications consistent with positions or statements approved by Chief and Council unless Chief and Council has delegated such authority to another member of Chief and Council; and
- (g) reporting to Chief and Council on all activities and discussions with external and internal organizations in a timely manner.

### **8.3 Deputy Chief's Primary Responsibilities**

The Deputy Chief appointed in accordance with the Election Law shall be responsible for carrying out the Chief's responsibilities in the absence or incapacity of the Chief.

### **8.4 Chief and Council's Primary Responsibilities**

In accordance with the principles of governance in Article 7.3, Chief and Council shall be responsible for:

- (a) protecting the inherent rights, treaty and aboriginal rights, language, culture and traditions of the *Nisichawayasi Nehethowuk* consistent with the oral understandings of our ancestors;
- (b) overseeing the lands and resources of the *Nisichawayasi Nehethowuk*;

- (c) effectively managing the financial affairs of *Nisichawayasi Nehethowuk* by adhering to principles of accountability and transparency;
- (d) managing inter-governmental relations, negotiations with other governments, private industry, labour and indigenous organizations and the implementation of agreements;
- (e) effectively overseeing the management of the public service to ensure that programs and services are developed and delivered for the benefit of *Nisichawayasi Nehethowuk*;
- (f) consulting with *Nisichawayasi Nehethowuk* on a regular basis to determine their needs and priorities, strategies to meet those needs and priorities and reporting factually accurate information to them in a timely manner having regard to the issues;
- (g) engaging in consensus decision-making and other democratic processes;
- (h) ensuring effective, efficient, and responsible government by consulting with *Nisichawayasi Nehethowuk* at the General Assembly; and
- (i) faithfully and conscientiously complying with and enforcing this Constitution and the responsibilities of Chief and Council under all NCN Laws.

## **CHAPTER 9**

### **CHIEF AND COUNCIL CODE OF CONDUCT**

#### **9.1 Code of Conduct Binding on Members of Chief and Council**

Each member of Chief and Council shall at all times:

- (a) uphold NCN Laws and policies;



(b) discharge the member's fiduciary and other public duties with the utmost integrity, honesty and ethical behavior;

(c) maintain decorum in Chief and Council meetings and not engage in disruptive behavior that impedes the business of Chief and Council;

(d) make decisions that promote the collective interests of the *Nisichawayasi Nehethowuk* rather than the individual interests of the member or the member's family;

(e) abide by decisions of Chief and Council even if the member personally opposes the decisions and not take any direct or indirect action to undermine such decisions;

(f) act as a role model by carrying out the member's duties in a respectful manner including acting respectfully towards all NCN Citizens, employees and NCN service providers;

(g) respond to negative, hurtful and damaging comments or actions in the most appropriate manner required to defend themselves, their reputations and their families;

and each member of Chief and Council shall not:

(h) engage in dishonourable or illegal conduct including theft, improper use of public resources or property, fraud, bribery or other corrupt practices;

(i) use confidential information obtained while holding public office for the member's own direct or indirect personal benefit, including disclosing how other members of Chief and Council voted in relation to confidential or sensitive matters before Chief and Council;

(j) discriminate against any person on the basis of the person's race, religion, sex, sexual orientation, family status, disability or any other matter prohibited by law;

(k) exceed or abuse their authority as a member of Chief and Council;

(l) intimidate, harass or sexually harass any other member of Chief and Council, employees or any other persons;

- (m) retaliate against any person who has complained that the member of Chief and Council has contravened this Constitution;
- (n) use the facilities, equipment, supplies or services of the Nation for any election campaign or campaign related activities; and
- (o) request Citizens, employees or service providers to take any action contrary to decisions of Chief and Council.

## **9.2 Public Disclosure Expenses**

Each member of Chief and Council shall submit accurate expense forms and any other documentation required to track the use of travel expenses, government supplies, equipment and other property as well as any honoraria paid in addition to their Chief and Council compensation, which reports shall be publicly disclosed at least annually.

