

CONSTITUTION OF THE UCHUCKLESAHT TRIBE



Consolidated Version as of October 27, 2011

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PREAMBLE

A. Declaration of Uchucklesaht Identity and Territorial Existence

We, the people of the Uchucklesaht Tribe, by this Constitution, declare our unique identity as a Nation and claim our rightful place in Canadian society.

We have existed from time immemorial and have occupied and the used the lands, waters, air and resources of our traditional territory, as set out in Schedule 1 to this Constitution, throughout history.

We draw our identity from our relationship to our land and from our rich heritage, culture, language and our stories, myths, oral traditions and spirituality.

We honour our ancestors and our elders and commit ourselves to the values that they preserved for us, values that provide us dignity and enhance our humanity.

As self-determining peoples, we accept the responsibilities inherent in governing ourselves and seek, with the assistance of the Creator, to govern with wisdom and respect for all people.

Through the act of governing, we assume the power to preserve our natural world and enhance our identity.

B. Uchucklesaht Tribe Declaration of Rights and Values

From this historic foundation we, the Uchucklesaht people, have adopted and shaped fundamental values that unite us, define us and upon which this Constitution is based.

These values include:

- (a) reverence for the Creator,
- (b) honour for our ancestors,
- (c) respect for our elders,
- (d) recognition of an internal order based on our Ha'wiih and our Hahoulthee,
- (e) respect for our family and kinship systems,
- (f) our unique language,
- (g) a profound respect for nature, our land, air and water, beds of water and all living things within our territory,
- (h) an appreciation of our unique and vibrant culture, and
- (i) an acceptance and reverence for a spiritual basis to life.

As a distinct people, we possess certain fundamental and inalienable human rights, rights which have never been extinguished, ceded or surrendered. These include, without limitation:

- (a) the right to our traditional territory, including rights to water, beds of water and air,
- (b) the right to resources within our traditional territory,
- (c) the right to govern within our traditional territory,
- (d) the right to utilize and protect our language,
- (e) the right to practice, protect and enhance our culture,
- (f) the right to the wealth of our traditional territory and a sound economic foundation,
- (g) the right to protect our sacred and spiritual sites,
- (h) the right to preserve our family and kinship systems, and
- (i) the right to define ourselves and the criteria for the identification of our citizens.

CHAPTER 1 – INDIVIDUAL RIGHTS AND FREEDOMS OF UCHUCKLESAHT CITIZENS

- 1.1 An individual is entitled to be a Uchucklesaht citizen if that individual:
- (a) is enrolled under the Maa-nulth Treaty;
 - (b) was registered on the Uchucklesaht Indian Band List as of the day immediately preceding the Effective Date of the Maa-nulth Treaty;
 - (c) has been adopted as a child by a Uchucklesaht citizen under Canadian law, the Maa-nulth Treaty or in accordance with Nuu-chah-nulth custom;
 - (d) is a descendant of a Uchucklesaht citizen; or
 - (e) meets any additional criteria established under Uchucklesaht citizenship laws.
- 1.2 For greater certainty, Uchucklesaht citizenship does not, in itself, confer any treaty rights or benefits on an individual.
- 1.3 Every Uchucklesaht citizen enjoys all of the individual rights and freedoms guaranteed under the Constitution of Canada and by the various instruments of human rights established in international law.
- 1.4 Subject to paragraph 1.2, every Uchucklesaht citizen is equal under this Constitution and, based on this equality and in accordance with Uchucklesaht customary law, possesses:
- (a) the right to participate in Uchucklesaht political activities and elections, and to run for and hold elected office in accordance with Uchucklesaht law;
 - (b) the right to be informed about Uchucklesaht affairs;
 - (c) the right to be consulted regarding Uchucklesaht affairs;
 - (d) the right to express opinions and views on Uchucklesaht affairs;
 - (e) the right to equal employment opportunities with the Uchucklesaht Tribe;
 - (f) the right to equal provision of public services provided by the Uchucklesaht Tribe;
 - (g) the right to a healthy life and environment and equal provision of health care;
 - (h) the right to utilize the Nuu-chah-nulth language;

- (i) the right to participate in Uchucklesaht culture and traditions consistent with the established practices and customs;
- (j) the right to enter, remain on and leave Uchucklesaht lands in accordance with this Constitution and Uchucklesaht laws;
- (k) the freedom to pursue a livelihood within Uchucklesaht lands;
- (l) the freedom to contribute to the progress and development of the Uchucklesaht Tribe; and
- (m) the freedom to achieve their fullest potential as individuals.

