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CONSTITUTION AND BYLAWS OF THE
NOOKSACK INDIAN TRIBE OF WASHINGTON

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OF THE
NOOKSACK INDIAN TRIBE OF WASHINGTON

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CONSTITUTION AND BYLAWS
OF THE
NOOKSACK INDIAN TRIBE OF WASHINGTON

PREAMBLE

We, the members of the Nooksack Indian Tribe of the State of Washington, in order to establish our tribal organization, to conserve our tribal property, to develop our common resources, to establish justice, and to promote the welfare of ourselves and our descendants, do hereby ordain and establish this constitution and bylaws under the provisions of Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 378).

ARTICLE I - TERRITORY

The jurisdiction of the Nooksack Indian Tribe shall extend to all lands now held in the name of the tribe or which hereafter may be acquired for or by and held in the name of the Nooksack Indian Tribe. The Nooksack Indian Tribe may exercise its jurisdiction to the fullest extent allowed by law.

ARTICLE II - MEMBERSHIP

Section 1. The membership of the Nooksack Indian Tribe shall consist of:

- (a) All original Nooksack Public Domain allottees and their lineal descendants living on January 1, 1942.
- (b) All persons of Indian blood whose names appear on the official census roll of the tribe dated January 1, 1942, provided that the January 1, 1942, roll may be corrected by the tribe with the approval of the Secretary of the Interior.
- (c) Lineal descendants of any enrolled member of the Nooksack Indian Tribe subsequent to January 1, 1942, provided such descendants possess at least one-fourth (1/4) degree Indian blood.
- (d) All persons who received a payment under the Act of April 30, 1965, entitled Nooksack Tribe of Washington, Distribution of Judgment Fund (80 Stat. 906), October 6, 1966, and lineal descendants of any persons so receiving a payment, provided such descendants possess at least one-fourth (1/4) degree Indian blood.
- (e) Official membership roll of the tribe shall be approved by the Tribal Council and by the Secretary of the Interior or his authorized representative.

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- (f) Any persons who possess at least one-fourth (1/4) degree Indian blood, and who is adopted by an enrolled member of the tribe under the laws of the Nooksack Indian Tribe or any state of the United States.
- (g) Any person who possesses at least one-fourth (1/4) degree Indian blood and who is an adopted member of the tribe pursuant to the constitution and the ordinances enacted thereon.

Section 2. The Tribal Council shall have the power to enact ordinances in conformity with this constitution, subject to the approval of the Secretary of the Interior, governing future membership in the tribe, including adoptions and loss of membership.

Section 3. Dual Enrollment: No person shall become or remain a member of the Nooksack Indian Tribe who is a member of any other organized Indian tribe, band, or Indian community which is officially recognized by the Secretary of the Interior, unless that person has relinquished, in writing, his or her membership in such tribe, band or community.

- (a) Any person who, at the time this amendment to the constitution is adopted and enacted, has a dual membership in the Nooksack Indian Tribe and any other Indian tribe, band or community recognized by the Secretary of the Interior, shall be required to relinquish said membership of the other Indian tribe, band or community, or that person shall lose his or her membership in the Nooksack Indian Tribe.
- (b) Within 60 days of the adoption of this amendment to the constitution, the tribal enrollment officer shall determine which enrolled members of the tribe have dual membership, as herein defined, and shall send written notices to said members of the requirements or lose his or her membership in the Nooksack Indian Tribe.

Section 4. Loss of Membership: The tribal council shall, by ordinance, prescribe rules and regulations governing involuntary loss of membership. The reasons for such loss shall be limited exclusively to failure to meet the requirements set forth for membership in this constitution, including adoption by the tribe, provided that nothing in this section shall prohibit a member from voluntarily relinquishing membership in the Nooksack Indian Tribe.

ARTICLE III - GOVERNING BODY

Section 1. The governing body of the Nooksack Indian Tribe shall be known as the Nooksack Indian Tribal Council and shall be elected by the qualified voters of the tribe.

