

**FEDERAL CHARTER OF INCORPORATION**

**Issued by**

**THE UNITED STATES OF AMERICA  
DEPARTMENT OF THE INTERIOR  
BUREAU OF INDIAN AFFAIRS**

**To**

**ELTUEG CORPORATION  
A Federally Chartered Corporation of the  
Aroostook Band of Micmacs**

**RECITALS**

**WHEREAS**, the Congress of the United States has enacted the Indian Reorganization Act of 1934, as amended, 25 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 Aroostook Band of Micmacs (hereinafter referred to as the “Tribe”) is a federally recognized sovereign Indian Tribe as provided in 25 U.S.C. § 1721 through 1735 inclusive, with its seat of government located at Presque Isle, Aroostook County, Maine; and

**WHEREAS**, that body of elected tribal officials consisting of the Chief, Vice Chief, and all Tribal Council Members, or their respective replacements duly selected under the laws of the Tribe, collectively known as the “Chief and Council” is the governing body of the Tribe; and

**WHEREAS**, on May 4, 2016, the Chief and Council petitioned the Secretary of the Interior to issue a federal charter of incorporation to the Tribe to establish a business corporation as authorized by Section 17 of the Indian Reorganization Act; and

**WHEREAS**, the Chief and Council has determined that the formation of Eltueg Corporation (the “Corporation”) pursuant to a § 17 Chapter will serve the best interests of the Tribe, its members and its enterprises and will protect the political integrity, economic security and health and welfare of the Tribe and its members by and among other things (1) creating a legal structure which provides for the segregation of Tribal governmental assets and liabilities from certain Tribal business assets and liabilities, and (2) creating a legal structure which provides for the segregation of discrete Corporation assets and liabilities into separate Corporation subdivisions, without divesting either the Corporation or the Tribe of the privileges and immunities arising pursuant to their legal status under federal and Tribal law; and

**WHEREAS**, the terms and provisions of this Charter were approved by the Tribal Council on May 4, 2016, pursuant to Tribal Council Motion #05-04-16-02; and

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

**NOW, THEREFORE**, I, Bruce W. Maytubby, Sr., Regional Director, Eastern Regional Office, Bureau of Indian Affairs, by virtue of authority granted to the Secretary of the Department of the Interior, do hereby issue this Charter of Incorporation to the Aroostook Band of Micmacs for Eltueg Corporation, to be operative when ratified by the governing body of the Tribe.

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## ARTICLE I. DEFINITIONS

When used in this Charter, the following terms shall have the following meanings:

**“Annual Board Meeting”** means the annual meeting of the Corporation’s Board of Directors to be held in June of each year, at which the Board shall appoint the Officers of the Corporation and present an annual report. See Article XI, Section M and Article XII, Section B.

**“Annual Owner’s Meeting”** means the meeting of the Aroostook Band of Micmacs Tribal Council (as representative of the Corporation’s sole owner, the Tribe) to be held immediately upon ratification of this Charter by the Tribal Council and thereafter in June of each year, at which Directors of the Corporation will be appointed. See Article VI, Section D.

**“Applicable Law”** means all legally controlling federal, Tribal and (if lawfully applicable) state constitutional provisions, statutes, ordinances, codes, resolutions, referenda, executive orders, administrative regulations and orders, and judicial decisions, now or hereafter in force, applicable to the Corporation, its property or activities, or its Directors, Officers, Managers, employees or agents while engaged in the business affairs of the Corporation, provided that any provision of any ordinance, code or resolution adopted by the Tribal Council which conflicts with any provision of this Charter shall, to the extent of such conflict only, not be legally controlling unless and until the conflict is eliminated by amendment of this Charter under Article XIX.

**“Aroostook Band of Micmacs Tribal Lands”** means all lands set apart for the Tribe by federal statute, administrative order, or other action, including, without limitation, all lands which have been or hereafter may be added as land in trust status under Public Law 102-171 or other authority.

**“Article”** means an Article of this Charter.

**“Board of Directors”** or **“Board”** means the board of directors of the Corporation constituted under Article XI.

**“Bylaws”** means any bylaws of the Corporation which may be adopted under Article IX, Section A.

**“Charter”** means this Charter, including any amendments hereof.

**“Corporation”** means and **“Corporate”** refers to Eltueg Corporation, the corporation established by this Charter.

**“Corporate Board”** or **“Corporate Directors”** means the board of directors of the Corporation constituted under Article XI.

