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Constitution for the Western Cherokee Nation

PREAMBLE

We, the members of the Western Cherokee Nation, in order to promote better community relations with other Indian tribes and non-Indians, to safeguard and protect the rights, privileges and interests of all Western Cherokee Indians, to aid in securing better educational, medical and other advantages for tribal members regardless of their location or residence to promote the common welfare and to bring the membership of the Western Cherokee Nation into a more closely knit and cooperative relationship, do hereby establish this organization and adopt the following Constitution. Any existing programs that tend to develop the economic growth of the Western Cherokee Indian people shall be continued.

ARTICLE I WESTERN CHEROKEE NATION TRIBAL COUNCIL

Section 1. Authority to act concerning the following matters shall be vested in the Western Cherokee Nation's Tribal Council unless specifically designated.

- a. Approval of annual budget, control of the nations funds and financial accountability.
- b. Claims.
- c. Sale of tribal land.
- d. Purchase of tribal land.
- e. Long term industrial, commercial, or development leases.
- f. Contracts with federal, state, local government or private firms.
- g. Legal council contacts and any or all employment of attorneys.
- h. Ratify selection of tribal employees.
- i. All local, state, or Federal grants or loans to the Nation.
- j. All appropriation of new funding.
- k. Appointment and oversight of all committees deemed necessary to the function of tribal government, including the establishment of any Business Committees that are to operate non-profit corporations on the Nation's behalf.
- l. In cases of issues that require immediate attention between Council meetings, the Tribal Council may take appropriate action after conducting a poll of the Tribal Council, which must be made official by an official recounting of the poll results at the next Tribal Council meeting.
- m. All powers not vested in the Executive Offices by ARTICLE II of this Constitution shall be retained by the Tribal Council.

Section 2. The Western Cherokee Tribal Council shall be the Legislative body of the tribe, composed of fourteen (14) tribal members who are at least twenty-one (21) years of age. No person shall simultaneously serve on both the Tribal Council and either the Board of Tribal Elders or the Executive Office. The above individuals shall be empowered to act on those matters outlined in Section 1 of this article. Such matters shall be presented and discussed at meetings of the Tribal Council pursuant to Section 5. One Tribal Council member shall be elected to a four (4) year term from each of fourteen voting districts established by the election board. One half (7) of the districts shall elect their Tribal Council members in each even-numbered year that is divisible by four; the other seven districts shall elect their Tribal Council members in each even-numbered year that is not divisible by four. The Tribal Council members shall see that the wishes and best interest of their districts are represented at the meetings of the Tribal Council.

Section 3. Whenever it becomes necessary, the Western Cherokee Nation shall employ tribal employees. The employees shall be tribal members, if at all possible, but may not be elected officials of the tribe or immediate family of elected officials. Applicants

must apply to the Secretary who shall submit all applications at the next meeting of the Tribal Council for a vote to employ tribal employee(s). The funds for salary may be allocated funds, tribal funds, state or federal funds, or funds provided by any organization, foundation, or other sources as long as approved by Tribal Council. Any and all tribal employees shall come under jurisdiction of this Constitution and by-laws. A work and expense report of and by employees shall be submitted to the Secretary each quarter and be presented quarterly to the General Council.

Section 4. Any right and power heretofore vested in the Western Cherokee Tribal Council but not expressly referred to in this constitution and by-laws shall not be abridged but these rights or powers may be exercised by the membership of the Western Cherokee Nation through the adoption of appropriate amendments. By this article, all powers not expressly vested in the Tribal Council are reserved by the people of this Nation.

Section 5. The purpose of the meetings of the Tribal Council shall be to give information to discuss and make decisions as to matters pertaining to the people of the Western Cherokee Nation. Council's official position on all matters shall be reflected in the vote and/or minutes taken at each meeting. No comments or opinions of individuals should be reflected in the official release of the minutes.

Section 5a. Special meetings of the Tribal Council shall be called by either the Tribal Council or the Executive Office whenever it is deemed necessary by a majority vote of either body. When possible fifteen (15) days advance notice will be given. There shall also be bimonthly meetings, of both the Executive Office and the Tribal Council, at a time and place to be determined by the Tribal Council.

