

***KAKITUSTEHK NISICAWAYASI
NEHETHOWUK***

OTHASOWEWIN (CONSTITUTION)

APPROVED _____, 2014

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NISICHAWAYASI NEHETHOWUK

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*;
- 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;
- F. 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 we will record our laws in writing.

CHAPTER 1 – PURPOSE 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) to 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; and
- (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 *Ethinuwuk* (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 time immemorial;
- (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 nature will come back to that person;
- (i) *Aniskowatesewe 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 messages) – a person has a responsibility for their thoughts, words and actions and must acknowledge the spiritual signs that ignoring could affect the person's whole being;

- (l) *Ponethetamakewin* (forgiveness) – a person has a responsibility to forgive people or organizations that have harmed the person or their loved ones; and
- (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 English and *Nehethowewin* in the event of a conflict between the two language versions, the *Nehethowewin* version shall prevail.

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;
- (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) entry onto and exit from *N'tuskenan* as long as *Nisichawayasi Nehethowuk* obey the laws of the Nation;
- (f) access to programs and services established or delivered by the *Nisichawayasi Nehethowuk Okimawin*; and
- (g) safety within *N'tuskenan*.

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 the Governing 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 a *Nisichawayasi Nehethowuk* 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 subject to contrary paramountcy rules established by agreement.

CHAPTER 4 – JURISDICTION

4.1 Jurisdiction

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

CHAPTER 5 – GOVERNING STRUCTURES

5.1 Government

The *Nisichawayasi Nehethowuk Okimawin* (Government) shall consist of the General Assembly, the Governing 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 the Governing Council can provide information to *Nisichawayasi Nehethowuk* and seek their advice and direction.

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.

CHAPTER 7 – GOVERNING COUNCIL

7.1 Composition Governing Council

The Governing Council shall be comprised of one Chief and six Councillors whom shall be democratically elected at least once every four years in accordance with the *Nisichawayasi* Election Law (1998, c. E-1, as amended).

7.2 Principles of Governance For Governing Council

As public confidence and public trust are essential elements of good governance, the Governing 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 the Governing Council is clearly separated from the day to day management of business operations owned or operated by the *Nisichawayasi Nehethowuk Okimawin*;
 - (iii) ensures the Governing Council provides strategic and policy direction to the *Nisichawayasi Otutoskiwuk* (public service) in a manner that prevents individual members of the Governing Council from politically interfering with the day to day management or administration of programs and services;
- (e) fulfill all of its obligations under this Constitution and other *Nisichawayasi* Laws;
- (f) review, approve and amend all *Nisichawayasi* Laws in accordance with the law making procedures set out in Chapter 13 of this Constitution; and
- (g) uphold all decisions made by the Governing Council regardless of the differing views an individual member of the Governing Council may have.

7.3 Laws

The Governing 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;
- (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; and
- (k) justice matters.

CHAPTER 8 – GOVERNING COUNCIL ROLES AND RESPONSIBILITIES

8.1 Chief's Primary Function

The Chief shall be the head of the Governing Council and is responsible for presiding over all meetings of the Governing 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 the Governing Council, the Chief's primary responsibilities include:

- (a) providing leadership so the Governing Council will operate as a unified team;
- (b) ensuring the Governing 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 the Governing Council regarding portfolio assignments and responsibilities;
- (e) honouring all motions, resolutions, policies and procedures passed at duly convened meetings of the Governing 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 the Governing Council unless the Governing Council has delegated such authority to another member of the Governing Council ;
- (g) reporting to the Governing 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 Governing Council's Primary Responsibilities

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

- (a) protecting the inherent rights, treaty rights, 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;
- (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 the Constitution and the responsibilities of the Governing Council under all *Nisichawayasi* laws.

