

AGREEMENT

BETWEEN:

NISICHAWAYASIIHK CREE NATION
(hereinafter referred to as **NCN**)

OF THE FIRST PART,

- and -

O-PIPON-NA-PIWIN CREE NATION,
First Nations People living at South Indian Lake who are seeking
constitution as a separate Band under the *Indian Act*,
(hereinafter referred to as "**OPCN**")

OF THE SECOND PART.

WHEREAS over many decades and especially since 1994 **NCN** and **OPCN** have had ongoing discussions regarding the formal constitution of First Nations People living at South Indian Lake as an independent Cree Nation.

AND WHEREAS **NCN** and **OPCN** now wish to confirm their agreements and understandings prior to the formal constitution of **OPCN**, subject to their express acknowledgement that these arrangements, which form part of the overall separation arrangements, will be approved by Ministerial Order of the Minister of Indian Affairs and Northern Development upon constitution. As of the date of this Agreement the projected constitution date is September 15, 2005;

NOW THEREFORE the parties agree as follows:

1. **NCN** agrees subject to the terms and conditions in this Agreement, that no formal vote of the **NCN** Members will be required prior to constitution of **OPCN** by the Minister of Indian Affairs and Northern Development pursuant to ss. 17 (1) (b) of the *Indian Act*. **NCN** Members again indicated support for **OPCN**'s separation at a duly convened Band meeting held on May 31, 2005. Attached hereto as Schedule "A" is the Band Council Resolution duly executed on July 11, 2005.

2. Any person who is currently an NCN Member and who will become an OPCN Member upon confirmation by Ministerial Order pursuant to ss. 17 (1) (b) shall, after the Ministerial Order is issued not be entitled to vote in any election for NCN Chief and Council, or in any other election or ratification vote authorized by NCN Chief and Council. NCN Members will not be entitled to vote for the new OPCN Chief and Council pursuant to the OPCN *Transition Code* or any OPCN *Election Code*.

3. Those persons who have signed Statements of Intent on the date of constitution will become OPCN members and those NCN members who have not will remain NCN members. OPCN shall within ten (10) days of the signing of this Agreement provide NCN's Membership Clerk, Chief Primrose and NCN Legal Counsel, the designated NCN representatives, with copies of the Statements of Intent which have been signed to date and OPCN shall thereafter provide copies of any additional Statements of Intent which are signed by NCN members, to NCN within five (5) days of their being signed.

4. The NCN Membership Clerk shall work with the Headperson or his designate to prepare the separate membership lists for NCN and OPCN as soon as possible, but no later than constitution.

5. NCN agrees to cancel all administration fees currently being applied by NCN against OPCN funding that flows through NCN to OPCN for various programs and services provided to OPCN as long as OPCN makes arrangements for the funds to flow directly to OPCN and they no longer flow through NCN and NCN is provided with a copy of the written agreement of INAC or any other funding agency that it will do so. Upon receipt of written confirmation of these arrangements between OPCN and INAC, NCN will then forward all OPCN Constitution dollars that flow to NCN on behalf of OPCN forthwith to OPCN. NCN agrees to forward any moneys owed to OPCN to OPCN in a timely manner. OPCN shall upon constitution be responsible for

any deficit existing on the date this Agreement is signed in the social assistance or in any other programs operated for the benefit of OPCN and its members, where the money for the said programs flowed to OPCN through NCN, and in which programs it has been determined by the parties hereto that a deficit exists, and NCN will cease to be the guarantor for the loan OPCN obtained to build its office complex and OPCN will assume full responsibility for this loan. OPCN agrees to repay any moneys owing to NCN within seven years of the date of this Agreement. NCN will not charge OPCN any interest on any such funds that are owing.

6. **NCN** agrees that **OPCN** shall be entitled to receive, upon constitution by Canada, the following lands on the express understanding that such lands will not be selected within the **NCN** Resource Management Area as more particularly described in the **NCN** 1996 NFA Implementation Agreement and that **NCN** will not be responsible for any costs associated with the selection and transfer of the lands, including the cost of any environmental audits:

(a) 2,000 acres of land pursuant to the Article 5 of the 1996 **NCN** NFA Implementation Agreement;

(b) 22.25% share of the land and trust funds received by **NCN** pursuant to their Treaty Entitlement Agreement dated July 30, 1998, including the pro rata share of any interest earned on those funds from the date the moneys were received from Canada, that is $22.25\% \times 79,435 \text{ acres} = 17,674.28 \text{ acres}$ and $22.25\% \times \$1,933,017.00 = \$430,096.28$ as set out in Council Resolution 313-29-03-038 dated July 28, 03

(c) 8,500 acres of land from the Province of Manitoba, under the terms of the 1992 C.A.S.I.L./Manitoba/Manitoba Hydro Agreement.