Section 5b. All members of the Tribal Council are expected to attend all regularly scheduled meetings of the Tribal Council. If for a valid reason they cannot attend, they must notify the Council Secretary. Traditional Principals shall prescribe the voting and absence of meetings.

Section 5c. There shall be a council ~~Chairman~~ Speaker elected by the Tribal Council to preside over meetings of the Tribal Council. Also, a council Vice-Speaker will be elected to preside in the absence of the council Speaker.

(Amended 06/07/03)

Section 5d. There shall be a council Secretary chosen annually by the membership of the Tribal Council. The duties of the council Secretary are as follows:

a. The council Secretary shall provide, to the Tribal Council and the Executive Office, notice of meetings of the Tribal Council at least two weeks prior to the meeting or within one week of the establishment of the meeting.

b. The agenda for the meeting shall be prepared by the council Secretary with input from the Executive Office and Tribal Council. This agenda shall be distributed by the Council Secretary along with notice of the meeting.

c. The council Secretary shall see that minutes are taken at all meetings of the Tribal Council.

Section 6. No business of any nature shall be conducted unless a quorum is present. A quorum shall consist of majority of the seated Tribal Council. Decisions shall be reached by those present but in each case if the Principal Chief is not present the Principal Chief must be informed of any action taken by those present. The Tribal Council may reverse any actions or votes taken by the Executive Office within sixty-five (65) days of the Executive Office meeting.

Section 7. Conduct of Meetings

a. All meetings shall be conducted in accordance with Traditional Principals unless otherwise approved by a majority vote in advance.

b. Any person wishing to express his/her opinions during the course of a meeting shall first obtain consent of the Council for the right to speak. He/she will then be permitted to address the Council in either Cherokee or English. If in Cherokee the Council may require a translation to English.

(Section 5, b, and 7, a Amended 10/09/04)

ARTICLE II WESTERN CHEROKEE NATION EXECUTIVE OFFICE

Section 1. The Western Cherokee Executive Office, a three (3) member body empowered to act on those matters outlined herein. This office shall represent the Western Cherokee Nation in all official external matters and shall conduct the day-to-day business of the tribe.

Section 2. The Western Cherokee Nation Executive Office shall consist of the following:

- a. Principal Chief
- b. Vice Chief
- c. Tribal Treasurer

These officers will be non-voting observers at Tribal Council meetings unless the Vice Chief, or in his/her absence another designated appointee, is assigned by the General Council to vote to break a tie.

Section 3. The term of office for each of the officers shall be for a period of four (4) years and/or until a successor is duly elected and installed in office. No person shall be elected to the office of Principal Chief more than twice, and no person who has held the office of Principal Chief, or has acted as Principal Chief, for more than two years of a term of which some other person was elected Principal Chief shall be elected to the office of the Principal Chief more than once. No person shall be elected or appointed to the position of Vice Chief who is ineligible to serve as Principal Chief.

Section 4. All members of the Western Cherokee Nation who have reached the age of twenty-eight (28) shall be eligible to serve as members of the Executive Office and run for elected office, except for the Tribal Treasurer position, which is an appointed position by the Principal Chief and approved by the Tribal Council. No person shall simultaneously serve on both the Executive Office and either the Board of Tribal Elders or the Tribal Council. All members of the Executive Office must possess Western Cherokee membership. The above notwithstanding, no one may serve as an Executive Office member who has previously convicted in a court of competent jurisdiction of a felony in the past 10 years involving dishonesty.

Section 5. The Western Cherokee Nation's Executive Office shall be empowered to take necessary action on the following.