## **9.3 Status if Complaints or Charges**

If a member of Chief and Council is charged with any indictable offence or a complaint is filed alleging the member has violated human rights legislation, the member must notify the Chief and Council within three (3) days that a complaint has been filed or the member has been charged, and the nature of the complaint or charges so that Chief and Council can consider whether given the nature of the complaint or charges and the length of time it may take for the matter to be resolved, the member should be relieved of any of the member's responsibilities, including whether a leave of absence, or suspension, with or without conditions, should be granted or imposed while the complaint or charges are being dealt with but if any leave of absence or suspension is for more than six months, a vacancy will be declared and a by-election shall be held by the NCN Electoral Officer in accordance with the provisions in the *Election Law*, NCN, 1998 E-1, as amended.

## **9.4 Conflict of Interest**

As all members of Chief and Council are required to act in the best interests of the *Nisichawayasi Nehethowuk*, each member must avoid conflicts of interest, including conflicts of interest involving immediate family members by:

- (a) disclosing any business interests held or disposed of prior to taking office and the arrangements made for the management of such business interests while holding office;
- (b) disclosing any personal interest, the member may have in relation to an issue under discussion;
- (c) leaving any meeting or not participating in any decision-making process where the member has a potential or actual conflict of interest;
- (d) taking no steps to influence the actions or decisions of any other members in relation to a matter that the member has declared a potential or actual conflict of interest; and
- (e) request that the minutes of any meeting record any disclosure of a conflict of interest by a member in relation to business of Chief and Council.

#### **9.5 Leaves of Absence When Elected**

If a member is on a leave of absence from employment within *Nisichawayasi Nehethowuk Okimawin* and during the member's term of office, Chief and Council must consider an issue that could result in personal gain for the member on leave of absence, the member shall not participate in any decisions regarding the organization or department from which the member is on leave of absence and the minutes of the Governing Council shall record that the member was excused from the meeting.

#### **9.6 Gifts**

As gift giving is a recognized culture practice of the *Nisichawayasi Nehethowuk*, but it is acknowledged that an important principle of good governance is that the giving of gifts not be allowed to unduly influence members of Chief and Council or the public service in carrying out their duties, the following rules shall apply:

- (a) any monetary gifts shall be donated to the organization whom the member of Chief and Council is representing when the gift is given;

- (b) all art work or other gifts which are presented to a member of Chief and Council or the public service on behalf of the *Nisichawayasi Nehethowuk* will be considered the property of the *Nisichawayasi Nehethowuk*;
- (c) any art work or other gifts which are presented to the member of Chief and Council or a public service employee to acknowledge that person's personal contributions will be considered the property of the member of Chief and Council or the public service employee; and
- (d) no gifts shall be accepted by any member of Chief and Council during any procurement process.

### **9.7 Sanctions for Breach of Code of Conduct**

Where it is alleged a member of Chief and Council has breached the Code of Conduct, the allegation shall be referred to a committee composed of the Chief, or if the allegation is against the Chief, the Deputy Chief and three Councillors to determine, within fourteen (14) days whether further action is required in which case, they may refer the matter to the *Nisichawayasi* Court or an administrative tribunal for determination but the member of Council may be suspended from office, with or without pay during the adjudication of the matter.

## **CHAPTER 10**

### **CHIEF AND COUNCIL MEETINGS**

#### **10.1 Chief and Council Meetings**

Chief and Council shall hold a meeting at least once monthly except during July and August at such time and places considered necessary to carry out its responsibilities but a member of Chief and Council may call a special meeting to consider any matter of an urgent nature that could affect the health, safety or financial security of the *Nisichawayasi Nehethowuk*.

