

**AMENDED AND RESTATED
FEDERAL CHARTER OF INCORPORATION
issued by
THE UNITED STATES OF AMERICA, DEPARTMENT OF THE
INTERIOR BUREAU OF INDIAN AFFAIRS
to the
PORT GAMBLE S'KLALLAM TRIBE
for the
NOO-KAYET DEVELOPMENT CORPORATION

a federally chartered corporation**

RECITALS

WHEREAS, the Congress of the United States has enacted the Indian Reorganization Act of 1934, as amended, 225 U.S.C. 461 et seq., which, in Section 17 thereof (25 U.S.C. 477), authorizes the Secretary of the Interior to issue a federal corporate charter to an Indian tribe; and

WHEREAS, the Port Gamble S'Klallam Tribe (the "Tribe") is organized under a constitution, duly adopted and approved on July 24, 2007 (the "Tribal Constitution"); and

WHEREAS, pursuant to Article IV, Section 3 of the Tribal Constitution, the Tribal Council is the governing body of the Tribe with the authority to establish business enterprises and charter corporations; and

WHEREAS, on December 5, 2008, the Secretary of the Interior issued to the Tribe a Federal Charter of Incorporation (the "2008 Charter") for the Noo-Kayet Development Corporation (the "Corporation"); and

WHEREAS, the Tribal Council has determined that it is advisable and in the best interests of the Tribe, its members and its businesses to amend and restate the 2008 Charter;

WHEREAS, on November 23, 2015, the Tribal Council approved the terms and provisions of this Amended and Restated Federal Charter of Incorporation (this "Charter") pursuant to Resolution No. 15-A-160, and petitioned the Secretary of Interior to approve and issue this Charter; and

WHEREAS, all of the legal prerequisites to approval and issuance of this Charter have been fulfilled;

NOW, THEREFORE, I, Stanley Speaks, Regional Director of the Bureau of Indian Affairs, by virtue of the power conferred upon the Secretary of the interior by the said Act and delegated to me, do hereby approve and issue this Amended and Restated Federal Charter of Incorporation for the Noo-Kayet Development Corporation, to be operative upon acceptance and ratification by the Tribal Council of the Tribe.

ARTICLE I - NAME

The name of the Corporation is the Noo-Kayet Development Corporation.

ARTICLE II - PRINCIPAL OFFICE AND REGISTERED OFFICE

A. Principal Office. The principal office of the Corporation shall be located within Tribal trust land in Kitsap County, Washington. The Corporation may have such other offices, either within or without Tribal trust lands, as the board of directors of the Corporation (the “Board of Directors,” and each of the directors thereof, a “Director”) may designate or as the business of the Corporation may require from time to time.

B. Registered Office. The registered office of the Corporation may be, but need not be, identical with the principal place of business of the Corporation. The registered office may be changed from time to time by the Board of Directors. In all events the registered office of the Corporation shall be located within Tribal trust land.

C. Situs of Transactions. Any business transaction executed by the Corporation shall be deemed to occur on Tribal trust land unless no incident of such transaction occurs on Tribal trust lands.

ARTICLE III - AUTHORITY FOR CHARTER

The Corporation is organized, incorporated and chartered under the laws of the United States as a federally chartered corporation under 25 U.S.C. §477, as amended, and shall have the powers, privileges and immunities granted by that statute embodied in this Charter.

ARTICLE IV - STATUS OF CORPORATION

A. The Corporation is a legal entity wholly owned by the Tribe, but distinct and separate from the Tribe. The activities, transactions, obligations, liabilities and property of the Corporation are not those of the Tribe; provided that the Corporation may act on behalf of the Tribe in the circumstances and to the extent specified in Section VIII.G.

B. Nothing in this Charter of Incorporation shall be deemed to waive, or to permit the Corporation to waive, the sovereign immunity of the Tribe.