**“Director”** means a member of the Board of Directors.

**“Division”** means an internal division or department of the Corporation, established by the Board of Directors to conduct particular business activities for the Corporation.

**“Enrolled Tribal Members”** means enrolled members of the Aroostook Band of Micmacs.

**“Goals”** means the overall goals of the Corporation as described in Article VIII.

**“Initial Board”** means the first board members appointed by Tribal Council to sit as the Board of Directors of the Corporation.

**“Officers”** means the officers of the Corporation appointed under Article XII including the President, Vice President, Secretary and Treasurer and such additional officers as the Board of Directors may appoint.

**“Organizational Meeting”** means the first meeting of the Initial Board of Directors. See Article XII, Section C.

**“Restricted land” or “Reservation”** means that the tribe holds legal title to the land, but with legal restrictions.

**“SBA”** stands for Small Business Administration, an agency of the federal government that provides aid, counsel, assistance and protection of interests of small business concerns and has approval authority over business programs such as Section 8(a).

**“Section”** and **“Subsection”** mean, respectively, a section and subsection of an Article of this Charter.

**“Section 8(a)”** is a business development program offered by the U.S. Small Business Administration to assist small, disadvantaged businesses in the marketplace by allowing sole-source contracts and accessibility to larger, prime contracts.

**“Subsidiary”** means a business entity that is created by and is wholly owned by the Corporation.

**“Surplus Funds” and “Surplus Profits”** means those portions of the Corporation’s net profits to be distributed to the Tribe under Article XV.

**“Section 17 of the IRA”** means section 17 of the Indian Reorganization Act of June 18, 1934, 48 Stat. 988, as amended by section 3(c) of Public Law 101-301, 104 Stat. 207, codified at 25 U.S.C. § 477.



**“Tribal Council” and “Council”** means the Tribal Council of the Aroostook Band of Micmacs, the governing body of the Tribe under its Bylaws or governing documents.

**“Tribe”** means and **“Tribal”** refers to the Aroostook Band of Micmacs. All agreements, approvals, consents, authorizations, appointments or other similar actions to be taken, given or made by the Tribe under this Charter shall be manifested by or based on an authorizing resolution or ordinance of the Tribal Council.

**“Trust” and “Trust Land”** means the federal government holds legal title, but the interest remains with the Tribe.

## **ARTICLE II. NAME**

The name of the Corporation is Eltueg Corporation.

## **ARTICLE III. PRINCIPAL OFFICE AND REGISTERED OFFICE**

- A. Principal Office. The principal office of the Corporation shall be located at 7 Northern Road, Presque Isle, Aroostook County, Maine. The Corporation may have such other offices, either within or outside of Aroostook Band of Micmacs tribal lands as the Board of Directors of the Corporation (the “Corporate Board”) 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 to be, identical with the principal place of business of the Corporation. The registered office may be changed from time to time by the Corporate Board. In all events the registered office of the Corporation shall be located within Aroostook Band of Micmacs’ tribal lands.

## **ARTICLE IV. 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 V. STATUS OF CORPORATION**

- A. Separate Entity. 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 only in the circumstances and to the extent specified in Article VIII.

- B. Immunity of the Tribe. 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. Other Immunities. The Corporation shall have the same rights, privileges and immunities with respect to federal, state and local law as the Nation 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 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 VI. OWNERSHIP OF THE CORPORATION; SHAREHOLDER ACTION**

- A. Wholly Owned by the Tribe. The Corporation shall be solely and wholly 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 no interest in the Corporation may be voluntarily or involuntarily sold, transferred, pledged or hypothecated.
- B. Chief and Council Actions as Owner. All rights of the Tribe as owner of the Corporation shall be vested in and exercised by the Chief and Council in accordance with this Charter and applicable Tribal law. No individual member of the Tribal Council or the Chief or any individual member of the Tribe or any other person whomsoever shall be recognized as acting as or on behalf of the Tribe as owner, except as the Chief and Council may delegate certain specified responsibilities to the Chief, a committee of the Council or any such designee as they see fit, provided that the authority to appoint or remove any Director shall not be delegated.
- C. Tribal Council Meetings. At all meetings of the owner relative to the Corporation, the members of Chief and Council shall, where applicable, act in their capacity as the representatives of the sole owner of the Corporation through the Chief and Council pursuant to the Tribal law. The decision of the majority of the voting members of the Chief and Council by motion and/or resolution at any duly called meeting thereof at which quorum is present and provided prior notice is given in accordance with Article VI, Section E, shall be the decision of the Chief and Council in the exercise of its authority as representative of the sole owner of the Corporation.