## **10.2 Notice**

Chief and Council shall establish its meeting calendar for the upcoming year no later than December 15<sup>th</sup> of the prior calendar year and each member of Chief and Council shall receive at least two days' notice or any additional meeting but at least thirty (30) days' notice must be provided for any major new matters that require a decision of Chief and Council that could significantly impact the financial security of the *Nisichawayasi Nehethowuk*. However, a quorum of Chief and Council can waive the notice requirements if there is an emergency of the nature described in Article 10.1.

## **10.3 Quorum**

A quorum shall consist of a majority of the members of Chief and Council, which members shall participate by telephone or other means of telecommunication that permit all members of Chief and Council to hear each other.

## **10.4 Attendance at Chief and Council Meetings**

Members of Chief and Council shall attend all regular and special meetings of Chief and Council and General Assemblies unless they have just cause for being absent, but in accordance with the Election Law (1998, c. E-1 as amended) a by-election shall be held if a member is absent for three regular Chief and Council meetings in a year without just cause.

## **10.5 Advance Notification of Absence**

If a member of Chief and Council is not able to attend a meeting of Chief and Council, the member shall notify the Chief Executive Officer or the person designated by the Chief Executive Officer who shall advise the other members of Chief and Council of the absence and the reason the member cannot attend the meeting.

## **10.6 Agenda**

The Chief Executive Officer shall prepare an agenda for each meeting of Chief and Council, which agenda shall include a list of the items members of Chief and Council wish to have

discussed, reports to be presented, delegations to appear, resolutions, policies and laws to be considered and the status of action items from previous Chief and Council meetings.

### **10.7 Citizen Concerns**

Unless otherwise determined by Chief and Council, the order of business for each meeting shall include opportunities for *Nisichawayasi Nehethowuk* to appear before Chief and Council to raise concerns about the administration or finances of *Nisichawayasi Nehethowuk* Okimawin. Alternatively, *Nisichawayasi Nehethowuk* may submit a written complaint to the Chief Executive Officer and it shall be placed upon Chief and Council's agenda within the next thirty (30) days unless the matter would affect the safety or financial security of the person raising the issue in which case the matter shall be dealt with at the next meeting of Chief and Council.

### **10.8 Public Meetings and Decisions**

Subject to Article 10.10, all meetings of Chief and Council shall be open to *Nisichawayasi Nehethowuk* (Citizens) who shall be entitled to attend such meetings at their own expense and decisions shall be made by consensus to the maximum extent possible but if agreement cannot be reached, the decision shall be made by majority vote.

### **10.9 Minutes**

Subject to Articles 10.10 and 10.11, the minutes of all Chief and Council meetings shall be recorded by the Chief Executive Officer or designate in the Chief and Council meeting minute book and the minutes of a Chief and Council meeting, once adopted shall be signed by all members of Chief and Council who participated in the meeting and made available to NCN Citizens or others upon request or by posting on the NCN website.

### **10.10 In-Camera Chief and Council Meetings**

The Chief and Council may hold “in camera” sessions regarding personnel issues, commercial negotiations or other sensitive matters that are necessary to manage the affairs of the Nation in a prudent and effective manner.

### **10.11 Recording Decisions from In-Camera Meetings**

If an “in camera” session is held, all discussions, decisions and records of proceedings related to such matters shall be kept confidential by members of Chief and Council, the Chief Executive Officer and any other person invited by Chief and Council to attend the “in camera” meeting. Only the outcome of the in-camera session shall be recorded and the decision shall be maintained in a separate record by the Chief Executive Officer. Only members of Chief and Council, the Chief Executive Officer and any other person designated in writing by Chief and Council shall have access to such records.