C. The Corporation shall have the same rights, privileges, sovereign immunity from suit, tax status and tax and other immunities with respect to federal, state and local law as the Tribe but shall be subject to Tribal law; provided, however, that no valid legal contract between the Corporation and any non-Tribal person or entity, and no non-Tribal person or entity which enters into any such contract with the Corporation, shall be subject to any Tribal law enacted subsequent to the execution of such contract to the extent such subsequent Tribal law is held by a court of competent jurisdiction to effect a material impairment of such contract and to have a primary purpose other than protecting health or safety within the jurisdiction of the Tribe.

ARTICLE V - OWNERSHIP OF THE CORPORATION

A. The aggregate number of shares which the Corporation shall have authority to issue is one share, no par value.

B. All shares in the Corporation shall be owned by the Tribe for the benefit of the Tribe and its members. No individual or legal entity other than the Tribe shall acquire any shares in the Corporation, and the shares of the Corporation shall not be voluntarily or involuntarily sold, transferred, pledged or hypothecated, without the prior written consent of the Tribal Council and the approval of the Secretary of the Interior.

C. All rights of the Tribe as shareholder of the Corporation shall be vested in, and exercised solely by, the Tribal Council in accordance with this Charter and applicable Tribal law. No individual member of the Tribal Council or individual member of the Tribe or any other person whomsoever shall be recognized as acting as or on behalf of the Tribe as shareholder of the Corporation.

ARTICLE VI - PERIOD OF DURATION

The period of the Corporation's duration is perpetual, or until this Charter is revoked or surrendered by Act of Congress, pursuant to 25 U.S.C. §477, as amended.

ARTICLE VII - CORPORATE PURPOSES

The purposes for which the Corporation is organized are:

- A. to engage in any type of lawful business, enterprise or venture;
- B. to provide for the efficient and effective utilization of the resources of the Corporation in a manner which protects the long-term interests of the Tribe;
- C. to promote the economic development of the Tribe;
- D. to accomplish the segregation of Tribal governmental assets and liabilities from Tribal business assets and liabilities; and
- E. to provide a vehicle for the Tribe to accomplish the financing of projects used in the provision by the Tribe of essential governmental services in the circumstances and to the extent specified in Section VIII.G.

ARTICLE VIII – CORPORATE POWERS

Subject to applicable federal law, the Corporation is authorized and empowered to engage in, carry on and conduct any lawful activity or business in which federally chartered corporations may engage pursuant to 25 U.S.C. §477, as amended, including, but without limiting the broad authorization of the foregoing the following:

- A. To sue in its corporate name and to permit suit against itself in its corporate name to the extent provided in Article XII.

B. To purchase, take by gift, bequest, lease or otherwise and to own, hold, manage, operate, use and otherwise deal in and with real or personal property of every description or any interest therein, wherever situated, including the power to purchase land and issue in exchange therefore interests in corporate property; provided, that the Tribal Council may choose to request that the Secretary of the Interior take title to any real property acquired by the Corporation into federal trust status for the Tribe whenever possible under federal law.

C. To sell, convey, mortgage, pledge, lease as lessor or lessee, exchange, transfer or otherwise dispose of all or any part of its corporate property or assets in accordance with Tribal law and this Charter; provided, that the Corporation has no authority to sell, mortgage or lease as lessor any property of the Tribe without the express consent of the Tribal Council given in the specific instance; provided further, that the previous exception shall not prevent the Corporation from mortgaging or subleasing any leasehold interest that the Corporation may have as lessee of any property of the Tribe; provided further, that in no event may the Corporation lease any trust property of the Tribe, or any Corporation interest therein, for a term of more than 25 years.

D. To create subsidiaries or subdivisions of the Corporation, including, but not limited to, corporations chartered under 25 U.S.C. 477 upon petition of the Tribal Council to the Secretary of the Interior, corporations chartered under Tribal or state law, limited liability companies, organizations eligible to obtain and operate with Section 8(a) certification from the United States Business Administration, and not-for-profit or other non-profit foundations, for the purpose of legally segregating the assets and liabilities of discrete business and other endeavors of the Corporation regardless of common directorship; provided, that each such subsidiary or subdivision shall have the rights and privileges granted by and be subject to the limitations of this Charter; provided further, that no form of organization may be used which does not preserve and protect the immunities and assets of the Corporation.