- a. Revocable permits, farm and grazing leases, oil, gas, and mineral, easements, and rights or ways, subject to approval of the council.
- b. Appoint subordinate committees, with approval of Tribal Council.
- c. Prepare annual budgets for submission for approval of the Western Cherokee Nation's Tribal Council.
- d. Accept applications for tribal employment and submit all applications to the Tribal Council for selection.
- e. Recommend term of employment and salary for tribal employees to the Tribal Council.
- f. To promulgate and enforce ordinances and codes governing law, order and peace, health, safety and general welfare, on land determined to be within tribal jurisdiction, subject to the laws of the states and approved by the Tribal Council.
- g. In cases of issues that require immediate attention between Council meetings, the Principal Chief may take appropriate action after conducting a poll of the Tribal Council, which must be made official by an official recounting of the poll results at the next Tribal Council meeting.
- h. Any and all actions and decisions of the Executive Office may be overturned or upheld by the Tribal Council if it proves to be, in the Tribal Council's opinion, necessary to protect the nation. This will require a 2/3 vote of the Tribal Council.

Section 6. When it is deemed necessary for a delegation to represent the Western Cherokee Nation, the delegates are to be chosen by the Principal Chief and approved by Tribal Council. Delegates shall be held to a minimum as requirements dictate. Delegates cease to be delegates when their specific representative function is completed. When a delegation is authorized, it shall act for the Western Cherokee Nation. No matter affecting tribal matters shall be discussed with local, state, or federal officials unless it has been previously approved by the Executive Office and include an authorizing resolution of the Tribal Council. A full written report of the delegates' findings shall be given to the council Secretary, forwarded to the Principal Chief, given to the Tribal Council at its next regularly scheduled meeting, and appropriately publicized for the information of tribal members after the delegation returns from meeting with local, state or federal officials.

Section 7. Any right and power heretofore vested in the Western Cherokee Executive Office but not expressly referred to in this constitution and by-laws shall not be abridged but these rights or powers may be exercised by the membership of the Western Cherokee Nation through the adoption of appropriate amendments. By this article, all powers not expressly vested in the Executive Office are reserved by the Tribal Council or the people of this Nation.

Section 8. The Executive Office will consist of the following:

a. (Principal Chief) The Principal Chief shall serve as the political representative for the people of the Western Cherokee Nation, and shall perform all of the duties pertaining to the office of Principal Chief.

b. (Vice Chief) The Vice Chief of the Western Cherokee Nation shall act as an assistant to the Principal Chief in carrying out the political objectives of the Western Cherokee Nation. The Vice Chief shall act as the Principal Chief in the temporary absence of the Principal Chief; and if the Principal Chief vacates his/her position the Vice Chief shall assume the duties of said office until a successor is duly elected and installed in office pursuant to Section 3.

c. (Tribal Treasurer) The Tribal Treasurer of the Western Cherokee Nation shall be recommended by the Principal Chief and approved by a majority vote of the Tribal Council. The Tribal Treasurer must have knowledge of general accounting and book keeping. He/she shall be responsible for each yearly budget allowance received by the Executive Office and shall keep an accurate account of all receipts and disbursements from this budget allowance. The Tribal Treasurer shall make appropriate reports (of all accounts) to the Executive Office and present summary reports to the Tribal Council on a bi-monthly basis. The accounts and records of the Western Cherokee Nation shall be open at all times for inspection and audit by the Tribal Council and the Attorneys General of the States of Arkansas and Missouri and the United States in accordance with the policy established by the Executive Office. All budget funds entrusted to the care of the Tribal Treasurer shall be kept in special accounts authorized by the Executive Office and all disbursements thereof shall be made from checks countersigned by another member of the Executive Office after approval to pay bills is given by the Tribal Council. All disbursements of tribal funds shall be made under authority of a properly-exercised resolution of the Tribal Council. The Tribal Treasurer once appointed will be a member of the Executive Office.

Section 9. Special meetings of the Executive Office may be called by the Principal Chief or upon a request of a majority of the Executive Officers. Purpose of special meetings will be discussed in detail at the next General Council meeting.