Section 2. The governing body under this constitution shall be composed of one (1) chairman; one (1) vice-chairman; one (1) secretary; one (1) treasurer; and four (4) councilmen.

Section 3. Within 90 days of the approval of this section to the constitution, all tribal council members shall stand for election. The tribal chairman, the secretary and two councilmen shall be elected for four-year terms. The vice-chairman, the treasurer, and the remaining two councilmen shall be elected for two-year terms. For this first election under this section, the current four councilmen shall draw lots in order to determine which two councilmen shall run for the four-year terms.

Section 4. After the first election held under this section, elections for the tribal council shall be called within 90 days prior to the expiration of the terms of office of its members. After the first election, all members of council shall run for four-year terms.

ARTICLE IV - ELECTIONS AND NOMINATIONS

Section 1. All enrolled members of the Nooksack Indian Tribe, eighteen (18) years of age or over, shall have the right to vote.

Section 2. No person shall be a candidate for membership in the tribal council or other tribal office unless he is a member of the Nooksack Indian Tribe, has resided in Whatcom County one (1) year immediately preceding the election, and is over eighteen (18) years of age.

Section 3. Any member of the tribe meeting requirements of Section 2 may become a candidate for any office upon filing with the secretary of the tribal council a petition signed by at least ten (10) legal voters, provided that no two (2) members of one (1) household are allowed to run for office in the same election. The tribal council shall be the sole judge of the qualifications of its own members.

Section 4. When any election is to be held, the chairman of the tribal council shall appoint a superintendent of the election, and the superintendent so appointed shall have the power to appoint two (2) ballot clerks. The superintendent and the clerks he may appoint shall constitute the election board. The duties of this election board shall be to supervise and certify the election, and resolve all election disputes.

ARTICLE V - REMOVAL FROM OFFICE

Section 1. If any officer or member of the tribal council shall be absent from any three (3) consecutive regular or special meetings without sufficient reason, the other members may declare the council position vacant by a four-seventh (4/7) vote of the tribal council. The council member subject to the removal may not participate in the vote of the tribal council.

Section 2. Any officer or member of the tribal council who, while in office, is convicted of a felony by any federal, state or Indian court, may be removed from office by a four-seventh (4/7) vote of the tribal council.

Section 3. In the event that any elective tribal office becomes vacant between elections, the tribal chairman, subject to the approval of the tribal council, shall appoint an eligible tribal member to fill the vacant position until the end of the position term.

Section 4. Recall.

- (a) Every person elected to a tribal office under an election held by the Nooksack Indian Tribe may be subject to a recall election upon petition signed by those tribal members eligible to vote equal to at least thirty (30) percent of the number of the tribal members who voted in the last election for tribal council members. Upon receipt of a valid petition as provided herein by the tribal council secretary, the tribal council shall hold a special recall election not less than thirty (30) days nor more than sixty (60) days from the date the petition is filed.
- (b) A valid recall petition shall satisfy the requirements herein, and those stated in the tribal ordinance enacted for the purpose of implementing the recall process or the petition shall be declared invalid by the tribal council. The petition shall contain the following:
 - (1) A statement alleging specific facts and dates, of actions or inactions by the council member subject to the petition, which would warrant the recall of said council member from office held.
 - (2) Statements of general grounds for recall, such as “malfeasance, misfeasance or nonfeasance” or similar terms shall not be sufficient to establish a valid petition.
 - (3) Each page of the petition must contain a statement of the specific facts and dates as provided in (1) above, and a certification by the person obtaining the signatures on the petition, that the signatures were obtained personally by that person. The petition shall be on a specific form provided by the tribal council.

- (4) Below the statement of specific facts and dates alleged, as reasons for recall, the council member subject to recall, may write a rebuttal statement to the allegations supporting the recall petition, to the Petition Review Board.
- (c) If more than one member of the council is subject to a recall petition at the same time, if recall elections are held, they shall occur one at a time, in the order established by the tribal council.
- (d) Any person who wishes to circulate a recall petition to recall a member of the council shall pay a nonrefundable fee of \$500.00 on each petition on each council member to cover the costs to the tribe for the recall process.