E. To serve as the holding company for all stock or other equity interests issued by any subsidiary of the Corporation for the benefit of the Tribe; provided, that any rights of the Corporation as the shareholder of any corporation chartered under 25 U.S.C. 477 shall be the rights of the Tribe, and any actions by the Corporation in its capacity as shareholder of any such corporation shall be at the direction of the Tribal Council.

F. To enter into and make contracts of every kind and nature with any person, firm, association, corporation, municipality, nation, Indian tribe, state or body politic, without the approval of the Tribe or the Secretary of the Interior, except when Tribal law or the use of trust or federally-restricted Indian property requires such approval.

G. Subject to the limitations imposed by Article IX, to incur debts and raise, borrow and secure the payment of any money in any lawful manner, including the issue and sale or other disposition of stocks, bonds, indentures, obligations, negotiable and transferable instruments and evidence of indebtedness of all kinds, whether secured by mortgage, pledge, deed of trust or otherwise, either on its own behalf or, subject to the requirements of the following sentence, on behalf of the Tribe, without the approval of the Tribe or the Secretary of the Interior, except when Tribal law or the use of trust or federally-restricted Indian property requires such approval. The Corporation's ability to exercise the foregoing powers on behalf of the Tribe are explicitly subject to the following restrictions:

1. each such borrowing shall be approved by the Tribal Council prior to its incurrence;

2. each such borrowing shall be payable solely from (a) that property and income identified and pledged thereto by the Board of Directors, whether or not such property or income is derived from property financed in whole or in part with the proceeds of such borrowing, or (b) all or any part of the revenues of the Tribe specifically allocated to the Corporation by the Tribal Council for the purpose of paying or securing such borrowing; and

3. no such borrowing shall create an obligation of the Tribe or constitute a waiver of the sovereign immunity of the Tribe, nor shall the Tribe be liable thereon other than to the extent specifically provided in accordance with this Section G, and such limitation shall be expressly stated in each such borrowing.

H. To apply for, obtain, register, purchase, lease or otherwise acquire, own, hold, use, operate and introduce, and to sell, assign or otherwise dispose of any trademark, trade name, patent, invention, improvements and processes used in connection with or secured under letters patent, and to use, exercise, develop, grant and give licenses in respect thereto.

I. To apply for, purchase or acquire by assignment, transfer or otherwise, and to exercise, carry out and enjoy any license, power, authority, franchise, concession, right or privilege which any government or authority or any corporation or other public body may be empowered to enact, make, or grant, and, subject to the limitations imposed by Section A of this Article, to pay for and to appropriate any of the Corporation's assets to defray the necessary costs, charges and expenses thereof.

J. To distribute all revenues of the Corporation to: (i) defray corporate obligations; (ii) make dividend distributions to the shareholder of the Corporation; and (iii) establish and invest in suitable capital and operating reserve funds; provided, that the Board of Directors shall endeavor at all times to manage and operate the Corporation with the objective of minimizing expenses and maximizing benefit to the Tribe.

K. To employ or appoint employees and agents of the Corporation and define their duties and fix their compensation.

L. To lend money for its corporate purposes, invest and reinvest its funds and take and hold real and personal property as security for the payment of funds so lent and invested.

M. To adopt and amend bylaws for the regulation of the internal affairs of the Corporation consistent with this Charter without the approval of the Secretary of the Interior.

N. To pay pensions and establish pension plans, pension trusts, profit sharing plans, and other incentive plans for any or all of its directors, officers and employees.

O. To obtain a certificate of authority to transact business in any of the States or Territories of the United States as a foreign corporation and to comply with applicable state or territorial law governing foreign corporations.