CHAPTER 2 – GOVERNMENT STRUCTURE OF THE UCHUCKLESAHT TRIBE

- 2.1 The Uchucklesaht government shall consist of a legislative branch, an executive branch and a Uchucklesaht People's Assembly.
- 2.2 The Uchucklesaht government may, in accordance with the amending provisions of this Constitution, establish a judicial branch of the Uchucklesaht government.
- A. The Legislative Branch**
- 2.3 All legislative powers assumed through this Constitution shall be vested in the Uchucklesaht Council.
- 2.4 The Uchucklesaht Council shall be composed of up to eleven members consisting of
- (a) five members of Council elected individually on a family basis,
 - (b) one member of Council elected by those citizens not identified as belonging to one of the five Uchucklesaht families,
 - (c) one chief councillor elected at-large, and
 - (d) up to four Ha'wiih chosen by custom.
- 2.5 Except for the four Ha'wiih, the Uchucklesaht Council shall hold office for a term of four years on a staggered basis as defined in the Uchucklesaht election law.
- 2.6 Members of Council shall be Uchucklesaht citizens and at least 19 years of age except for the chief councillor who shall be at least 25 years of age.
- 2.7 Every Uchucklesaht citizen that has attained the age of 16 has the right to vote in any Uchucklesaht election.
- 2.8 The times, places and manner of holding elections shall be established by the Uchucklesaht Council in a Uchucklesaht election law.
- 2.9 Despite paragraph 2.4, in the event that additional Uchucklesaht families are recognized, this Constitution may be amended to provide for additional members of Council elected on a family basis.
- 2.10 The Uchucklesaht Council shall have the power and responsibility to pass laws in regard to those jurisdictions and authorities set out in the Maa-nulth Treaty or as set out in any non-Treaty agreement with Canada or British Columbia.

- 2.11 The chief councillor shall be the chairperson of Council.
- 2.12 No Uchucklesaht law shall have force and effect until that law has been passed by a majority of a quorum of the Uchucklesaht Council and certified by the chairperson of Council.
- 2.13 Except for Uchucklesaht customary laws, all Uchucklesaht laws shall be published and made available to Uchucklesaht citizens within ten days of coming into effect.
- 2.14 The Uchucklesaht Council may establish standing or special committees to assist in the discharge of its powers and duties.
- 2.15 All committee membership may include any person over the age of 16 and shall include at least one member of Council.
- 2.16 The Uchucklesaht Council shall establish the terms of reference for each committee and shall appoint all committee members in accordance with the respective terms of reference.
- 2.17 In appointing committee members, the Uchucklesaht Council shall attempt to ensure committee representation by Uchucklesaht citizens residing on and off of Uchucklesaht lands.
- 2.18 Committee membership and the procedures for selecting committee members shall be made public.

B. The Executive Branch

- 2.19 The executive powers of the Uchucklesaht government shall be vested in the chief councillor, the Secretary, the Treasurer and any other member of Council designated by a majority of a quorum of the Uchucklesaht Council to hold an executive portfolio.
- 2.20 The Uchucklesaht Council may establish or dissolve executive portfolios at any time.
- 2.21 All members of the Executive are directly accountable to the Uchucklesaht Council and shall report to the Uchucklesaht Council on a regular basis or as requested by the Uchucklesaht Council.
- 2.22 The Uchucklesaht executive shall have the authority and responsibility for the enforcement of Uchucklesaht laws, the management of Uchucklesaht affairs, Uchucklesaht financial administration and the operations of the Uchucklesaht government in accordance with the laws and policies established by the Uchucklesaht Council.