## **CHAPTER 11**

### **STRUCTURE OF NCN GOVERNMENT**

#### **11.1 Organizational Structure**

Chief and Council shall establish and maintain an organizational structure for the governance, management and administration of the Nation, which organizational structure shall include the following information:

- (a) membership of Chief and Council, Treasury Board and any other committees established by Chief and Council;
- (b) membership of the senior management team and other senior managers of the Nation;
- (c) names of corporations, trusts, partnerships, joint ventures or other entities or agencies owned or controlled by the Nation including the names of their directors
- (d) the principal lines of authority between Chief and Council, committees established by Chief and Council, the senior management team, financial advisors, corporations, trusts, partnerships, joint ventures or other entities or agencies;
- (e) written roles and responsibilities for each person employed or retained by the Nation as well as each entity referred to in clause (c).

#### **11.2 Organization of the NCN Government**

Subject to the provisions of this Constitution or any other NCN Law, Chief and Council will determine the organization of the *Nisichawayasi Nehethowuk Okimawin* (government) and of the

various departments, agencies, corporations, trusts or other entities owned by NCN, and a quorum of Chief and Council may:

- (a) establish, vary or disestablish any department, agency or other entity;
- (b) determine or vary the duties and functions of any department, agency or other entity and transfer the duties and functions from one department, agency or entity to another; and
- (c) determine or change the name of any department, agency or entity;
- (d) establish any corporation, trust, partnership, joint venture or other entity Chief and Council determines is in the interest of the *Nisichawayasi Nehethowuk* to establish and the roles and responsibilities of Chief and Council and the board of the entity established;
- (e) determine membership and appointment procedures, compensation policies and reporting requirements for all corporations, trusts, committees and other entities; and
- (f) determine the staffing complement required for each department, agency, corporation, trust, partnership, joint venture or other entity.

### **11.3 Designated Portfolios**

Chief and Council shall attempt to reach consensus regarding the appointment of each member of Chief and Council to preside over designated portfolios and to discharge such duties, exercise such powers and perform such functions as may be prescribed by an NCN Law or as directed by Chief and Council and each member shall regularly provide a report to Chief and Council, the public service and the General Assembly about the activities undertaken to discharge the member's duties.

### **11.4 Additional Responsibilities**

A member of Chief and Council may be appointed to preside over two or more portfolios.

### **11.5 Chief to Appoint where no Consensus**

If consensus cannot be reached pursuant to Article 11.3, the Chief may appoint a member of Chief and Council as a portfolio holder or as the acting portfolio holder to act during the absence or incapacity of the regular portfolio holder or in the event that the regular portfolio holder has declared a conflict of interest pursuant to this Constitution or any other law, and all acts of an



acting portfolio Councillor shall have the same effect as if done by the member of Chief and Council in whose place the member of Chief and Council is acting.

## **CHAPTER 12**

### **FINANCE AND PUBLIC ADMINISTRATION**

#### **12.1 Remuneration of Chief and Council**

Members of Chief and Council shall be paid honoraria and the benefits provided for in the Nation's annual budget.

#### **12.2 Treasury Board**

Chief and Council shall appoint a Treasury Board to carry out financial planning and audit functions on behalf of the Nation and the Treasury Board minutes shall be reviewed and confirmed by Chief and Council.

#### **12.3 Other Chief and Council Committees**

Chief and Council may establish other committees, task forces and advisory councils to advise on matters relating to the planning and management of the *Nisichawayasi Nehethowuk Okimawin* including the delivery of government programs, services and projects and their relative priorities.

#### **12.4 Expenditures for government programs**

Moneys required to be expended for the purpose of carrying out the duties and functions or exercising the powers of the *Nisichawayasi Nehethowuk Okimawin* or for the purpose of the administration by Chief and Council of any NCN Law or other government law shall be paid with moneys authorized in the annual budget approved by Chief and Council for those purposes.

#### **12.5 Transferred duties and functions**

Where under Article 11.2, the, duties and functions of a department or agency are transferred to another department or agency part way through a fiscal year, Chief and Council may order that all or part of the moneys authorized by the annual approved budget for those functions be paid and applied for the purposes of carrying out those duties and functions through the other department or agency to which the program or service has been transferred.