P. To take all actions authorized, as necessary and sufficient to carry out its duties and responsibilities under Title 20 of the Tribal Code (or any successor title of the Tribal Code), either directly or through a subsidiary, affiliate or subdivision of the Corporation.

Q. To have and exercise all lawful powers incidental, necessary or convenient to effect any or all of the purposes for which the Corporation is organized.

ARTICLE IX – LIMITATIONS ON CORPORATE POWERS

A. The Corporation shall have no power:

1. to enter into any agreement of any kind on behalf of the Tribe, either expressly or by implication, other than in the circumstances and to the extent specified in Section VIII.G;
2. to pledge the credit of the Tribe;
3. to dispose of, pledge, or otherwise encumber real or personal property of the Tribe other than the Corporation's interests therein;
4. to waive any right, privilege or immunity of, or release any obligation owed to, the Tribe; or
5. to enter into any sublease or other encumbrance or instrument respecting lands leased to the Corporation by the Tribe without the express written approval of the Tribal Council. Such approval may be reflected in a written lease agreement(s) between the Tribe and Corporation.

B. Nothing in this Charter, and no action taken by the Corporation pursuant to this Charter, shall be construed as permitting, recognizing, or granting any state or any political subdivision thereof any regulatory jurisdiction or taxing jurisdiction over the property or activities of the Corporation or its employees.

ARTICLE X – BOARD OF DIRECTORS

A. Management Authority. The business affairs of the Corporation shall be managed exclusively by the Board of Directors, the members of which shall be elected by the Tribal Council as provided in the bylaws of the Corporation (the “Bylaws”). The Tribal Council shall have no authority to direct the business affairs of the Corporation, except through its status as the representative of the sole shareholder of the Corporation and as provided in this Charter or the Bylaws.

B. Duties of Directors. The Directors shall in all cases act as a Board of Directors, regularly convened, by a majority vote, and they may adopt such rules and regulations for the conduct of their meetings and the management of the Corporation as they may deem proper, provided that such rules or regulations are not inconsistent with this Charter, the Bylaws and applicable Tribal or federal law. A Director’s duties shall be performed in good faith, in a manner the Director believes to be in or not opposed to the best interests of the Corporation, and with such care as an ordinarily prudent person would use under similar circumstances in a like position. In performing such duties, a Director shall be entitled to rely on factual information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by:

1. one or more officers or employees of the Corporation whom such Director reasonably believes to be reliable and competent in the matters presented;
2. legal counsel, public accountants or other persons as to matters which such Director reasonably believes to be within such person's professional or expert competence; or
3. a committee of the board upon which such Director does not serve, duly designated in accordance with a provision of the By laws, as to matters within its designated authority, which committee such Director reasonably believes to merit confidence; provided, that a Director shall not be considered to be acting in good faith if such Director has knowledge concerning the matter in question that would cause such reliance to be unwarranted.

C. Limitation of Directors' Liability. A Director shall not be personally liable to the Corporation or to the shareholder of the Corporation for monetary damages for breach of fiduciary duty as a Director unless such Director has breached or failed to perform the duties set forth in Section X(B), and such breach or failure to perform constitutes willful misconduct or recklessness.

ARTICLE XI – INDEMNIFICATION

The Corporation shall indemnify any current or former Director, officer or employee against reasonable expenses actually and necessarily incurred by such person in connection with the defense of any action, suit, or proceeding in which such person is made a party by reason of the fact that such person is or was a Director, officer or employee of the Corporation or is or was serving at the request of the Corporation as a Director, officer or employee, and the reasonable costs of settlement of any such action or proceeding, if:

1. such person did not act, fail to act, or refuse to act willfully or with gross negligence or with fraudulent or criminal intent;
2. the person seeking indemnification did not act beyond the scope of his or her employment or office; and
3. it is in the best interests of the Corporation that indemnification be made.