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- 2.23 Subject to instructions given by Uchucklesaht Council, the Uchucklesaht executive, within the areas of their respective portfolios, shall be responsible for representing the Uchucklesaht government in intergovernmental relations, including relations with other First Nations.
- 2.24 The chief councillor, as chief executive of the Uchucklesaht government, shall have the power and duty, subject to direction from the Uchucklesaht Council, for:
- (a) representing the Uchucklesaht government in relations with local, provincial and federal governments, other First Nations and indigenous organizations nationally and internationally;
 - (b) ensuring that Uchucklesaht citizens are fully informed on social, legal and political issues that affect the Uchucklesaht Tribe;
 - (c) developing and maintaining effective systems of communication with Uchucklesaht citizens, third parties and other governments;
 - (d) protecting and enhancing Uchucklesaht treaty rights;
 - (e) ensuring that this Constitution and Uchucklesaht laws and policies are adhered to and enforced;
 - (f) developing and maintaining a sound Uchucklesaht economy;
 - (g) promoting and protecting Uchucklesaht values, culture, traditions and language; and
 - (h) ensuring proper management and administration of the Uchucklesaht government.
- 2.25 The Uchucklesaht Council may designate a member of Council to assume the duties and responsibilities of the chief councillor on an interim basis in the event that the chief councillor is, for whatever reason, unable to exercise the powers and perform the duties of that office.
- 2.26 The Uchucklesaht Council may establish any public institution or body that it deems necessary to meet the duties and obligations of the Uchucklesaht government or to protect or advance the interests of the Uchucklesaht Tribe.
- C. Uchucklesaht People's Assembly**
- 2.27 There shall be convened at least twice annually a general assembly of Uchucklesaht citizens to be known as the Uchucklesaht People's Assembly.

- 2.28 The chief councillor may, in consultation with the Uchucklesaht Council, at any time, call a special Uchucklesaht People's Assembly to address important Uchucklesaht issues.
- 2.29 The chief councillor shall convene the Uchucklesaht People's Assembly in accordance with procedures established by the Uchucklesaht Council as of the Effective Date of the Maa-nulth Treaty.
- 2.30 Every Uchucklesaht citizen has the right to attend and participate in the Uchucklesaht People's Assembly.
- 2.31 Every Uchucklesaht citizen that has attained the age of 16 has the right to vote on any resolution presented at the Uchucklesaht People's Assembly.
- 2.32 The Uchucklesaht Council shall consider all resolutions passed by the Uchucklesaht People's Assembly.
- 2.33 The annual budget of the Uchucklesaht government shall be presented to, and discussed with, the Uchucklesaht People's Assembly.

D. Transitional Government Provisions

- 2.34 Within six months of the Effective Date of the Maa-nulth Treaty, the first election for a Uchucklesaht Council under this Constitution shall be held.
- 2.35 Until the first election of the Uchucklesaht Council, the Council previously elected under the Indian Act shall constitute the interim Uchucklesaht government and shall exercise all powers and perform all duties provided in the Maa-nulth Treaty and in this Constitution in an open and accountable manner.
- 2.36 The first election of the Uchucklesaht Council under this Constitution shall be conducted in accordance with the Uchucklesaht election law.

CHAPTER 3 – LEGISLATIVE AUTHORITY OF THE UCHUCKLESAHT GOVERNMENT

- 3.1 The Uchucklesaht government shall have the right to assume and exercise all law-making authority set out in the Maa-nulth Treaty and any law-making authority set out in non-Treaty agreements with Canada or British Columbia.
- 3.2 As of the Effective Date of the Maa-nulth Treaty and in accordance with the respective provisions of the Maa-nulth Treaty, the Uchucklesaht Council shall have the authority to make laws pertaining to:
- (a) Uchucklesaht citizenship;
 - (b) Uchucklesaht government structures and procedures;
 - (c) Uchucklesaht lands and land management;
 - (d) Uchucklesaht resources on Uchucklesaht lands;
 - (e) Uchucklesaht public institutions and Uchucklesaht corporations;
 - (f) Uchucklesaht assets;
 - (g) adoption;
 - (h) child protection services;
 - (i) child care services;
 - (j) education in respect of kindergarten to grade 12;
 - (k) post-secondary education;
 - (l) education in respect of language and culture;
 - (m) solemnization of marriages;
 - (n) social development;
 - (o) health services;
 - (p) culture and heritage;
 - (q) management and distribution of fish and aquatic plants for domestic purposes;

- (r) management and distribution of wildlife and migratory birds for domestic purposes;
- (s) renewable resource harvesting within federal and provincial parks and protected areas;
- (t) water;
- (u) preservation and conservation of the environment;
- (v) taxation;
- (w) public works;
- (x) buildings and structures;
- (y) regulation, licensing and prohibition of business;
- (z) traffic, transportation, parking and highways;
- (aa) public order, peace and safety;
- (bb) emergency preparedness;
- (cc) conflicts of interest;
- (dd) conduct of public officials;
- (ee) access to information;
- (ff) enforcement of Uchucklesaht laws; and
- (gg) any other law-making authority set out in the Maa-nulth Treaty or in any non-Treaty agreement with Canada or British Columbia.

