

**YU?TU?IT?ATH FIRST NATION
CONSTITUTION**

May 4, 2007

Yuʔtuʔiʔʔath First Nation Constitution

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PREAMBLE

A. Declaration of Yuʔtuʔitʔath Identity and Territorial Existence

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

We have, throughout time, functioned on and abided by an internal order based on our Haʔwiih and our Hahoolthee.

We have existed from time immemorial and have occupied and used the lands, waters, and resources of our traditional territory, as set out in Appendix A 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, and oral traditions.

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 Naas (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. Declaration of Yuʔtuʔitʔath First Nation Rights and Values

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

These values include:

- (a) a belief in, and reverence for, Naas,
- (b) honouring our ancestors,
- (c) respecting our elders,
- (d) respecting our family and kinship systems,
- (e) our unique language, and
- (f) a respect for the land, air, water and environment which encompasses the Hahoolthee of our Haʔwiih.

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 and beds of water,
- (b) the right to the 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 protect 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 YU?TU?I?ATH CITIZENS

- 1.1 An individual is entitled to be a Yu?tu?i?ath citizen if that individual:
- (a) is enrolled under the Maa-nulth Treaty; or
 - (b) was registered on the Yu?tu?i?ath Indian Band List as of the day immediately preceding the Effective Date of the Maa-nulth Treaty; or
 - (c) has been adopted as a child by a Yu?tu?i?ath citizen under Canadian law, the Maa-nulth Treaty or in accordance with Nuu-chah-nulth custom; or
 - (d) is a descendent of a Yu?tu?i?ath citizen; or
 - (e) meets the criteria of Yu?tu?i?ath citizenship laws.
- 1.2 Every Yu?tu?i?ath 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.
- 1.3 All Yu?tu?i?ath citizens are equal under this Constitution and, based on this equality and in accordance with Yu?tu?i?ath customary law, possess:
- (a) the right to participate in Yu?tu?i?ath political activities and elections, and to run for and hold elected office in accordance with Yu?tu?i?ath First Nation law;
 - (b) the right to be informed about Yu?tu?i?ath affairs;
 - (c) the right to be consulted regarding Yu?tu?i?ath affairs;
 - (d) the right to express opinions and views on Yu?tu?i?ath affairs;
 - (e) the right to equal employment opportunities within the Yu?tu?i?ath First Nation;
 - (f) the right to equal access to public services provided by the Yu?tu?i?ath First Nation;
 - (g) the right to a healthy life, environment, and equal access to health care;
 - (h) the right to utilize the Nuu-chah-nulth language;
 - (i) the right to participate in Yu?tu?i?ath culture and traditions consistent with the established practices and customs;
 - (j) the right to enter upon, remain on and leave Yu?tu?i?ath First Nation lands in accordance with this Constitution and Yu?tu?i?ath First Nation laws;
 - (k) the opportunity to pursue a livelihood within Yu?tu?i?ath First Nation lands;
 - (l) the opportunity to contribute to the progress and development of the Yu?tu?i?ath First Nation; and
 - (m) the opportunity to achieve their fullest potential as individuals.

CHAPTER 2: GOVERNMENT STRUCTURE OF THE YU?TU?IT?ATH? FIRST NATION

- 2.1 The Yu?tu?it?ath? First Nation Government shall consist of a legislative branch, an executive branch, and a people's assembly to be known as the Hittatsoo Assembly.
- 2.2 The Yu?tu?it?ath? First Nation may, in accordance with the amending provisions of this Constitution, establish a judicial branch of the Yu?tu?it?ath? First Nation Government.