ARTICLE XII – CLAIMS AGAINST THE CORPORATION

A. The Corporation is an instrumentality of the Tribe and is entitled to all of the privileges and sovereign, tax and other immunities of the Tribe, except as provided in this Article.

B. The Corporation is authorized to waive, as provided in this Article, the sovereign immunity from suit of the Corporation, its Directors, officers, employees or agents under applicable federal, state or Tribal law, arising from any particular agreement, matter or transaction as may be entered into to further the purposes of the Corporation, and, in connection with such waiver, to consent to suit in state and/or federal court, and/or to consent to alternative dispute resolution mechanisms, including (without limitation) arbitration or mediation.

C. The Corporation is authorized to waive, as provided in this Article, any defense the Corporation, its Directors, officers, employees or agents may otherwise assert that federal, state or

Tribal law requires exhaustion of Tribal court remedies prior to suit against the Corporation in a state or federal court otherwise having jurisdiction over the subject matter and the parties.

D. Any waiver by the Corporation authorized by this Article must meet one of the following requirements in order to be effective:

1. The waiver must be in the form of a resolution duly adopted by the Board of Directors, which resolution shall not require the approval of the Tribal Council or the Secretary of the Interior. The resolution shall identify the party or parties for whose benefit the waiver is granted, the transaction or transactions and the claims or classes of claims for which the waiver is granted, the property of the Corporation which may be subject to execution to satisfy any judgment which may be entered in the claim, and shall identify the court or courts in which suit against the Corporation may be brought, or consent to alternative dispute resolution mechanisms. Any waiver shall be limited to claims arising from the acts or omissions of the Corporation, its Directors, officers, employees or agents, and shall be construed only to affect the property and income of the Corporation.

2. Alternatively, the Board of Directors may authorize the Chief Executive Officer of the Corporation to waive the Corporation's sovereign immunity from suit or defense of exhaustion of Tribal court remedies if the waiver meets the requirements for such a waiver by the Chief Executive Officer as the Board of Directors may specify in advance by a resolution duly adopted by the Board of Directors.

E. Nothing in this Charter, and no waiver of the Corporation's sovereign immunity pursuant to this Article, shall be construed as a waiver of the sovereign immunity of the Tribe or any other instrumentality of the Tribe, and no such waiver by the Corporation or its subsidiaries shall create any liability on the part of the Tribe or any other instrumentality of the Tribe for the debts and obligations of the Corporation, or shall be construed as a consent to the encumbrance or attachment of any property of the Tribe or any other instrumentality of the Tribe based on any action, adjudication or other determination of liability of any nature incurred by the Corporation.

F. Nothing in this Charter, and no action taken by the Corporation pursuant to this Charter, shall be construed as permitting, recognizing, or granting any state of the United States any regulatory jurisdiction or taxing jurisdiction over the property or activities of the Corporation or its employees.

ARTICLE XIII – DIVIDENDS

A. The Board of Directors may declare and distribute dividends from the profits of the Corporation whenever, in its opinion, the condition of the Corporation's affairs will render it expedient for such dividends to be declared.

B. All dividends declared by the Board of Directors shall be distributed to the Tribe as the shareholder of the Corporation.

C. The Board of Directors:

1. shall enter into a dividend distribution plan with the Tribe governing the distribution of dividends from the operations of the Corporation and/or any of its subsidiaries under Title 20 of the Tribal Code (or any successor title of the Tribal Code); and

2. may enter into a dividend distribution plan with the Tribe governing the distribution of dividends from any of the other operations of the Corporation and/or any of its subsidiaries.

- D. No dividend may be made if it results in any of the following:
1. the Corporation would not be able to pay its debts as they become due in the usual course of its business;
 2. the Corporation's total assets would be less than the sum of its total liabilities;
- or
3. the payment of such dividend would violate the terms of a financing or other contractual agreement of the Corporation.