3.3 On the Effective Date of the Maa-nulth Treaty, the Uchucklesaht Council shall bring into force and effect:

- (a) rules of procedure for the Uchucklesaht Council;
- (b) a Uchucklesaht election law;
- (c) a Uchucklesaht code of conduct;
- (d) Uchucklesaht conflict of interest law;

- (e) a Uchucklesaht financial administration law;
 - (f) a Uchucklesaht citizenship law;
 - (g) a Uchucklesaht land law;
 - (h) a Uchucklesaht dispute resolution law;
 - (i) a Uchucklesaht referendum law; and
 - (j) any other law that the Uchucklesaht Council deems necessary for the proper management of Uchucklesaht affairs as of the Effective Date of the Maa-nulth Treaty.
- 3.4 To the extent that the Uchucklesaht Council chooses not to exercise a law-making authority set out in paragraphs 3.2, federal or provincial laws in relation to that authority shall continue to apply until such time as the authority is exercised by the Uchucklesaht Council.
- 3.5 In the event of an inconsistency or conflict between this Constitution and the provisions of any Uchucklesaht law, the Uchucklesaht law, to the extent of the inconsistency or conflict, is of no force or effect.

CHAPTER 4 – THE UCHUCKLESAHT TRIBE LAND SYSTEM

- 4.1 As of the Effective Date of the Maa-nulth Treaty, the underlying title to all Uchucklesaht lands shall be vested collectively in the Uchucklesaht Tribe.
- 4.2 The quantity of Uchucklesaht lands, as set out in the Maa-nulth Treaty, shall not be reduced except as provided for in the Maa-nulth Treaty.
- 4.3 Prior to the Effective Date of the Maa-nulth Treaty, the Uchucklesaht Council shall develop a Uchucklesaht land law to be made available for review by Uchucklesaht citizens and presented at a Uchucklesaht People’s Assembly.
- 4.4 In the event that additional lands are added to Uchucklesaht lands after the Effective Date of the Maa-nulth Treaty, those lands will be subject to paragraph 4.2.
- 4.5 The Uchucklesaht land law shall address, among other things:
- (a) the nature and extent of the rights of individual Uchucklesaht citizens in and to Uchucklesaht lands;
 - (b) the powers of the Uchucklesaht government to administer, regulate, expropriate and grant interests in Uchucklesaht lands;
 - (c) those land transactions that will require approval of Uchucklesaht citizens by way of a referendum;
 - (d) procedures for raising title to, and registering interests in, Uchucklesaht lands;
 - (e) procedures for addressing interests of non-Uchucklesaht individuals in Uchucklesaht lands;
 - (f) the regulation of mortgages and other forms of security in relation to Uchucklesaht lands;
 - (g) procedures for zoning and land use planning; and
 - (h) any other matter that the Uchucklesaht Council deems necessary for a comprehensive land law.
- 4.6 Notwithstanding the conveyance or alienation of any estate or interest in Uchucklesaht lands, all lands that are the subject of such estate or interest shall continue to be Uchucklesaht lands and subject to the jurisdiction and authority of the Uchucklesaht government.

CHAPTER 5 – FINANCIAL ADMINISTRATION AND ACCOUNTABILITY

- 5.1 The Uchucklesaht Council, in exercising financial authority, including the authority to raise and expend revenues, shall make laws to establish a system of financial management and administration that is:
- (a) effective and efficient in the use of Uchucklesaht financial resources;
 - (b) open and accountable; and
 - (c) includes standards comparable to those generally accepted for governments in Canada.
- 5.2 The Uchucklesaht Council shall prepare a draft annual budget to be made available for review by Uchucklesaht citizens and presented at a Uchucklesaht People's Assembly each year at least 30 days prior to the fiscal year end.
- 5.3 The annual audited financial statements for the Uchucklesaht Tribe, including the annual audited financial statements for any corporate entity owned, in whole or in part, by the Uchucklesaht Tribe, shall be made available for review by Uchucklesaht citizens and presented at a Uchucklesaht People's Assembly each year within 90 days of the fiscal year end.
- 5.4 The Uchucklesaht Council may borrow money or guarantee loans subject to a law made for such purposes which law shall be reviewed by the Uchucklesaht People's Assembly prior to being brought into force and effect.