- D. Annual Owner's Meeting. The Tribal Council shall designate one of its meetings in June of each year as the annual meeting for the appointment of Directors of the Corporation ("Annual Owner's Meeting"), provided the first Annual Owner's Meeting shall take place immediately upon ratification of this Charter. At each Annual Owner's Meeting, the Corporate Board shall present a written annual report containing at least the following: (a) a description of the business activities and performance of the Corporation and its Divisions during the previous calendar year; (b) the most recent audited financial statements of the Corporation; (c) current financial statements of the Corporation; and (d) a description of the planned business activities of the Corporation and its Divisions for the current and coming year. In addition, the Board shall answer such questions regarding the business and affairs of the Corporation as may be asked by the Tribal Council.
- E. Notice and Form of Council Action. The Tribal Clerk shall give the Corporate Secretary or Corporate President written notice, delivered at least five (5) business days in advance, of the time, place and agenda of every Tribal Council meeting at which any Corporation-related matter is on the agenda. The notice shall be delivered in-person or by mail, telefax or other similar means accompanied by an effort to provide simultaneous telephone notice. Notice need not be given of a meeting resumed after any recess. Any action taken by the Tribal Council with respect to the Corporation shall be by motion and/or resolution, and a copy of any such resolution promptly shall be delivered to the Corporate Secretary or Corporate President.

## **ARTICLE VII. 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 VIII. CORPORATE PURPOSES AND GOALS**

The Purposes and Goals for which the Corporation is organized are:

1. to engage in any type of lawful business, enterprise or venture;
2. to provide for the efficient and effective utilization of the resources of the Tribe in a manner which protects the long-term interests of the Tribe;
3. to promote the economic development of the Tribe and its members;
4. to endeavor at all times to manage and operate the Corporation efficiently with the objective of maximizing benefit to the Tribe;

5. to accomplish the segregation of Tribal governmental assets and liabilities from Tribal business assets and liabilities; and
6. to earn sufficient revenue to: (1) pay their own operating expenses and capital obligations (including any owed to the Tribe); (2) accumulate reasonable financial reserves; and (3) as provided in Article XV, allocate Surplus Funds for dividends and distributions to the Tribe;

## **ARTICLE IX. 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. Corporate Bylaws. To adopt and amend bylaws for the regulation of the internal affairs of the Corporation (“Corporate Bylaws”) consistent with this Charter and Applicable Law without the approval of the Secretary of the Interior. Such Bylaws and amendments thereafter shall be filed with the Tribal Clerk and provided to Tribal Council.
- B. Power to Sue. To sue in its corporate name and to permit suit against itself in its corporate name in courts of competent jurisdiction, notwithstanding the privileges and immunities of the Corporation otherwise enjoys by virtue of its status; provided, that the Corporation may only waive the defense of sovereign immunity from suit in accordance with the applicable procedures and restrictions of Tribal law and provided further, that no judgment, lien, garnishment or attachment may be made upon any property or income of the Corporation other than that property or income specifically mortgaged, pledged or assigned as collateral for its corporate debts or liabilities in a writing approved by the Corporate Board.
- C. Real or Personal Property. The Corporation shall have all powers authorized by Section 17 of the IRA, including without limitation the power to purchase, take by gift, bequest or otherwise, own, hold, improve, manage, operate, and dispose of property of every description, real and personal, including the power to purchase Trust or Restricted Indian lands and to issue in exchange therefor interests in Corporate property, and such further powers as may be incidental to the conduct of Corporate business, not inconsistent with Applicable Law, provided the Corporation shall have no authority to sell, mortgage, or lease for a period exceeding 25 years, any Trust or Restricted lands whether owned or not by the Corporation that are within Aroostook Band of Micmacs tribal lands.
- D. Corporation Property and Assets. To sell, convey, mortgage, pledge, lease as lessor or lessee, exchange, transfer or otherwise dispose of all or any part of or interest in the property or assets of the Corporation, including such property and assets of the Tribe as

are committed to the Corporation by the Chief and Council, in accordance with Tribal and federal law and this Charter; provided, that the Corporation has no authority to sell, mortgage, lease as lessor or otherwise encumber any property of the Tribe without the express consent of the Chief and Council given in the specific instance; provided however, and subject to the limitation by Section C. of this Article, 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.