## **12.6 Delegation of authority**

Subject to this Constitution and any obligation pursuant to an NCN Law Chief and Council may by written authorization following approval at a duly convened meeting of Chief and Council, delegate authority to a quorum of Chief and Council or any person employed by the *Nisichawayasi Nehethowuk Okimawin* to do any act or thing, including, without limiting the generality of the foregoing, the authority to:

- (a) enter into any agreement;
- (b) execute or approve any document;
- (c) issue, approve, suspend, or cancel any permit, license, certificate, or authority;
- (d) receive any notice, direction or other document;
- (e) establish program policies; or
- (f) make decisions related to emergent issues in approved programs,

subject to such limitations, restrictions, conditions, and requirements as Chief and Council may establish and as are set out in the written authorization, but the person to whom such authority is delegated may not without the written authority of Chief and Council delegate that authority to any other person.

## **12.7 Limitations on delegated powers**

In exercising any authority delegated under subsection (1), the person to whom it is delegated is bound by, and shall observe and conform to, any limitations, restrictions, conditions, and requirements imposed by Chief and Council or to which Chief and Council is subject in exercising the authority under the applicable law.

## **12.8 Staff for Departments and Agencies**

Chief and Council shall employ such officers and employees, including managers of departments and agencies, as are required to perform the duties and functions of the departments and agencies of the government in accordance with the Nation's personnel policies.

### **12.9 Staff for Corporate Entities**

A corporate entity may employ such officers and employees as are required to perform the duties and functions of an *Nisichawayasi* corporate entity but the corporate entity shall comply with all personnel, financial, procurement, and other policies approved by Chief and Council, provide quarterly reports to Chief and Council about the financial affairs of the corporate entity and the activities undertaken by its staff and obtain any necessary approvals from Chief and Council prior to employing such persons.

### **12.10 Chief and Council Decisions Prevail**

Chief and Council shall appoint a Chief Executive Officer to oversee public service operations and a Chief Financial Officer to oversee the financial affairs of the Nation and they shall only take direction from Chief and Council as a whole, except in emergency circumstances, in which case they may act upon directions received solely from a single member of Chief and Council but a report of the circumstances and the action taken must be provided to Chief and Council at its next meeting or within five (5) business days whichever is earlier

## **CHAPTER 13**

### **N'TUSKENAN (OUR LANDS)**

#### **13.1 Land Governance**

Legal and administrative frameworks for the management and development of NCN Lands will be developed in a manner that is consistent with the customary law principles in this Constitution and *Nisichawayasi Aski Pumenikewin*.

#### **13.2 Land Principles**

Chief and Council shall enact NCN Laws for the management, administration, use and protection of NCN Reserve Lands, NCN Fee Simple Lands and NCN's Traditional Territory which NCN Laws shall comply with the following principles:

- (a) all-natural resources, including rights to water, on NCN Lands shall belong to NCN unless specifically excluded by the instrument that granted or grants the interest in NCN Lands;
- (b) any contract, instrument or agreement of any kind entered into after the coming into force of this Constitution which purports to create, grant, assign or transfer an interest in NCN Lands is void if it does not comply with this Constitution or any NCN Law enacted pursuant to this Constitution or *Nisichawayasi Aski Pumenikewin*
- (c) an interest in NCN Lands may only be created by written instrument in accordance with *Aski Pumenikewin* or an NCN Law;
- (d) no person may acquire an interest in NCN Lands by use, occupation, or any other means not authorized under an NCN Law; and
- (e) a person who receives an interest in NCN Lands by testamentary disposition or succession shall be entitled to have that interest registered in the First Nations Land Register or NCN Lands Registry.

## **CHAPTER 14**

### **LAW MAKING PROCEDURES**

#### **14.1 Initiating Laws**

NCN Laws shall be initiated by a Proposal presented to Chief and Council by a member of Chief and Council, an employee of *Nisichawayasi Nehethowuk Okimawin* or at least 5% of *Onawusonekewuk* (voters) on the list maintained by NCN's electoral officer.