ARTICLE III

WESTERN CHEROKEE NATION BOARD OF TRIBAL ELDERS

Section 1. There shall be a Board of Tribal Elders composed of not more than (14) tribal members, who shall be at least forty (45) years of age, and members in good standing. The Board of Tribal Elders constitutes the judicial branch of the Nation's government. They shall be recommended by the Executive Office and confirmed by the Tribal Council. No person shall simultaneously serve on both the Board of Tribal Elders and either the Tribal Council or the Executive Office. No person shall serve on both the Board of Tribal Elders and the Election Board at the same time. The term of office for members of the Board of Tribal Elders is six (6) years with the date of the most recent past election being the appointment date, with no limits as to how many times they can be re-appointed. A quorum for a meeting of the Elders will be at least 2/3 of the elders who have been appointed and remain active in the position. Elders may have meetings via phone or Internet and may vote in that manner. All official correspondence on Elder concerns, decisions, or votes must be reported to the Tribal Council by an Elder designated by the group to do so. A majority vote of existing elders shall constitute a judicial decision. (amended 6-11-2005.)

Section 2. Action of the Board of Tribal Elders may be initiated by a request from the Executive Office, the Tribal Council, or a tribal member. A Board of Tribal Elders recorder or secretary shall keep records on all proceedings. All decisions of the Board of Elders as to whether an issue is to be submitted for a vote of the Tribal Council or a vote of the general membership shall be final.

Section 3. It shall be the responsibility of the Board of Elders pursuant to ARTICLE V, Section 1, of this Constitution, to decide whether a proposal to recall a tribal official shall be denied, put in a probationary position or returned to the Tribal Council for a second recall vote.

Section 4. The Board of Tribal Elders shall also consider appeals of Election Board decisions rendered in conjunction with any election as provided in ARTICLE XI, Section 6, of this Constitution.

Section 5. The Board of Tribal Elders shall have the option of judicial review and may require any action of the Tribal Council or Executive Office to be reconsidered by the initiating body. Upon reconsideration, any measure so questioned shall require a 2/3 vote to stand. In the case of an affirmative vote, the Board of Tribal Elders may again require the action to be reconsidered, in which case the measure can only pass with a unanimous vote by both the Tribal Council and the Executive Office.

ARTICLE IV OATH OF OFFICE

Section 1. Each member of the Tribal Council and each Executive Officer or subordinate officer elected or appointed shall take the oath of office, and pledge him/herself to support the Constitution of the Western Cherokee Nation. The following oath of office shall be given:

I, _____, do hereby solemnly affirm that I will support the constitution of the Western Cherokee Nation. I will carry out faithfully and impartially the duties of my office to the best of my abilities and will promote the best interests of the Western Cherokee Nation Indian people.

The oath of office shall be administered by the Principal Chief or the Vice Chief. In the case that both are absent, the council Secretary will administer the oath.

ARTICLE V RECALL AND FILLING VACANCIES

Section 1. Any elected or appointed official or any tribal employee charged by a fellow tribesman with, (1) habitual neglect of duties; or (2) immorality or a felonious crime; or (3) habitual absence from regularly scheduled meetings without a valid cause; or (4) the violation of any part of this constitution and by-laws, shall be subject to recall proceedings. He/she shall have a public hearing before the Tribal Council. If a Tribal Council meeting is not scheduled within two (2) weeks of the charges, that person may be suspended from all duties and replaced by proxy until the next Tribal Council meeting by a majority vote of the polled Tribal Council.

A written statement of the charges shall be presented to the person so charged at least ten (10) days prior to the scheduled hearing. An affirmative vote at this hearing by the majority of the Tribal Council will determine if the charges stand, in which case the individual will be recalled from office. The individual may appeal this ruling to the Board of Tribal Elders whose decision shall be to let the Council's vote stand or to refer it back to the Council for a 2/3 majority vote. The individual so accused shall not be allowed to vote in his/her own defense, but shall be able to voice his/her opinions to the council and be present when any vote is taking place concerning this action.

Section 2. Any vacancies on the Tribal Council or Executive Office shall be filled on a temporary basis within sixty (60) days by a majority vote of the Tribal Council or a recommendation by the Principal Chief with the approval of the Tribal Council. As soon as possible after this appointment, a special election shall be arranged in the appropriate jurisdiction to fill the vacancy until the next regularly-scheduled election for that position.

Section 3. Should the Tribal Council be permanently unable to raise a quorum, the Principal Chief can call for a special election when deemed absolutely necessary.