The Legislative Branch

- 2.3 All legislative powers assumed through this Constitution shall be vested in the Yu?tu?it?ath? Council.
- 2.4 The Yu?tu?it?ath? Council shall be composed of eight members consisting of:
- (a) six elected Councillors,
 - (b) one elected Chief Councillor, and
 - (c) one Ha'wiih chosen by the Ha'wiih in accordance with custom.
- 2.5 The Yu?tu?it?ath? Council shall hold office for a term of four years.
- 2.6 Members of the Yu?tu?it?ath? Council shall be Yu?tu?it?ath? citizens and at least 16 years of age.
- 2.7 The times, places and manner of holding elections shall be prescribed by the Yu?tu?it?ath? Council in accordance with a Yu?tu?it?ath? election law.
- 2.8 In the event of a tie vote for the position of Chief Councillor or for the final Council position or upon a Council position becoming vacant, a by-election will be held within 30 days of the previous vote or the date the vacancy occurred.
- 2.9 The Yu?tu?it?ath? Council shall, at the beginning of each term of office, select a Chairperson to be responsible for chairing meetings of Council and of the Hittatsoo Assembly and for ensuring that the decisions of Council are implemented.
- 2.10 The Chairperson shall not be a member of Council and shall only vote in Council decisions to break a tie vote.
- 2.11 There shall be constituted an advisory body composed of the Yu?tu?it?ath? Ha'wiih (the Yu?tu?it?ath? First Nation Hereditary Chiefs) to be known as the Ha'wiih Advisory Council.
- 2.12 Representation on the Ha'wiih Advisory Council shall be determined in accordance with customary practices.
- 2.13 The Yu?tu?it?ath? Council shall consult with and seek the advice of the Ha'wiih Advisory Council in relation to Yu?tu?it?ath? culture and traditional values, Yu?tu?it?ath? customary laws, and matters relating to this Constitution in accordance with the rules of procedure for the Yu?tu?it?ath? Council.
- 2.14 No Yu?tu?it?ath? law shall have force and effect until that law has been passed by a majority of a quorum of the Yu?tu?it?ath? Council and certified by the Chief Councillor.
- 2.15 Except for Yu?tu?it?ath? customary laws, all Yu?tu?it?ath? First Nation laws will be published and made available to Yu?tu?it?ath? citizens within ten days of coming into effect.

The Executive Branch

- 2.16 The executive powers of the Yuʔtuʔiʔʔath First Nation Government shall be vested in the Chief Councillor and any individual member of the Yuʔtuʔiʔʔath Council designated by a majority of a quorum of Council to hold specific portfolios.
- 2.17 The Yuʔtuʔiʔʔath Council may establish or dissolve executive portfolios at any time.
- 2.18 Each member of the Yuʔtuʔiʔʔath executive is directly accountable to the Yuʔtuʔiʔʔath Council and shall report to the Yuʔtuʔiʔʔath Council on a regular basis or as requested by Council.
- 2.19 The Yuʔtuʔiʔʔath executive shall have the authority and responsibility for the enforcement of Yuʔtuʔiʔʔath First Nation laws, the management of Yuʔtuʔiʔʔath affairs, Yuʔtuʔiʔʔath financial administration and the operations of the Yuʔtuʔiʔʔath First Nation Government in accordance with the laws and policies established by the Yuʔtuʔiʔʔath Council.
- 2.20 Subject to instructions given by the Yuʔtuʔiʔʔath Council, the Yuʔtuʔiʔʔath executive, within the areas of their respective portfolios, shall be responsible for representing the Yuʔtuʔiʔʔath First Nation in intergovernmental relations, including relations with other First Nations.
- 2.21 The Chief Councillor, as chief executive of the Yuʔtuʔiʔʔath First Nation Government, shall have authority and responsibility, subject to direction from the Yuʔtuʔiʔʔath Council, for:
- (a) representing the Yuʔtuʔiʔʔath First Nation Government in relations with local, provincial, and federal governments, other First Nations, and indigenous organizations nationally and internationally;
 - (b) ensuring that the Yuʔtuʔiʔʔath citizens are fully informed on social, legal, and political issues that affect in the Yuʔtuʔiʔʔath First Nation;
 - (c) developing and maintaining effective systems of communication with Yuʔtuʔiʔʔath citizens, third parties, and other governments;
 - (d) protecting and enhancing Yuʔtuʔiʔʔath aboriginal and treaty rights;
 - (e) ensuring that the Yuʔtuʔiʔʔath First Nation Constitution and Yuʔtuʔiʔʔath First Nation laws and policies are adhered to and enforced;
 - (f) developing and maintaining a sound Yuʔtuʔiʔʔath economy;
 - (g) promoting and protecting Yuʔtuʔiʔʔath values, culture, traditions, and language; and
 - (h) the property management of management and administration of the Yuʔtuʔiʔʔath First Nation Government.
- 2.22 The Yuʔtuʔiʔʔath Council may designate a Councillor 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 carry out the duties and responsibilities of that office.
- 2.23 The Yuʔtuʔiʔʔath Council may establish any public institution or body that it deems necessary to meet the duties and obligations of the Yuʔtuʔiʔʔath First Nation Government or to protect or advance the interests of the Yuʔtuʔiʔʔath First Nation.