#### **14.2 First Procedural Steps**

Upon the passage of a Proposal, Chief and Council shall consider the Proposal within thirty (30) days and decide whether to pass a Council Resolution to have a draft law prepared, which NCN Law shall then be considered at a meeting of the Chief and Council within six months unless

there are extenuating circumstances which require a longer period of time for the law to be prepared.

### **14.3 Chief and Council’s Review of Proposed Law**

After considering the draft law Chief and Council shall by Resolution:

- (a) direct that the law be referred to the General Assembly to obtain input from NCN Citizens;
- (b) reject the draft law; or
- (c) request further work be done on the draft law and have it re-tabled with Chief and Council within six months.

### **14.4 Request for Written Reasons if Law Rejected**

Within fourteen (14) days of rejection of a draft law, NCN Citizens who were the sponsor of the proposed law may request that Chief and Council provide a written explanation for having rejected the proposed law and Chief and Council shall provide a written explanation for having rejected the draft law within thirty (30) days of the request.

### **14.5 Referral to General Assembly**

Subject to Article 14.6, where Chief and Council directs that the law be referred to the General Assembly, it shall refer the matter to the next scheduled meeting of the General Assembly to obtain advice regarding the proposed law or if a General Assembly has not yet, been scheduled, arrange for it to be scheduled within the next sixty (60) days.

### **14.6 Workshops**

Chief and Council may direct the public service to hold workshops about a proposed law before referring the matter to the General Assembly, in which case the date for holding the General Assembly to discuss the law may be extended by up to sixty (60) days from the scheduled date or up to one hundred and twenty (120) days where a General Assembly has not yet been scheduled.

## **14.7 Reports**

A report on workshop discussions and the deliberations of the General Assembly shall be prepared by the public service and tabled at the next regular meeting of Chief and Council.

## **14.8 Second Review by Chief and Council**

Chief and Council shall consider the proposed law, including the report of the public service and shall decide whether to accept, modify, reject or refer the law to a special committee comprised of NCN Citizens for further consideration and revision.

## **14.9 Committee Report**

In the event that the proposed law is referred to a special committee, the committee shall deliberate and report back to Chief and Council within thirty (30) days with a recommendation to accept the proposed law, with or without amendments or to reject it.

## **14.9 Effective Date of Law**

If approved by Resolution an NCN Law shall come into effect within thirty (30) days unless the law sets out an alternative effective date.

## **14.10 Signing Laws**

Following enactment by Chief and Council, the law shall be signed by Chief and Council and filed with the Chief Executive Officer and the First Nations Gazette.

## **14.11 Public Access to Laws**

Copies of proposed and final approved NCN Laws shall be posted on the NCN website and shall be provided to NCN Citizens or other people upon request subject to payment of any fees set by Chief and Council for providing copies of such NCN Laws.

## **14.12 Amending or Repealing Laws**

NCN Laws may be repealed or amended in accordance with the procedures set out in this Constitution.

### **14.13 Emergency Laws**

Notwithstanding Articles 14.2 to 14.9, Chief and Council may enact an NCN Law without following the law-making procedures if Chief and Council decides that an NCN Law is urgently required for reasons of public health or safety or to stop or prevent criminal activity on or adjacent to NCN Lands.

## **CHAPTER 15**

### **NUSKOMOWIN**

#### **15.1 *Nisichawayasi Nehetho* Votes on Issues**

Chief and Council may decide to seek advice and direction from *Nisichawayasi Nehethowuk* before Chief and Council makes a decision, including any decision that may affect treaty rights, and if Chief and Council decides that it wishes *Nisichawayasi Nehethowuk* to vote on an issue the NCN Electoral Officer shall conduct a vote consistent with the procedures in the Election Law (1998, c. E-1 as amended), with any necessary modifications or any applicable NCN Law in effect at the time the vote is held.