CHAPTER 6 – CODE OF CONDUCT AND CONFLICT OF INTEREST

- 6.1 The Uchucklesaht government shall be administered in a manner that:
- (a) adheres to the highest ethical standards;
 - (b) efficiently uses the resources of the Uchucklesaht Tribe;
 - (c) provides services on an equitable and impartial basis; and
 - (d) responds to the needs of Uchucklesaht citizens in a timely and accessible manner.
- 6.2 Members of Council will conduct themselves at all times with integrity and respect for their positions and will place the interests of the Uchucklesaht Tribe ahead of their own in the exercise of their powers and performance of their duties.
- 6.3 As of the Effective Date of the Maa-nulth Treaty, the Uchucklesaht Council shall bring into force and effect a code of conduct and conflict of interest law.
- 6.4 All members of Council shall take an oath of office in the form attached as Schedule 2 to this Constitution.

CHAPTER 7 – DISPUTE RESOLUTION

- 7.1 On the Effective Date of the Maa-nulth Treaty, the Uchucklesaht Council shall bring into force and effect a Uchucklesaht dispute resolution law which shall provide for, among other things, a process for challenging the validity of Uchucklesaht laws and a process for appealing or reviewing administrative decisions of the Uchucklesaht government or Uchucklesaht public institutions.

CHAPTER 8 – RATIFICATION OF THIS CONSTITUTION

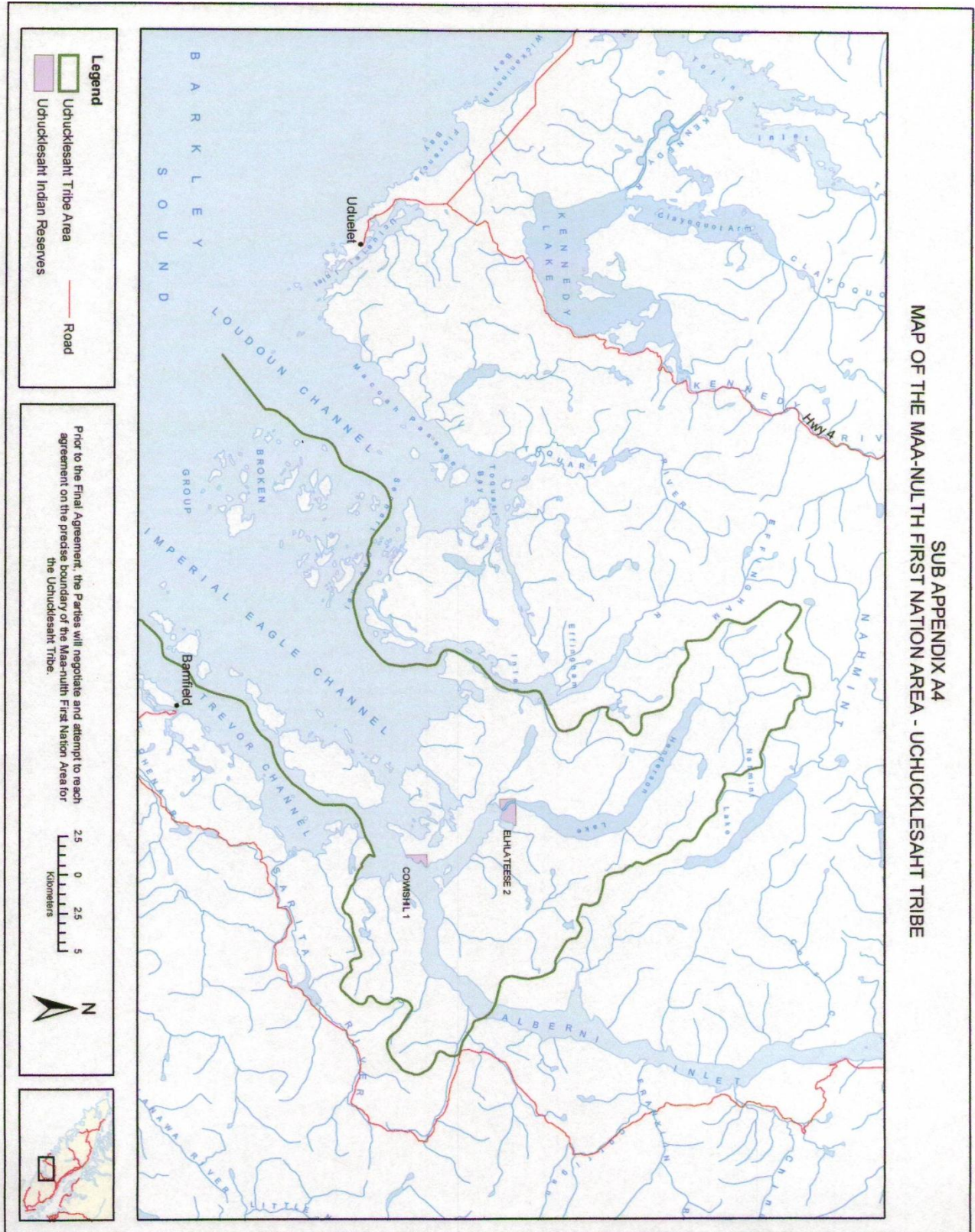
- 8.1 This Constitution shall be ratified in a referendum in which at least 50% plus one of Uchucklesaht eligible voters as defined by the Maa-nulth Treaty who vote, approve the Constitution.
- 8.2 This Constitution shall be ratified prior to the vote held to ratify the Maa-nulth Treaty.
- 8.3 This Constitution shall come into force and effect on the Effective Date of the Maa-nulth Treaty.