CHAPTER 9 – GOVERNING COUNCIL CODE OF CONDUCT

9.1 Code of Conduct Binding on Members of Governing Council

Each member of the Governing Council shall at all times:

- (a) uphold *Nisichawayasi* 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 Governing Council meetings and not engage in disruptive behavior that impedes the business of the Governing Council;
- (d) make decisions that promote the collective interests of the *Nisichawayasi Nehethowuk* rather than decisions that benefit the member personally;

- (e) not engage in dishonourable or illegal conduct including theft, improper use of public property, fraud, bribery, influence peddling or other corrupt practices;
- (f) not use confidential information obtained while holding public office for their own direct or indirect personal benefit, including disclosing how other members of the Governing Council voted in relation to confidential or sensitive matters before the Governing Council;
- (g) not 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, which discrimination shall include inappropriate comments, gestures, or other behaviours;
- (h) not exceed or abuse their authority as a member of the Governing Council, intimidating, harassing or sexually harassing any other member of the Governing Council, employees or any other persons;
- (i) not retaliate against any person who has complained that the member of the Governing Council has contravened this Constitution;
- (j) uphold all decisions made by the Governing Council even if the member holds opposing views;
- (k) not take any direct or indirect action that will undermine decisions made by the Governing Council or any *Nisichawayasi* corporation, trust or other entity;
- (l) act as a role model by carrying out the member's duties in a respectful manner;
- (m) respond to negative, hurtful and damaging comments or actions in the most appropriate manner required to defend themselves, their reputations and their families;
- (n) at no time use the facilities, equipment, supplies or services of the Nation for any election campaign or campaign related activities; and
- (o) act in a respectful manner towards all Citizens, employees and service providers of the Nation and at no time request them to take any action contrary to decisions of the Governing Council.

9.2 Public Disclosure Expenses

Each member of the Governing 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 Governing Council compensation, which reports shall be publicly disclosed at least annually.

9.3 Status if Complaints or Charges

If a member of the Governing Council is charged with any indictable or hybrid offence or a complaint is filed alleging the member has violated human rights legislation, the member must notify the Governing Council within three (3) business days that a complaint has been filed or the member has been charged, and the nature of the complaint or charges so that the Governing 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 the Governing 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 divested 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) requesting that the minutes of any meeting record any disclosure of a conflict of interest by a member in relation to business of the Governing 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, the Governing 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 recused from the meeting.

9.6 Gifts

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 should not be allowed to unduly influence members of the Governing Council or the public service, the following rules shall apply:

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

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

9.7 Sanctions for Breach of Code of Conduct

A member of the Governing Council may be suspended or removed from office for breach of the Code of Conduct.

CHAPTER 10 – GOVERNING COUNCIL MEETINGS

10.1 Governing Council Meetings

The Governing Council shall hold a meeting at least once monthly at such time and places considered necessary to carry out its responsibilities but a member of the Governing 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

The Governing Council shall establish its meeting calendar for the upcoming year no later than December 15th of the prior calendar year and each member of the Governing 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 the Governing Council that could significantly impact the financial security of the *Nisichawayasi Nehethowuk* . However, a quorum of the Governing 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 the Governing Council, which members shall participate by telephone or other means of telecommunication that permit all members of the Governing Council to hear each other.

10.4 Attendance at Governing Council Meetings

Members of the Governing Council shall attend all regular and special meetings of the Governing Council 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 four regular council meetings in a year without just cause. NTD: Confirm

10.5 Advance Notification of Absence

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

10.6 Agenda

The Chief Administrative Officer shall prepare an agenda for each meeting of the Governing Council, which agenda shall include a list of the items members of the Governing Council wish to be discussed,

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

10.7 Citizen Concerns

Unless otherwise determined by the Governing Council, the order of business for each meeting shall include opportunities for *Nisichawayasi Nehethowuk* to appear before the Governing Council to raise concerns about the administration or finances of *Nisichawayasi Nehethowuk* Okimawin. Alternatively, *Nisichawayasi Nehethowuk* may submit a written complaint to the Chief Administrative Officer and it shall be placed upon the Governing 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.

10.8 Public Meetings and Decisions

Subject to Article 10.10, All meetings of the Governing 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 Governing Council meetings shall be recorded by the Chief Administrative Officer or designate in the Governing Council meeting minute book and the minutes of a Governing Council meeting, once adopted shall be signed by all members of the Governing Council who participated in the meeting.