ARTICLE VI

TRIBAL MEMBERSHIP

The Enrollment Ordinance of 1978 was developed by the The Department of Enrollment of the Western Cherokee Nation for the purposes of clearly defining the meaning of the Western Cherokee and membership of such persons in the Western Cherokee Nation.

Section 1.

Individuals whose families are recognized by the Western Cherokee Nation Tribal Council as being Western Cherokee Indian shall consist of the following:

- a. Individuals whose names appeared on either the 1875 or 1908 tribal membership list of the Eastern Cherokees of Missouri and Arkansas or the White River Band of Cherokee Indians, they or their descendants shall be eligible for enrollment, provided they prove direct lineage.
- b. Other individuals can qualify for membership if they show that their families were part of the tribe in 1721 or historical times and that their ancestors should have been listed on either the 1875 or 1908 tribal membership list. This can be done by providing birth and death records showing that their ancestors lived within the historical areas of the tribe and that they lived near other Western Cherokee families recognized by the tribe as being Western Cherokee Indian; by their providing sworn statements from tribal elders stating that they know these to be Western Cherokee Indian descent; by their providing documents such as census records, church or other records, old Cherokee census, etc. which identify the family as Western Cherokee, Eastern Cherokee, American Indian, etc. These individuals would qualify for membership provided they possess Cherokee Indian blood. Not all of the above established showing that the individual's ancestors were considered a part of the tribe in 1875 and again in 1908. Or ancestor from 1721 and old settlers of 1817 or other old rolls. [note: we are unsure what this means, and are leaving it in for now as we attempt to determine the original intent of these two sentences. –Tim]
- c. Individuals whose Western Cherokee ancestry can be deduced from existing records of enrolled family members are eligible for membership in the Nation.

Section 2. RIGHT OF MEMBERSHIP

It is the right of every individual of Western Cherokee Indian descent to gain and retain membership in the Western Cherokee Nation provided they possess Western Cherokee Indian blood. No one of Western Cherokee Indian descent will now or ever be barred from membership due to being descended from any other race, tribe, nationality, or due to one's actions or religious beliefs. Any tribal official who attempts to do this is subject to recall (in accordance with this Constitution of the Western Cherokee Nation).

Section 3. APPLICATION PROCEDURES

In order for an individual not enrolled at the time that this revision is passed by the General Council to become a member of the Western Cherokee Nation, he/she must submit an application for enrollment, along with proof that would satisfy Section 1 and 2 of this Article. Upon approval of an application by the The Department of Enrollment, a tribal membership card will be issued to that individual stating their membership of Western Cherokee Nation and signed by both the Principal Chief and the The Department of Enrollment chair. No card will be issued while there is any question as to that person's status. Individuals who do not meet the requirements for tribal membership shall be notified by mail of such a decision. They shall be given ninety (90) days by which to provide additional information to the The Department of Enrollment to clarify their status or to withdraw their application.

Section 4. The Western Cherokee Tribal Council shall have the power to prescribe rules and regulations covering future membership, including updating adoptions, the relinquishing of membership, and any other directives to be issued to the The Department of Enrollment.

(amended 12-06-2003)

**ARTICLE VII
REFERENDUM**

Section 1. Upon receipt of a valid petition signed by 5% of the qualified voters of the Western Cherokee Nation protesting any enactment of the Tribal Council, the Election Board shall call and hold a special referendum of the tribe to vote on whether the action of the Tribal Council shall be vetoed or upheld. No such petition may be filed later than ninety (90) days following the questioned enactment of the Tribal Council. The majority of the votes cast in such a referendum shall be conclusive and binding on the Tribal Council for a period of twelve (12) months. The expense of such a referendum shall be borne by the tribe. Any petition for referendum must state clearly the nature of the petition and contain verifiable contact information of all petitioners.

**ARTICLE VIII
BILL OF RIGHTS**

Section 1. All members of the tribe shall enjoy without hindrance, freedom of speech, worship, conscience, press, assembly, and association.