- E. Business Ventures. To form or engage in business ventures on its own, through Divisions, through subsidiaries, or with others through partnership, joint venture, management contract, corporate stock ownership, or other business arrangement for the purpose of legally segregating the assets and liabilities of discrete business endeavors of the Corporation regardless of common directorship; provided, that each business venture wholly owned by the Corporation shall have the rights and privileges granted by and be subject to the limitations of this Charter; and provided further, that the Corporation shall give notice to the Tribal Clerk providing at least the following in support of the venture:
1. an analysis of the feasibility and risks of the project;
  2. projections of project costs, revenues and rates of return;
  3. Identify ownership and all applicable affiliated parties (contractors and consultants).
  4. such other information as the Tribal Council may request.
- F. Identify Other Commercial Opportunities. To identify, evaluate and propose other meritorious commercial projects which are likely to assist in achieving the Goals of the Corporation. In support of any proposal which suggests that the Tribe invest, loan or otherwise make available to the project any land owned by or placed in Trust on behalf of the Tribe, Tribal resources, Tribal funds, Tribal guarantees, or other Tribal commitments, the Corporation shall give notice to the Tribal Clerk and follow the procedures for notice as outlined in Article VI, Section E to the Chief and Council prior to forming or entering into any new commercial opportunity. The Corporation must provide at least the following to the Tribal Council in support of the proposal:
1. an analysis of the feasibility and risks of the project;
  2. projections of project costs, revenues and rates of return;
  3. a description of the legal documentation to be used to set forth the terms and conditions under which the Tribe would invest in, loan to, or otherwise contribute to or participate in the project; and
  4. Identify ownership and all applicable affiliated parties (contractors and consultants).
  5. such other information as the Tribal Council may request.

- G. Contracting. 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.
- H. Borrowing. Subject to the limitation imposed by Section B., C., and D. of this Article, to incur debts and raise, borrow and secure the payment of any money in any lawful manner, including the issue and sale or other disposal 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, on its own behalf 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.
1. In consideration as a dividend, the Corporation may borrow on behalf of the Tribe. The Corporation's ability to exercise the foregoing power on behalf of the Tribe is explicitly subject to the following restrictions:
    - a) any such borrowing shall be to finance or refinance property used or to be used by the Tribe in the provision of an essential governmental function within the meaning of Section 7871 of the Internal Revenue Code of 1986, as amended;
    - b) each such borrowing shall be approved by the Chief and Council prior to its incurrence; and
    - c) 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 F and such limitation shall be expressly stated in each such borrowing.
- I. Licenses, Trademarks, Patents. 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.
- J. Investments. To invest in stock, bonds or other securities or investments;
- K. Other Assets. To apply for, purchase or acquire by assignment, transfer or otherwise, and to exercise, carry out and enjoy and 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 B., C., and D. of this Article, to pay for and to appropriate any of the Corporation's assets to defray the necessary costs, charges and expenses thereof.

- L. Solicitation of Funding. The Corporation may apply for grants, loans, loan guaranties, interest subsidies, and the like from the Bureau of Indian Affairs, any other governmental agency, or any non-governmental foundation, institution, business, or private individual. In any such application, the Corporation may identify itself as a distinct business instrumentality of the Tribe.
- M. Employment and Contract Labor. To employ or appoint employees and agents, including independent contractors, consultants, accountants and attorneys of the Corporation and define their duties and fix their compensation.
- N. Lend Money. 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.
- O. Establish Benefit and Incentive Plans. 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.
- P. Business as a Foreign Corporation. To obtain a certificate of authority to transact business in any of the United States as a foreign corporation and to comply with applicable state law governing foreign corporations.
- Q. Exercise Lawful Powers. 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.
- R. Other Activities. To engage in any other lawful business-related activity not inconsistent with this Charter, including activity on lands not owned or controlled by the Tribe, as an activity of the Corporation or a Division thereof.