10.10 In-Camera Governing Council Meetings

The Governing 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. an “in camera” session has been held, all discussions, decisions and records of proceedings related to such matters shall be kept confidential by members of the Governing Council, the Chief Administrative Officer and any other person invited by Governing Council to attend the “in camera” meeting.

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 the Governing Council, the Chief Administrative Officer and any other person invited by Governing 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 Administrative Officer. Only members of the Governing Council, the Chief Administrative Officer and any other person designated in writing by the Governing Council shall have access to such records.

CHAPTER 11 – STRUCTURE OF NCN GOVERNMENT

11.1 Organizational Structure

The Governing 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 the Governing Council, Treasury Board and any other committees established by the Governing Council;
- (b) a Chief Administrative Officer, Chief Financial Officer, and other senior managers of the Nation;
- (c) corporations, trusts, partnerships, joint ventures or other entities or agencies owned or controlled by the Nation;

- (d) the principal lines of authority between the Governing Council, committees established by the Governing Council, the chief administrative officer, chief financial officer , senior managers any external 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

Notwithstanding any other law, the Governing Council may determine the organization of the *Nisichawayasi Okimawin* (Government) and of the various departments, agencies, corporations, trusts or other entities owned by the *Nisichawayasi Nehethowuk*, and the Governing 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 the Governing Council determines is in the interest of the *Nisichawayasi Nehethowuk* to establish and the roles and responsibilities of the Governing 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. **NTD: All governing documents will need to be amended to be consistent with this Constitution;**
- (f) determine the staffing complement required for each department, agency, corporation, trust, partnership, joint venture or other entity.

11.3 Designated Portfolios

The Governing Council shall by consensus appoint each of its members of the Governing Council to preside over designated portfolios and to discharge such duties, exercise such powers and perform such functions as may be prescribed by *Nisichawayasi* or other government laws or as directed by the

Governing Council and each member shall regularly provide a report to the Governing Council about the activities undertaken to discharge the member's duties.

11.4 Additional Responsibilities

A member of the Governing Council may be appointed to preside over two or more portfolios.

11.5 Acting Responsibilities

The Governing Council may appoint one of its members 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 the Governing Council in whose place the member of the Governing Council is acting.

CHAPTER 12 – FINANCE AND PUBLIC ADMINISTRATION

12.1 Remuneration of Governing Council

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

12.2 Treasury Board

The Governing Council shall appoint a Treasury Board to carry out financial planning and audit functions on behalf of the Nation.

12.3 Other Governing Council Committees

The Governing Council may establish other committees of the Governing Council 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 the Governing Council of any *Nisichawayasi* or other government law shall be paid with moneys authorized in the annual budget approved by the Governing 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, the Governing 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

The Governing Council may by written authorization following approval at a duly convened meeting of the Governing Council, delegate authority to a member of the Governing 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, licence, 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 the Governing 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 the Governing 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 so imposed by the Governing Council or to which the Governing Council is subject in exercising the authority under the applicable law.

12.8 Staff for Departments and Agencies

The Governing 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 the Governing Council, provide quarterly reports to the Governing Council about the financial affairs of the corporate entity and the activities undertaken by its staff and obtain any necessary approvals from the Governing Council prior to employing such persons.

12.10 Governing Council Decisions Prevail

The Governing Council shall appoint a Chief Administrative 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 the Governing Council as a whole, except in emergency circumstances, in which case they may act

upon directions received solely from a single member of the Governing Council but a report of the circumstances and the action taken must be provided to Governing Council at its next meeting or within five (5) business days whichever is earlier.

CHAPTER 13 – LAW MAKING PROCEDURE

13.1 Initiating Laws

Nisichawayasi Laws shall be initiated by either a Resolution of the Governing Council or a Proposal presented to Governing Council by at least one hundred *Nisichawayasi* Citizens.

13.2 First Procedural Steps

Upon the passage of a Resolution or the receipt of a Proposal, the Governing Council shall direct the public service to prepare a draft law, which law shall then be considered at a meeting of the Governing Council within six months unless there are extenuating circumstances which require a longer period of time for the law to be prepared.