Section 2. This Constitution shall not alter, abridge or otherwise jeopardize the rights and privileges of the tribal membership as citizens of the United States of America.

Section 3. The individual property rights of any member of the Western Cherokee Nation shall not be altered or abridged or in any other way be affected by this Constitution.

Section 4. Tribal members shall have the right to review and examine tribal records at any reasonable time in accordance with the procedures established by the Executive Office.

Section 5. The protection guaranteed to individual tribal members by the Civil Rights Act of 1968 against actions of a tribe in exercising its power of government shall apply to the members of the Western Cherokee Nation.

Section 6. No punitive measure may be taken by the Nation against an individual elected, appointed, employee or member without due process as set fourth by this Constitution and/or Traditional Principals or Tradition.

(Section 6. Amended 10/09/04)

**ARTICLE IX
AMENDMENTS**

Section 1. This Constitution may be amended in an authorized vote of the Tribal Council by a 2/3 majority of the membership of each of the following bodies: the Tribal Council, the Executive Office, and the Board of Tribal Elders.

Section 2. The membership of the Western Cherokee Nation may propose an amendment to the Constitution by petition. It shall be the duty of the Vice Chief to forward to the Principal Chief a request for an amendment election upon receipt of a petition signed by at least 5% of the qualified voters. Any petition for an amendment must contain the exact wording of the amendment and contain verifiable contact information of all petitioners. The amendment will be presented for a vote in the manner prescribed in Section 1 of this Article. If the proposed amendment does not pass when voted on according to the provisions outlined in Section 1 of this Article, the amendment will be placed on the ballot at the next regularly-scheduled election, and will become effective if approved by 2/3 of the voters in the election.

**ARTICLE X
WESTERN CHEROKEE ELECTION BOARD**

Section 1. There shall be a Western Cherokee Election Board composed of seven (7) members appointed by the Executive Office and approved by the Tribal Council. No person shall be able to serve on the Election Board and the Board of Elders at the same time. The appointments to the Election Board shall be for a term of two years and shall begin six months after the most recent election. The Election Board shall elect from its membership a Chairperson and a Secretary.

Section 2. A current voting list shall be furnished to the Executive Office and Tribal Council before each election.

Section 3. The Board shall determine any claim as to the right of any individual listed or not listed to vote.

Section 4. The Election Board shall be vested with the authority to establish guidelines for the election process, including but not limited to establishment of voting districts, rules for running for office, voting regulations, and subcommittees; and all such decisions shall be subject to approval by the Tribal Council and must not violate any provision of this Constitution.

Section 5. No candidate for office shall be an Election Board member or a member of any subcommittee of the Election Board.

Section 6. The Election Board shall have the authority to rule upon the eligibility of the candidates and the responsibility to ascertain that the election rules are being followed; any decision of the Election Board deemed incorrect may be appealed to the Board of Elders.

**ARTICLE XI
ELECTIONS**

Section 1. Elections shall be held pursuant to the regulations prescribed by the Election Board which shall be consistent with this Constitution. There shall be a charge of twenty-five dollars or more for all applicants who file for a position in an upcoming general election.

Section 2. All voting in general or special elections shall be done by secret ballot.

Section 3. Absentee ballots will be issued for every election as deemed necessary by the Election Board.

Section 4. Tribal members who are at least eighteen (18) years of age by election day regardless of their place of residence shall be eligible to vote.

**ARTICLE XII
APPROVAL AND ADOPTION**

Section 1. This Constitution shall be approved and shall become the written form of government for the Western Cherokee Nation upon an affirmative vote by a 2/3 majority of the membership of each of the following bodies: the Tribal Council, the Executive Office, and the Board of Tribal Elders.

Section 2. The following members of the Western Cherokee Executive Office signed this constitution as representatives of the people of the Western Cherokee Nation.

Principal Chief _____
Vice Chief _____
Tribal Treasurer _____

Section 3. The following members of the Western Cherokee Tribal Council signed this constitution as representatives of the people of the Western Cherokee Nation.

Section 4. The following members of the Western Cherokee Board of Tribal Elders signed this constitution as representatives of the people of the Western Cherokee Nation.