## **CHAPTER 16**

### ***NISICHAWAYASI* COURT**

#### **16.1 Judicial Appointments**

Chief and Council shall appoint persons with legal training and an understanding of *Nisichawayasi* culture and traditions to the *Nisichawayasi* Court and shall compensate them in a manner that ensures judicial independence.

#### **16.2 Youth Court**

Notwithstanding Article 15.1, Chief and Council may approve the establishment of a special branch of the *Nisichawayasi* Court to adjudicate matters involving youth misconduct and may appoint persons whether they have legal training or not.

### **16.3 Extension Court’s Jurisdiction**

Chief and Council may enter into agreements with other governments to establish a special branch of courts under their jurisdiction as the *Nisichawayasi* Court or for other First Nations to permit their laws to also be submitted to the *Nisichawayasi* Court.

### **16.4 Court Operations**

Chief and Council shall approve an annual budget for the operation of the *Nisichawayasi* Court.

### **16.5 Court’s Jurisdiction**

The *Nisichawayasi* Court shall be responsible for:

- (a) interpreting *Nisichawayasi* Laws;
- (b) resolving disputes referred to it pursuant to NCN Laws;
- (c) mediating disputes between *Nisichawayasi Nehethowuk* (Citizens) and the *Nisichawayasi Nehethowuk Okimawin* (Government);
- (d) resolving jurisdictional disputes between *Nisichawayasi Nehethowuk* and other governments;
- (e) adjudicating disputes under Canadian or Manitoba laws in accordance with agreed upon arrangements in nation to nation agreements; and
- (f) other duties assigned pursuant to NCN Laws.

### **16.6 Administrative Tribunals**

Chief and Council may appoint administrative tribunals to hear appeals of administrative decisions by the public service as well as law enforcement officers.



## **CHAPTER 17**

### **RATIFICATION CONSTITUTION**

#### **17.1 Ratification Vote**

This Constitution shall be ratified by a secret ballot vote held in accordance with the procedures in the *Election Law* (c. E-1, 1998, as amended), where at least twenty-five percent (25%) of eligible NCN Citizens participate in the vote and a majority of those voting, vote in favour of adopting the Constitution.

## **CHAPTER 18**

### **AMENDING PROCEDURE**

#### **18.1 Amendments**

This Constitution can only be amended pursuant to the procedures in Chapter 14 where at least twenty-five percent (25%) of eligible NCN Citizens participate in the vote and a majority of those voting, vote in favour of amending the Constitution.

#### **18.2 Publishing Amendments**

Amendments to this Constitution shall be published on the *Nisichawayasi Nehethowuk* website and in the First Nations Gazette.

## **CHAPTER 19**

### **TRANSITIONAL PROVISIONS**

#### **19.1 Chief and Council to Maintain Office**

The Chief and Council in power at the time of the Effective Date of this Constitution shall remain in office until the next election is held and shall have the full powers and responsibilities of Chief and Council set out in this Constitution.

## **19.2 Savings Clause for Existing Laws**

All laws, bylaws and policies adopted prior to the enactment and effective date of this Constitution shall continue in effect until any required new laws are enacted to replace them.

## **19.3 Election Law**

The NCN Election Law (1998, c. E-1, as amended shall be considered to have been approved pursuant to this Constitution and shall remain in full force and effect unless subsequently amended in accordance with Article 14 of this Constitution.

## **19.4 *Nisichawayasi* Court**

Chief and Council may by Resolution designate a court established by another level of government to hear and determine matters under this Constitution and NCN Laws until such time as the *Nisichawayasihk* Court is established and operational.

# **CHAPTER 20**

## **FORCE AND EFFECT**

### **20.1 Effective Date of Constitution**

If approved, this Constitution or parts of this Constitution shall take effect on the date or dates established by Resolution of Chief and Council.