ARTICLE XIV – REPORTS TO SHAREHOLDER

- A. The Corporation shall maintain its financial records in conformity with generally accepted accounting principles.
- B. No less frequently than each calendar quarter, the Board of Directors shall report in writing to the Tribal Council on the financial and operating condition of the Corporation, including the assets and liabilities of the Corporation and the official actions of the Corporation's officers and Directors.
- C. The Board of Directors shall prepare an annual Budget and Business Plan and submit it to the Tribal Council for review and approval.
- D. The financial and operating records of the Corporation shall at all reasonable times be open to inspection by the Tribal Council and its authorized agents.
- E. The Corporation shall, within 120 days following the close of the Corporation's fiscal year, submit to the Tribal Council an audited financial statement showing the status of the Corporation as of the last day of the Corporation's fiscal year.
- F. The Corporation's fiscal year shall be the same as the fiscal year of the Tribal government.

ARTICLE XV – SUSPENSION OF BUSINESS; DISSOLUTION AND REVOCATION

- A. After issuance of this Charter by the Secretary of the Interior and ratification by the Tribal Council, the Corporation may be dissolved and this Charter revoked only as provided in this Article.
- B. The Corporation may be dissolved and this Charter revoked by the act of the Corporation as follows:
1. The Board of Directors shall adopt a resolution recommending that the Corporation be dissolved and this Charter be revoked and directing that the question of dissolution be submitted to a vote at a meeting of the Tribal Council.
 2. Written notice shall be given to the Tribal Council in the manner provided in the Bylaws for giving notice of meetings of the shareholder, and shall state that the purpose, or one of the purposes, of the meeting is to consider the advisability of dissolving the Corporation and revoking this Charter.

3. At the meeting, a vote shall be taken on a resolution to dissolve the Corporation.
4. Upon adoption of the resolution, a statement of intent to dissolve shall be executed by the Corporation by the chairperson of the Board of Directors and shall be delivered to the Secretary of the Interior.
5. Upon filing of the statement of intent to dissolve with the Secretary of the Interior, the Corporation shall cease to carry on its business, except insofar as necessary for the winding up thereof, but its corporate existence shall continue until this Charter is revoked by act of Congress.
6. After filing the statement of intent to dissolve, the Corporation shall immediately cause notice thereof to be mailed to each known creditor of the Corporation and shall proceed to collect its assets, convey and dispose of such of its properties as are not to be distributed in kind to the Tribe, pay, satisfy and discharge its liabilities and obligations and do all other acts required to liquidate its business and affairs, and, after paying or adequately providing for the payment of all its obligations, distribute the remainder of its assets, either in cash or in kind, to the Tribe.
7. By resolution of the Board of Directors or by resolution adopted by the Tribal Council, acting in its capacity as shareholder of the Corporation, at any time prior to revocation of this Charter by act of Congress, the Corporation may revoke any voluntary dissolution proceedings. Written notice of the revocation shall be filed with the Secretary of the Interior. Upon filing of the notice of revocation of voluntary dissolution proceedings, the revocation shall be effective and the Corporation may again carry on its business.
8. If voluntary dissolution proceedings have not been revoked, when all debts, liabilities and obligations of the Corporation have been paid and discharged, or adequate provision has been made therefor, and all of the remaining property and assets of the Corporation have been distributed to the Tribe, the Tribe shall take all actions necessary to obtain an act of Congress revoking this Charter and dissolving the Corporation.

ARTICLE XVI – AMENDMENTS

- A. The authority to petition for amendments to this Charter is vested in the Tribal Council on behalf of the Tribe as sole shareholder of the Corporation, but such amendments shall have no legal effect until approved by the Secretary of the Interior and ratified by the Tribal Council in accordance with 25 U.S.C. § 477, as amended, and in accordance with applicable Tribal law.
- B. The Board of Directors may request the Tribal Council to petition the Secretary of the Interior for amendments to this Charter, but the final decision on submitting any such petition shall be made by the Tribal Council.