ARTICLE VI - POWERS OF THE TRIBAL COUNCIL

Section 1. The Nooksack Indian Tribal Council shall exercise the following powers, subject to any limitations imposed by the Nooksack Tribal Constitution and any federal laws that may be applicable.

- (a) To prevent the sale, disposition, lease, or encumbrance of tribal lands, interests in lands, or other tribal assets without the consent of the tribe.
- (b) To enter into negotiations with the Federal, State, and local governments on behalf of the tribe.
- (c) To present and prosecute any claims or demands of the Nooksack Indian Tribe. It shall have the right to assist members of the tribe in presenting their claims and grievances before any court or agency of government.
- (d) To employ attorneys of record or representatives, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior.
- (e) To advise the Secretary of the Interior and Congress of its wishes with regard to Federal projects or appropriations for the benefit of the Nooksack Indian Tribe.
- (f) To select subordinate boards, officials, and employees not otherwise provided for in this constitution and to prescribe their tenure and duties; to authorize and establish any association or organization having for its purpose and sole objective the benefit of the members of the Nooksack Indian Tribe.
- (g) To create and maintain a tribal council fund by accepting grants or donations from any source, or by levying an annual assessment on each qualified voter of the Nooksack

Indian Tribe of not less than twenty-five cents (\$.25), and not more than five dollars (\$5.00), and to require the performance of labor in lieu thereof; to levy taxes and license fees upon non-members doing business on tribal lands, subject to approval of the Secretary of the Interior.

- (h) To promulgate ordinances for the purpose of safeguarding the peace and safety of the members of the Nooksack Indian Tribe and to establish courts for the adjudication of claims or disputes arising among the members of the tribe and for the trial and punishment of members of the tribe charged with the commission of offenses set forth in such ordinances.
- (i) To protect the public health and morals and to promote the public welfare by regulating the use and disposition of tribal property.
- (j) To adopt resolutions regulating the procedure of the tribal council itself and of other tribal agencies and officials.
- (k) To administer any funds or property within the control of the tribe; to make expenditures from available funds for public purposes, including salaries or remuneration of tribal officials or employees. Such salaries or remuneration shall be paid only for services actually authorized in a regular and legal manner and shall be by resolution duly passed by the tribal council to that effect and the amount so paid shall be a matter of public record at all times.
- (l) To regulate the inheritance of property, real and personal, other than allotted lands, within the territory of the Nooksack Indian Tribe, subject to approval by the Secretary of the Interior.
- (m) To provide by ordinance for the appointment of guardians for minors and mental incompetents, subject to the approval of the Secretary of the Interior.
- (n) To remove or exclude from the territory of the tribe non-members whose presence may be injurious to the peace, health, or welfare of the tribe.

Section 2. Duties.

- (a) Tribal Court (Judicial Code).
 - (1) It shall be the duty of the tribal council to provide, through ordinance, for the establishment of a tribal court.
 - (2) This court shall have jurisdiction over all such offenses not falling within the

exclusive jurisdiction of Federal or State courts as may be provided in the ordinances of the tribe.

- (3) This court shall have jurisdiction over all Indians on tribal lands; over all civil matters concerning members of the Nooksack Indian Tribe; over all matters concerning the establishment and functions of the tribal government, provided that nothing herein shall be construed as a waiver of sovereign immunity by the tribal government; and over all cases or controversies between Indians and non-Indians where such cases are brought before it by stipulation of the non-Indian, provided that the court shall have jurisdiction over civil matters arising on tribal lands without the necessity of stipulation of any parties; and provided that jurisdiction over Indian employees of the federal government for matters concerning the duties and actions of such employees in the furtherance of their employment shall be subject to the rules and regulations prescribed by the federal government.

(b) Tribal Police Force.