(d) Capital and Revenue moneys, if any, held by Canada for **NCN** on the date this Agreement is signed, as Indian Moneys pursuant to s. 62 of the *Indian Act*, will be divided between **NCN** and **OPCN** on a per capita basis.

7. For greater certainty, **NCN** is only responsible to divide those assets set out in paragraph 6 of this Agreement, and is not responsible for dividing other asset or matter with **OPCN**, including without limiting the generality of the foregoing any of the following:

(a) any **NCN** capital facilities or other infrastructure located on reserve at Nelson House or elsewhere;

(b) any trusts settled by **NCN** at the date of the signing of this Agreement, including Nisichawayasihk Trust, the Otetiskiwin Trust, Pe-Ta-Pun Trust, or any trust created after the signing of this Agreement, including the proposed Taskinigahp Trust in connection with the proposed Wuskwatim Project, and none of the TLE Trust, except as agreed upon in paragraph 6(b) of this Agreement;

(c) Any existing reserve lands set apart for the use and benefit of **NCN**, or any compensation lands pursuant to the 1996 NFA Implementation Agreement or any lands selected or to be selected by **NCN** within its allocation of 77.75 % of the lands chosen pursuant to the TLE Agreement all of which are to be set aside as reserve lands for the use and benefit of **NCN** and for greater certainty, those TLE lands **OPCN** shall receive pursuant to paragraph 6 (b) hereof are not included within this allocation;

(d) bank accounts, investments or cash, other than the amounts agreed upon in paragraph 6 (b) and 6 (d) of this Agreement;

- (e) the assets owned by any **NCN** Corporation, organization, or other entity operated for the benefit of **NCN**, including the Mystery Lake Motor Hotel;
 - (f) all benefits of any kind received or to be received by **NCN** pursuant to the **NFA**, including any moneys to be paid pursuant to **NFA** Claim 138, the 1996 **NFA** Implementation Agreement, including Article 8 thereof, and for greater certainty, includes any benefits received or to be received by **NCN** from the proposed **Wuskwatim** project;
 - (g) the creation of an urban reserve in **Thompson, MB**; and
 - (h) any future assets or proceeds of claims or other actions acquired by **NCN** after the date of the signing of this Agreement.
8. **OPCN** shall not be responsible to divide the following:
- (a) any **OPCN** and or **SIL** capital facilities or infrastructure located within the Community of South Indian Lake or elsewhere, including for greater certainty the **Big Sand Lake Lodge** and out camps
 - (b) assets of any trust settled by **OPCN**, including the **OPCN Capital Upgrading Trust**, the future **OPCN TLE** trust or any trust created by **OPCN** or its members after the signing of this agreement.
 - (c) the assets or settlement proceeds paid or payable to the **Community Association of South Indian Lake (CASIL)** or the **South Indian Lake Housing Authority (SILHA)**.
 - (d) the assets owned by any **OPCN** Corporation, organization, or other entity owned by **OPCN**;

(e) any future assets or proceeds of claims or other actions acquired by OPCN after the date of the signing of this Agreement.

(f) bank accounts, investments or cash held by, or on behalf of OPCN.

9. As Article 14.4.5 of the NCN 1996 NFA Implementation Agreement did not settle or conclude any SIL Claim, if any, against Canada, Manitoba or Hydro, it is agreed that OPCN shall have the right to pursue such claims, if any, on behalf of its members.

10. The parties agree that the arrangements set out in this Agreement are not intended to alter or affect the claims which DRSIL had filed on behalf of its members as of the date of this Agreement nor any defence any person or party may have to such claims.

11. NCN agrees that concurrent with the execution of this agreement, it will provide OPCN with a copy of a Band Council Resolution in the form and content set out in Schedule "B" executed at a duly convened meeting of Chief and Council, which Band Council Resolution will authorize the execution of this agreement.

12. In the event that a dispute arises in relation to the interpretation or implementation of this Agreement, either party may request that a single arbitrator be appointed by the Chief Justice or the Associate Chief Justice of the Court of Queen's Bench if the parties are unable to agree upon a single arbitrator within ten (10) business days. A hearing, orally or in writing, shall be held within thirty days of a single arbitrator being appointed and a decision shall be rendered within fourteen days following the conclusion of the hearing unless an extension is agreed upon by both parties