## **ARTICLE X. LIMITATIONS ON CORPORATE POWERS**

- A. Corporate Power Limitations. 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 Article IX, Section H-1;
  - 2. to create subsidiaries that are not wholly owned by the Corporation;

- a) However, regarding any other subsequent business arrangement created by such initial Wholly Owned Subsidiaries, including any joint venture, partnerships, companies, limited liability companies, management contract, corporate stock ownership or any other business arrangement, the Wholly Owned Subsidiary may not to relinquish more than 49% of ownership to any outside agency;
3. to pledge the credit of the Tribe;
  4. to use, manage, dispose of, pledge, or otherwise encumber real or personal property of the Tribe other than the interests therein committed to the Corporation by the Chief and Council; or
  5. to waive any right, privilege or immunity of, or release any obligation owed to, the Tribe.
- B. Regulatory or Taxing Jurisdiction. 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 located within the boundaries of Aroostook Band of Micmacs tribal lands, which acts are reserved to the Tribe.

## **ARTICLE XI. BOARD OF DIRECTORS**

- A. Management Authority. The business affairs of the Corporation shall be managed exclusively by a Board of Directors, sometimes referred to herein collectively as the “Board” or “Corporate Board”, and the individual members thereof as “Corporate Directors”. The Chief and Council shall have no authority to direct the business affairs of the Corporation, except through its status as the representative of the owner of the Corporation and as provided in this Charter.
- B. Board Membership. The Board of Directors shall consist of a minimum of five and no more than nine Directors. In addition, the Tribal Chief or his/her designee from Tribal Council, while sitting on the Council, shall serve at the pleasure of the Council as a non-voting, ex officio Tribal observer/spokesperson on the Board. As used in this Charter, the term “Director” shall not include this ex-officio participant on the Board.
1. A majority of the Corporate Directors shall be enrolled tribal members of the Aroostook Band of Micmacs, provided, however, the Board may appoint such non-voting advisory members to the Board as it may see fit to advance the purposes of the Corporation.



2. No Corporate Director shall be an employee of the Corporation or its subsidiaries.
  3. All appointed Directors shall have such education or experience in administration, accounting, law, finance, Micmac tribal culture, or such other field as will contribute to the Board's ability to manage tribal enterprises to achieve the purposes of the Corporation.
- C. Qualifications. In order to ensure the selection of highly qualified, fiscally-responsible Directors who will contribute to the overall success of the strategic Goals of the Corporation, each Director's character and personal history shall be appropriate to management of the business affairs of the Tribe on behalf of the tribal community and membership. The Directors must have and maintain throughout his or her term the following qualifications:
1. must not have adverse information in a criminal and civil background and credit report screening regarding criminal conduct, violations of any SBA regulations, and/or a debarred or suspended status including:
    - a) must not lack business integrity (i.e. any legal issues such as indictments, guilty pleas, convictions, judgments, settlements);
    - b) must not be currently incarcerated or on parole or probation (either pre-trial or following conviction for felony or any crime involving business integrity);
    - c) must not have any reports of failure to pay significant financial obligations owed to the federal government (i.e. Internal Revenue Service, federal student loans, etc.);
  2. must be an American citizen by birth or naturalization;
  3. be at least a high school/GED graduate and have sufficient business experience and physical and mental capacities to enable him or her to make prudent business decisions on behalf of the Corporation; and
  4. have such additional qualifications as may be required by Applicable Law, including without limitation those which may be required by any governmental agency to qualify for or engage in a governmental program in which the Corporation elects to participate.
- D. Temporary Capacity During Background Screening. Each appointment to a new term (including consecutive terms) shall be subject to confirmation or withdrawal by the Chief and Council for a period of sixty (60) days from the date of appointment, based on a criminal and civil background check and credit report. Pending any action by the Chief

and Council under the preceding sentence, each appointee shall serve in a temporary capacity as a Director, entitled to exercise all of the powers, and subject to all of the duties, of a Director. Withdrawal of an appointment during the review period shall terminate the temporary appointment and leave the affected Director's position vacant. Confirmation of the appointment or expiration of the review term without action by the Chief and Council shall make the appointment final and fully effective.