It shall be the duty of the tribal council to establish by ordinance a tribal police force which shall have full jurisdiction upon the tribal lands as provided in Section 2(a)(2) above; the authority and duties of this police force may be outlined by the tribal council, and such police will be employees of the tribal council.

(c) Tribal Lands.

- (1) It shall be the duty of the tribal council to adopt ordinances, rules, and regulations to exercise the sovereign governmental powers of the tribe to regulate the use of tribal lands and the activities which take place thereon.
- (2) The tribal council shall adopt ordinances, rules and regulations for the control and licensing of hunting and fishing upon tribal lands, lands ceded under the Treaty of Point Elliott and the usual and accustomed fishing and hunting grounds of the Nooksack Indian Tribe.

(d) Public Welfare.

- (1) The tribal council at all times determines in a careful manner what constitutes just cause for charitable or financial aid or assistance to the indigent members of the tribe, and shall make proper provision for recommendation to proper agencies for relief.
- (2) The tribal council shall designate persons who shall administer charitable work within the tribe, conduct the solicitation and expenditure of charitable funds in a

systematic manner, and prevent the abuse of charitable funds. It shall seek and cooperate with such charitable organizations and thereby render assistance or aid to the poor and needy.

- (3) The tribal council shall at all times endeavor to discuss and eliminate the cause for indigence and assist in exercising wise and judicious supervision and management of the financial affairs of individual members of the tribe, to the end that need, privation, and financial distress may be entirely eliminated among the members of the tribe.
- (4) The tribal council shall pass necessary resolutions to promote and increase learning and education among the members of the tribe, studying present school systems, and recommending plans for improving them to the proper bureaus or departments.
- (5) The tribal council shall enter into negotiations with schools and procure for the members of the tribe the highest type of educational facilities, to the end that younger members of the tribe shall have every possible advantage to attain a high degree of education.
- (6) The tribal council shall encourage and promote among the residents of the tribe by every practical means a proper system of social and home education in home economics, hygiene, home demonstrations, agronomy, and farm demonstrations with the cooperation of State, county, and Federal departments and agencies which seek to promote such social welfare and agricultural development work.

(e) Loans.

- (1) A loan committee shall be created that shall act upon all applications for loans under a revolving fund or reimbursable regulations for the purchase of property, stock, or equipment, or loans to Indians for the payment of tuition for higher education or trade schools.
- (2) The tribal council shall act in an advisory capacity upon all applications to the Superintendent for the withdrawal from the United States Treasury of trust funds, Nooksack benefits, or any other tribal funds.

(f) Tribal Claims.

The tribal council shall make a thorough survey, research, investigation, and study of the history and title of all lands which are now tribal in character, or which have been tribal in character in times past, and shall endeavor to re-establish the tribal equity, if any, in

such lands, so as to obtain through proper channels just compensation for such lands, which it shall find to have been unlawfully removed from the present jurisdiction of the tribe and without just compensation.

(g) Guardianship.

The tribal council shall pass all necessary ordinances whereby the rights of minors and incompetents shall be properly safeguarded, and shall see that the administration of such funds and other assets shall be for the exclusive benefit of such minors or incompetents. It shall be the duty of the tribal council to make semiannual reports concerning all such guardianship funds or assets and that such reports be matters of public record.

Section 3. Future Powers. The Nooksack Indian Tribal Council may exercise such powers as may in the future be delegated to the tribe by the Secretary of the Interior or by any other duly authorized official or agency of the government.

Section 4. Reserved Powers. Any rights and powers heretofore vested in the Nooksack Indian Tribe but not expressly referred to in this constitution shall not be abridged by this article, but may be exercised by the people of the Nooksack Indian Tribe through the adoption of appropriate bylaws and constitutional amendments.