13.3 Governing Council's Review of Proposed Law

After considering the draft law the Governing Council shall by Resolution:

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

13.4 Request for Written Reasons if Law Rejected

Upon the written request of any *Nisichawayasi Nehethowuk* (Citizen) received within fourteen days of rejection of a draft law, the Governing Council shall provide a written explanation for having rejected the draft law within thirty (30) days of the request.

13.5 Referral to General Assembly

Where Governing 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.

13.6 Workshops

The Governing 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.

13.7 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 the Governing Council. cil after the General Assembly

13.8 Second Review by Governing Council

The Governing 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 *Nisichawayasi Nehethowuk* (Citizens) for further consideration and revision.

13.9 Committee Report

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

13.9 Effective Date of Law

If approved by majority vote of the Governing Council a *Nisichawayasi* Law shall come into effect within thirty (30) days unless the law sets out an alternative effective date.

13.10 Signing Laws

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

13.11 Public Access to Laws

Copies of proposed and final approved *Nisichawayasi* Laws shall be posted on the *Nisichawayasi* website and shall be provided to *Nisichawayasi Nehethowuk* (Citizens) or other people upon request.

13.12 Amending or Repealing Laws

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

CHAPTER 14 – NUSKOMOWIN

14.1 Nisichawayasi Nehetho Votes on Issues

The Governing Council may decide to seek advice and direction from *Nisichawayasi Nehethowuk* before the Governing Council makes a decision and if the Governing Council decides that it wishes *Nisichawayasi Nehethowuk* to vote on an issue the NCN Electoral Officer shall conduct a vote using the procedures in the Election Law (1998, c. E-1 as amended), with any necessary modifications.

CHAPTER 15 – NISICHAWAYASI COURT

15.1 Judicial Appointments

Subject to Article 15.2, the Governing 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.

15.2 Nisichawayasi Youth Court

The Governing Council may approve the establishment of a special branch of the *Nisichawayasi* Court by appointing two *Nisichawayasi* Nehethowuk from the eight (8) most representative clans within the *Nisichawayasi* Nehethowuk to adjudicate matters involving youth misconduct.

15.3 Extension Court's Jurisdiction

The Governing Council may enter into agreements with other First Nations to permit their laws to also be submitted to the *Nisichawayasi* Court.

15.4 Court Operations

The Governing Council shall approve an annual budget for the operation of the *Nisichawayasi* Court.

15.5 Court's Jurisdiction

The *Nisichawayasi* Court shall be responsible for:

- (a) interpreting *Nisichawayasi* Laws;
- (b) resolving disputes referred to it pursuant to *Nisichawayasi* Laws;
- (c) mediating disputes between *Nisichawayasi Nehethowuk* (Citizens) or *Nisichawayasi Nehethowuk* (Citizens) and the *Nisichawayasi 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 *Nisichawayasi* Laws.

15.6 Administrative Tribunals

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

CHAPTER 16 – RATIFICATION CONSTITUTION

16.1 Ratification Vote

This Constitution shall be ratified by a secret ballot vote held in accordance with the procedures in the Election Code (c. E-1, 1998, as amended), where at least a majority of eligible NCN Citizens who participate in the vote, vote in favour of adopting the Constitution.

CHAPTER 17 – AMENDING PROCEDURE

17.1 Amendments

This Constitution can only be amended pursuant to the procedures in Chapter 14 with the approval of seventy-five (75%) of those voting, where at least one hundred (100) *Nisichawayasi Nehetho* (Citizens) vote.

17.2 Publishing Amendments

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

CHAPTER 18 – TRANSITIONAL PROVISIONS

18.1 Governing Council to Maintain Office

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

18.2 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.

18.3 Election Law

The NCN Election Law (1998, E-1, as amended shall be considered to have been approved pursuant to this Constitution and shall remain in full force and effect.

CHAPTER 19 – FORCE AND EFFECT

19.1 Effective Date of Constitution

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

NTD: Need to consider whether certain sections will only come into force upon conclusion of negotiations with other levels of government. For example, the establishment of the Nisichawayasi Court.

CHAPTER 20 – DEFINITIONS AND RULES OF INTERPRETATION

NTD: The definitions will be added after the concepts are confirmed.

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