Hittatsoo Assembly

- 2.24 The Hittatsoo Assembly shall be convened at a minimum of four times annually, of which one such meeting shall be deemed to be the Yuʔtuʔiʔʔath Annual General Assembly.
- 2.25 The Hittatsoo Assembly that is deemed to be the Yuʔtuʔiʔʔath Annual General Assembly shall include on its agenda the Yuʔtuʔiʔʔath annual financial report, including remuneration paid to the Yuʔtuʔiʔʔath Council.

- 2.26 The Chief Councillor, in consultation with the Yuʔtuʔiʔʔath Council and the Ha'wiih Advisory Council, may at any time call a special Hittatsoo Assembly to address important Yuʔtuʔiʔʔath First Nation issues.
- 2.27 The Chief Councillor shall convene the Hittatsoo Assembly in accordance with procedures established by the Yuʔtuʔiʔʔath Council.
- 2.28 Every Yuʔtuʔiʔʔath citizen has the right to attend and participate in the Hittatsoo Assembly.
- 2.29 Every Yuʔtuʔiʔʔath citizen that has attained the age of 16 has the right to vote on any resolution presented at the Hittatsoo Assembly.
- 2.30 The Hittatsoo Assembly may, by a majority vote of those in attendance, pass a resolution making a recommendation to the Yuʔtuʔiʔʔath Council or requiring a referendum on any issue, such referendum to be held in accordance with referendum regulations established by the Yuʔtuʔiʔʔath Council.
- 2.31 Any resolution of the Hittatsoo Assembly calling for a referendum must be provided to the Chief Councillor in writing at least 45 days prior to the Hittatsoo Assembly at which that resolution is to be moved.
- 2.32 Upon receipt of the proposed resolution, the Chief Councillor shall ensure that the date of the proposed resolution is made public and provided to Yuʔtuʔiʔʔath citizens.

Committees

- 2.33 The Yuʔtuʔiʔʔath Council may establish standing or special committees to assist in the discharge of its authority and responsibilities.
- 2.34 All committee membership may include any Yuʔtuʔiʔʔath citizen over the age of 16 and shall include at least one member of the Yuʔtuʔiʔʔath Council.
- 2.35 All committee members who are Yuʔtuʔiʔʔath Councillors shall be ex officio and shall not vote in committee decisions.
- 2.36 The Yuʔtuʔiʔʔath Council shall establish the terms of reference for each committee and shall appoint all committee members pursuant to the respective terms of reference.
- 2.37 In appointing committee members, the Yuʔtuʔiʔʔath Council shall attempt to ensure committee representation by Yuʔtuʔiʔʔath citizens residing on and off of Yuʔtuʔiʔʔath Lands,
- 2.38 Committee membership and the procedures for selecting committee members shall be made public.
- 2.39 The standing committees shall include, but not be limited to:
 - (a) a standing committee on finance;
 - (b) a standing committee on treaty implementation;
 - (c) a standing committee on economic development; and
 - (d) standing committee on personnel.
- 2.40 All standings and special committees shall be responsible for making recommendations to the Yuʔtuʔiʔʔath Council.

Transitional Government Provisions

- 2.41 Within six months of the Effective Date of the Maa-nulth Treaty, the first election for a Yu?tu?i?ath Council under this Constitution shall be held.
- 2.42 Until the first election of the Yu?tu?i?ath Council, the Council previously elected under the Indian Act shall constitute the Interim Yu?tu?i?ath First Nation Council and shall exercise all powers and authorities provided in the Maa-nulth Treaty and in this Constitution in an open and accountable manner.
- 2.43 The first election of the Yu?tu?i?ath Council pursuant to this Constitution shall be conducted in accordance with a Yu?tu?i?ath First Nation election law.

- (ee) Access to information;
 - (ff) Enforcement of Yuʔtuʔiʔʔath First Nation laws;
 - (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 Yuʔtuʔiʔʔath Council shall bring into force and effect:
- (a) rules of procedure for the Yuʔtuʔiʔʔath Council;
 - (b) a Yuʔtuʔiʔʔath First Nation election law;
 - (c) a Yuʔtuʔiʔʔath First Nation code of conduct;
 - (d) conflict of interest guidelines;
 - (e) a Yuʔtuʔiʔʔath First Nation financial administration law;
 - (f) a Yuʔtuʔiʔʔath First Nation citizenship law;
 - (g) a Yuʔtuʔiʔʔath First Nation land code;
 - (h) a Yuʔtuʔiʔʔath First Nation dispute resolution law;
 - (i) Yuʔtuʔiʔʔath First Nation referendum regulations; and
 - (j) any other law that the Yuʔtuʔiʔʔath Council deems necessary for the proper management of Yuʔtuʔiʔʔath First Nation affairs as of the Effective Date of the Maa-nulth Treaty.
- 3.4 To the extent that the Yuʔtuʔiʔʔath 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 Yuʔtuʔiʔʔath Council.
- 3.5 The Yuʔtuʔiʔʔath Council shall exercise any law-making authority set out in non-Treaty agreements with Canada or British Columbia.
- 3.6 In the event of an inconsistency or conflict between this Constitution and the provisions of any Yuʔtuʔiʔʔath law, the Yuʔtuʔiʔʔath law, to the extent of the inconsistency or conflict, is of no force or effect.