ARTICLE VII - REFERENDUM

Upon receipt of a valid petition signed by at least one-third (1/3) of the qualified voters of the Nooksack Indian Tribe, a referendum shall be called by the tribal council within not less than ten (10) days nor more than thirty (30) days from the date of receipt of the petition on any enacted or proposed ordinance or resolution of the Nooksack Indian Tribal Council, and the vote of the majority of the qualified voters in such referendum shall be conclusive and binding on the tribal council, provided at least one-third (1/3) of the qualified voters cast ballots.

ARTICLE VIII - LAND

Section 1. Unallotted Lands. The unallotted lands of the Nooksack Indian Tribe and all lands which may be hereinafter acquired by or for the Nooksack Indian Tribe, shall be held as tribal lands forever.

Section 2. Unassigned Tribal Lands. Tribal lands which are not assigned may be used for public purposes of any sort. Such lands may also be leased by the tribal council, to members of the tribe, or to non-members according to law, and all proceeds of such leases shall accrue to the tribal treasury to be used for any other public purposes of the tribe.

ARTICLE IX - BILL OF RIGHTS

All members of the Nooksack Indian Tribe shall be accorded equal rights pursuant to tribal law. The protection guaranteed to persons by Title II of the Civil Rights Act of 1968 (82 Stat. 77) against actions of the Nooksack Indian Tribe in the exercise of its powers of self-government shall apply to the members of the Nooksack Indian Tribe.

ARTICLE X - AMENDMENTS

This constitution and bylaws may be amended by a majority vote of the qualified voters of the Nooksack Indian Tribe voting in an election called for that purpose by the Secretary of the Interior; provided, that at least thirty percent (30%) of those entitled to vote shall vote in such election; but no amendment shall become effective until it shall have been approved by the Secretary of the Interior. It shall be the duty of the Secretary of the Interior to call an election on a proposed amendment at the request of the tribal council or upon receipt of a petition signed by one-third (1/3) of the eligible voters of the tribe.

BYLAWS OF THE NOOKSACK INDIAN TRIBE OF WASHINGTON

ARTICLE I – DUTIES OF OFFICERS

Section 1. It shall be the duty of the chairman to preside at all meetings of the tribal council. He shall have a vote only when a tie occurs.

Section 2. In the absence of the regular chairman, the vice-chairman shall preside and he shall have all powers, privileges, and duties of the regular chairman, and may cast a vote in the case of a tie.

Section 3. It shall be the duty of the tribal secretary to keep a true and accurate record of all matters affecting the tribal records and accounts, and to render a proper accounting of such records and statistics as are required by the tribal council. He shall be present at all meetings of the tribal council and shall keep an accurate record of all tribal council proceedings which includes: Minutes of all special or regular meetings shall be in duplicate, the original to be filed at the Nooksack Tribal Office, and one (1) copy to be presented to the Superintendent.

Section 4. The duties of the treasurer of the tribal council shall be as follows: He shall accept, receive, receipt for, preserve, and safeguard all funds in the custody of the tribal council, whether they be tribal funds or special funds for which the tribal council is acting as trustee or custodian. He shall deposit all such funds in such bank or elsewhere as directed by the tribal council, and he shall keep an accurate record, filing same in the tribal council's office, and he shall report all receipts and expenditures and accounts and the nature of all funds in his possession or custody,

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once every six (6) months to the tribal council in writing, or at any time he is requested to do so by the tribal council.

- (a) He shall not disburse any tribal funds in his custody except when authorized by a motion duly passed and properly recorded by the tribal council.
- (b) He shall be present at all special or regular meetings of the tribal council and shall make a verbal report on the status of tribal funds, and furnish other necessary information as requested.
- (c) The treasurer shall be required to furnish a bond at tribal expense satisfactory to the tribal council.
- (d) The books and records of the treasurer shall be audited at least once a year by a competent auditor employed by the tribal council or under the direction of the Commissioner of Indian Affairs.

Section 5. There shall be a sergeant-at-arms and he will be appointed by the tribal council. It shall be his duty to be present at all meetings of the tribal council and to maintain order and decorum within the tribal council chambers; he shall serve all summonses emanating from the tribal council, and shall perform such other duties as may be designated by the tribal council. He shall have no voice or vote in the deliberations of the tribal council except when making reports or furnishing information requested by the tribal council.