CHAPTER 9 – CONSTITUTIONAL AMENDMENTS

- 9.1 An amendment to this Constitution may be initiated by:
- (a) a resolution passed by a majority of a quorum of the Uchucklesaht Council; or
 - (b) the presentation of a petition to the Uchucklesaht Council signed by at least 35% of Uchucklesaht eligible voters identifying the specific Constitutional amendment proposed.
- 9.2 Upon passage of a resolution or receipt of a petition identified in paragraph 9.1, the Uchucklesaht Council shall develop wording for the proposed Constitutional amendment.
- 9.3 Prior to conducting a referendum on the proposed amendment, the Uchucklesaht Council shall:
- (a) provide full information on the proposed amendment by way of written material and other forms of publication to all Uchucklesaht citizens;
 - (b) provide all Uchucklesaht citizens with at least 30 days' notice of a special Uchucklesaht People's Assembly including the date, time and location of the Assembly and a summary of the proposed amendment;
 - (c) conduct the special Uchucklesaht People's Assembly in order to seek the views of Uchucklesaht citizens; and
 - (d) make any changes to the wording of the proposed amendment that the Uchucklesaht Council deems appropriate in light of the advice received from the Uchucklesaht People's Assembly.
- 9.4 Within 30 days of the special Uchucklesaht People's Assembly, the Uchucklesaht Council will conduct a referendum on the proposed Constitutional amendment in accordance with the procedures set out in the Uchucklesaht referendum law.
- 9.5 This Constitution may only be amended with the approval of at least 50% plus one of Uchucklesaht eligible voters at the time of the referendum described in paragraph 9.4.
- 9.6 This Constitution shall be deemed to be amended as of the date of certification by the chief councillor of the required level of approval by Uchucklesaht eligible voters.
- 9.7 Notwithstanding the provisions of this Chapter, the Uchucklesaht Council may, by a resolution passed by a majority of a quorum of Council, make technical or grammatical amendments to this Constitution.

9.8 The Uchucklesaht Council shall post in accordance with Uchucklesaht law notice of the Constitutional amendment.

SCHEDULE 1



SCHEDULE 2

**OATH OF OFFICE
FOR MEMBERS OF COUNCIL**



I, _____ a member of Council for the Uchucklesaht Tribe, declare that, in carrying out my duties as a member of Council, I will:

- 1) exercise the powers and perform the duties of my office in good faith and in the best interests of the Uchucklesaht Tribe;
- 2) exercise these powers and duties, at all times, with due diligence, care and skill in a reasonable and prudent manner;
- 3) respect and consider Uchucklesaht laws and policies, including the Code of Conduct and Conflict of Interest Act, decisions of the Uchucklesaht government and any resolutions of the Uchucklesaht People’s Assembly;
- 4) keep confidential all information that I learn about the Uchucklesaht government, personnel of the Uchucklesaht government, collective bargaining and any other matters specifically determined by the Uchucklesaht Council to be matters of confidence including matters dealt with during in-camera meetings of the Uchucklesaht Council;
- 5) conduct myself in a spirit of collegiality and respect for the collective decisions of the Uchucklesaht Council and subordinate my personal interests to the best interests of the Uchucklesaht Tribe;
- 6) immediately declare any personal conflict of interest that may come to my attention;
- 7) immediately resign as a member of Council in the event that I, or a two-thirds majority of a quorum of the Uchucklesaht Council, have concluded that I have breached this Oath of Office.

Signature: _____

Date: _____