CHAPTER 4: THE YU?TU?I?ATH FIRST NATION LAND SYSTEM

- 4.1 As of the Effective Date of the Maa-nulth Treaty, the underlying title to all Yu?tu?i?ath lands shall be vested collectively in the Yu?tu?i?ath First Nation.
- 4.2 The quantity of Yu?tu?i?ath First Nation lands, as set it in the Maa-nulth Treaty, shall not be reduced except as provided for in the Maa-nulth Treaty.
- 4.3 The boundaries of Yu?tu?i?ath First Nation lands as set out in the Maa-nulth Treaty shall not be altered except as provided for in the Maa-nulth Treaty or if approved by at least 50% plus one of Yu?tu?i?ath eligible voters in a referendum held to approve the boundary alteration.
- 4.4 Prior to the Effective Date of the Maa-nulth Treaty, the Yu?tu?i?ath Council shall develop a Yu?tu?i?ath First Nation land code for review by Yu?tu?i?ath citizens.
- 4.5 The Yu?tu?i?ath First Nation land code shall address, among other things:
 - (a) the nature and extent of the rights of individual Yu?tu?i?ath citizens in and to Yu?tu?i?ath lands;
 - (b) the powers and authority of the Yu?tu?i?ath Council to administer, regulate, expropriate and grant interests in Yu?tu?i?ath lands;
 - (c) land transactions that will require approval of Yu?tu?i?ath citizens by way of a referendum;
 - (d) procedures for raising title to, and registering interests in, Yu?tu?i?ath First Nation lands;
 - (e) procedures for addressing interests of non-Yu?tu?i?ath individuals in Yu?tu?i?ath lands;
 - (f) the regulation of mortgages and other forms of security in relation to Yu?tu?i?ath lands;
 - (g) procedures for zoning and land use planning; and
 - (h) any other matter that the Yu?tu?i?ath Council deems necessary for a comprehensive land code.
- 4.6 Notwithstanding the conveyance or alienation of any estate or interest in Yu?tu?i?ath lands, all lands that are the subject of such estate or interest shall continue to be Yu?tu?i?ath lands and subject to the jurisdiction and authority of the Yu?tu?i?ath First Nation Government.

CHAPTER 5: FINANCIAL ADMINISTRATION AND ACCOUNTABILITY

- 5.1 The Yuʔtuʔiʔʔath 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 Yuʔtuʔiʔʔath First Nation financial resources;
 - (b) open and accountable; and
 - (c) includes standards comparable to those generally accepted for governments in Canada.
- 5.2 The Yuʔtuʔiʔʔath Council shall establish a standing committee on finance which committee shall make recommendations to the Yuʔtuʔiʔʔath Council on any financial matter and in relation to any law regarding financial matters.
- 5.3 The Yuʔtuʔiʔʔath Council shall establish rules and terms of reference for the standing committee on finance, including such matters as:
- (a) rules of procedure;
 - (b) frequency of meetings;
 - (c) time periods for performing duties; and
 - (d) the ability to seek advice from persons with relevant expertise.
- 5.4 The Yuʔtuʔiʔʔath Council shall request and consider a report from the standing committee on finance prior to:
- (a) preparing the annual Yuʔtuʔiʔʔath financial report;
 - (b) entering into financial agreements or taxation agreements with Canada or British Columbia; or
 - (c) making laws that substantially affect the finances of the Yuʔtuʔiʔʔath First Nation.
- 5.5 The Yuʔtuʔiʔʔath Council shall prepare an annual budget for presentation at a Hittatsoo Assembly each year at least 30 days prior to the fiscal year end.
- 5.6 The annual audited financial statements for the Yuʔtuʔiʔʔath First Nation, including the annual audited financial statements for any corporate entity owned, in whole or in part, by the Yuʔtuʔiʔʔath First Nation, shall be provided to a Hittatsoo Assembly within 90 days of the fiscal year end.
- 5.7 The Yuʔtuʔiʔʔath Council may borrow money or guarantee loans subject to a law made for such purposes which law shall be reviewed by the Hittatsoo Assembly prior to being brought into force and effect.