ARTICLE II – MEETINGS AND PROCEDURES

Section 1. Immediately after the election of members of the tribal council, and said elected members are duly certified by the election board, the members shall assemble at the Nooksack Tribal Office and organize for business and appoint one sergeant-at-arms.

Section 2. The tribal council shall meet regularly on the first Tuesday of each month. Regular meetings shall be held at the tribal office.

Section 3. Special meetings of the tribal council shall be held at such times as are designated by the chairman, and he shall notify the members at least twenty-four (24) hours before the date of such meeting.

Section 4. At any special or regular meeting of the tribal council, five (5) members present shall constitute a quorum, and the tribal council may proceed to transact any business that may come before it.

Section 5. Special meetings of the tribal council shall also be held upon written request of either

two (2) members of the tribal council or by petition signed by twenty-five (25) legal voters of the tribe. Such written request shall be filed with the chairman or the secretary of the tribal council, and he shall notify the tribal council members twenty-four (24) hours before the date of such tribal council meetings.

Section 6. All sessions of the tribal council (except executive) shall be open to all members of the tribe. Balloting at all sessions shall be either by acclamation or by secret written ballot as the presiding officer shall direct.

Section 7. The tribal council may, upon motion duly passed, go into executive sessions. At such sessions, all persons shall be excluded from the tribal council chamber, and any such person whose presence shall be required before the tribal council shall be designated by the chairman, and no other person shall be allowed to be present other than the members of the tribal council.

Section 8. The tribal council shall exercise care and caution to the end that a complete record is preserved of all acts of the tribal council and of all committees appointed therefrom. Accurate copies of all such records shall be preserved in the files of the tribal council and accurate copies of all necessary records shall be transmitted to such bureaus, departments, or elsewhere as may be required. Records maintained by the officers of the tribal council shall be the property of the Nooksack Indian Tribe and shall be promptly transmitted to new duly elected officers.

Section 9. Copies of all leases, contracts, deeds, or assignments and all other papers or documents pertaining to tribal lands of any nature shall be carefully preserved by the tribal council, and insofar as it is possible, all other documents affecting the rights and equities of the tribe as a whole, or the individual members thereof, shall be kept and preserved in order that such information shall at all times be available to the tribal council and to the individual members of the tribe.

ARTICLE III – ADOPTION

This constitution and bylaws, when ratified by a majority vote of the qualified voters of the Nooksack Indian Tribe voting at an election called for that purpose by the Secretary of the Interior, provided that at least thirty percent (30%) of those entitled to vote shall vote in such election, shall be submitted to the Secretary of the Interior, and if approved, shall be effective from the date of approval.

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CERTIFICATE OF RESULTS OF ELECTION

Pursuant to an election authorized by the Deputy Assistant Secretary of the Interior on February 14, 1973, under delegated authority, the attached Constitution of the Nooksack Indian Tribe of Washington, was submitted to the qualified voters of the tribe and was on July 27, 1973, duly adopted by a vote of 114 for and 47 against, in an election in which at least thirty percent (30%) of those entitled to vote cast their ballots in accordance with the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 378).

(Sgd.) Paul H. Clements
Chairman, Election

(Sgd.) Lois L. Cline
Member, Election Board

(Sgd.) Lila F. Zapata
Member, Election Board

APPROVAL

I, W.L. Rogers, Deputy Assistant Secretary of the Interior of the United States of America, by virtue of the authority granted to me by the Act of June 18, 1934 (48 Stat. 984), as amended, do hereby approved the Constitution and Bylaws of the Nooksack Indian Tribe of Washington.

Approval Recommended:

(Sgd.) Raymond V. Butler

Acting Director, Office of Indian Services

(Sgd.) W.L. Rogers
Deputy Assistant Secretary of the Interior

Washington, D.C.

Date: September 24, 1973

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