CHAPTER 6: CODE OF CONDUCT AND CONFLICT OF INTEREST

- 6.1 The Yuʔtuʔiʔʔath First Nation Government shall be administered in a manner that:
- (a) adheres to the highest ethical standards;
 - (b) efficiently uses the resources of the Yuʔtuʔiʔʔath First Nation;
 - (c) provides services on an equitable and impartial basis; and
 - (d) responds to the needs of Yuʔtuʔiʔʔath citizens in a timely and accessible manner.
- 6.2 Members of the Yuʔtuʔiʔʔath Council will conduct themselves at all times with integrity and respect for their positions and will place the interests of the Yuʔtuʔiʔʔath First Nation ahead of their own in the discharge of their duties and responsibilities.
- 6.3 As of the Effective Date of the Maa-nulth Treaty, the Yuʔtuʔiʔʔath Council shall bring into force and effect a code of conduct and conflict of interest guidelines.

CHAPTER 7: DISPUTE RESOLUTION

- 7.1 On the Effective Date of the Maa-nulth Treaty, the Yuʔtuʔiʔʔath Council shall bring into force and effect a Yuʔtuʔiʔʔath First Nation dispute resolution act which shall provide for, among other things, a process for challenging the validity of Yuʔtuʔiʔʔath First Nation laws and a process for appealing or reviewing administrative decisions of the Yuʔtuʔiʔʔath First Nation Government or Yuʔtuʔiʔʔath First Nation 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 Yu?tu?if?ath First Nation 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, if ratified, 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 Yuʔtuʔiʔʔath Council; or
 - (b) the presentation of a petition to the Yuʔtuʔiʔʔath Council signed by at least 40 Yuʔtuʔiʔʔath citizens 16 years of age or older identifying the specific Constitutional amendment proposed.
- 9.2 Upon passage of the resolution or receipt of the petition identified in paragraph 9.1, the Yuʔtuʔiʔʔath Council shall develop wording for the proposed Constitutional amendment.
- 9.3 Prior to conducting a referendum on the proposed amendment, the Yuʔtuʔiʔʔath Council shall:
- (a) provide full information on the proposed amendment by way of written material and other forms of publication to all Yuʔtuʔiʔʔath citizens;
 - (b) provide all Yuʔtuʔiʔʔath citizens with at least 30 days notice of a special Hittatsoo Assembly including the date, time and location of the Assembly and a summary of the proposed amendment;
 - (c) conduct the special Hittatsoo Assembly in order to seek the views of Yuʔtuʔiʔʔath citizens;
 - (d) seek the advice of the Haʔwiih Advisory Council on the amendment; and
 - (e) make any changes to the wording of the proposed amendment that the Yuʔtuʔiʔʔath Council deems appropriate in light of the advice received from the Hittatsoo Assembly and the Haʔwiih Advisory Council.
- 9.4 Within 30 days of the special Hittatsoo Assembly, the Yuʔtuʔiʔʔath Council will conduct a referendum on the proposed Constitutional amendment in accordance with the procedures set out in the Yuʔtuʔiʔʔath First Nation referendum regulations.
- 9.5 This Constitution shall be amended on the following basis:
- (a) in the period from the Effective Date of the Maa-nulth Treaty until the 10th anniversary of the Effective Date of the Maa-nulth Treaty, with the approval of at least 40% of Yuʔtuʔiʔʔath eligible voters as defined by the Yuʔtuʔiʔʔath voters list at the time of the referendum,
 - (b) in the period from the 10th anniversary of the Effective Date of the Maa-nulth Treaty to the 20th anniversary of the Effective Date of the Maa-nulth Treaty, with the approval of at least 50% of the Yuʔtuʔiʔʔath eligible voters as defined by the Yuʔtuʔiʔʔath voters list at the time of the referendum, and
 - (c) any time after the 20th anniversary of the Effective Date of the Maa-nulth Treaty, with the approval of at least 60% of the Yuʔtuʔiʔʔath eligible voters as defined by the Yuʔtuʔiʔʔath voters list at the time of the referendum.
- 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 Yuʔtuʔiʔʔath eligible voters.
- 9.7 The Yuʔtuʔiʔʔath Council shall publish notice of the Constitutional amendment.
- 9.8 Notwithstanding the provisions of this Chapter, the Yuʔtuʔiʔʔath Council may, by a resolution passed by a majority of a quorum of the Yuʔtuʔiʔʔath Council, make technical or grammatical amendments.