- E. Initial Corporate Board. The initial members of the Corporate Board, and the initial terms of office thereof, shall be selected by the Chief and Council within sixty (60) days of tribal ratification of this Charter following federal approval, and such Board shall consist of five (5) members. Directors seated pursuant to Section B of this Article shall have staggered initial terms, as determined by the Chief and Council, in order to ensure that the terms of not more than two members of the Initial Board of Directors expire in each successive year. Each initial term shall begin on the same date and expire one, two or three years thereafter.
1. The Tribal Council shall determine the date of the Corporation's Organizational Meeting and the Tribal Clerk through direction of the Tribal Council shall provide notice for such meeting.
  2. The Organizational Meeting shall have an initial agenda to include the election of the officers, setting of meeting dates, and establishment of bylaws.
- F. Additional Directors. The Chief and Council retain the authority to change the number of Directors, not to exceed nine. The initial terms of additional Corporate Directors shall be fixed at the time of appointment to maintain a system of staggered three (3) year terms and to ensure that the terms of not more than three directors expire in each successive year.
- G. How Elected. Except for the Tribal Chief who serves as ex officio pursuant to Section B of this Article, Corporate Directors shall be appointed by the Chief and Council in accordance with this Charter and applicable Tribal law.
1. Slate. After appointment of the first Board, in all instances where a Director must be appointed, whether due to expiration of the term of office, resignation, removal, or any other reason, the other sitting Directors ("Remaining Directors") shall, by vote of a majority among themselves, nominate a slate of candidates for the open seat; provided that if there are fewer than three Remaining Directors, they may not nominate a slate and the Tribal Council shall appoint the Director as provided in this Article, Section G-6. Any slate required under this Section G shall include at least two candidates for the open seat and shall be consistent with the qualification standards set forth in this Article, Section C. If more than one

seat is open, the slates may list a person as a candidate for more than one open seat.

2. Expiration of Term. By the end of April, the Remaining Directors shall nominate a slate for each Director seat which has a term of office which will expire in June of that year.
  3. Other Vacancies. In the case of any other vacancy in a Director Seat, the Remaining Directors shall nominate a slate for the seat within 14 days after occurrence of the vacancy, provided that in the case of a vacancy due to the removal of a Director under this Article, Section Z, neither the slate nominated under this Subsection 3, nor a second slate nominated under Subsection 4 below, may include person so removed.
  4. Appointment by Council from Slate. From the slate, the Tribal Council shall either appoint a person to hold the open Director seat or reject all candidates on the slate. In the case of a Director seat having a term about to expire in June, the Tribal Council shall make the appointment in advance of the Annual Board Meeting. If the Tribal Council rejects all candidates on a slate, the Remaining Directors promptly shall, by vote of a majority among themselves, nominate a slate of different candidates for the open seat in time for appointment by the Tribal Council in advance of the Annual Board Meeting.
  5. Appointment by Council After Rejecting Two Slates. If the Tribal Council has rejected all candidates for a Director seat after two slates of candidates for the seat have been presented by the Remaining Directors, the Tribal Council shall appoint to that seat any person of its choosing who is qualified under this Article, Section C, provided that if the vacancy to be filled arises from the removal of a Director under this Article, Section Z, the person so removed shall not be appointed to fill the vacancy.
  6. Fewer Than Three Remaining Directors; Failure to Nominate Slate. The foregoing provisions of this Section G notwithstanding, if there are fewer than three Remaining Directors, or if the Remaining Directors fail to nominate a slate(s) of candidates for a Director seat in proper and timely fashion as required by the foregoing provisions, the Tribal Council shall appoint to the seat any person of its choosing qualified under this Article, Section C, provided that if the vacancy to be filled arises from the removal of a Director under this Article, Section Z, the person so removed shall not be appointed to fill the vacancy.
- H. Terms of Office. Except as provided in Sections B and E of this Article, the terms of office for voting Corporate Directors shall be for three (3) years. Directors' terms shall be staggered so that, as nearly as possible, an equal number of terms expire each year.

I. Duties of Corporate Directors. The Corporate Board shall manage the general affairs and business of the Corporation. The Corporate Directors shall in all cases act as a Board, regularly convened, by a majority vote.

1. The Corporate Directors shall adopt Corporate Bylaws and may adopt such rules and regulations for the conduct of their meetings and the management of the Corporation as they may deem proper as long as such Bylaws, rules or regulations are not inconsistent with this Charter, or applicable Tribal or Federal law.
2. A Corporate Director's duties shall be performed in good faith, in a manner the Corporate Director believes to be in the best interests of the Corporation and consistent with the Purposes and Goals of the Corporation as referenced in Article VIII, and with such care as an ordinarily prudent person would use under similar circumstances in a like position.
3. 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:
  - a) one or more officers or employees of the Corporation whom the Director reasonably believes to be reliable and competent in the matters presented; or
  - b) legal counsel, public accountants or other persons as to matters which the Director reasonably believes to be within such person's professional or expert competence; or
  - c) a committee of the Board upon which the Director does not serve, duly designated in accordance with appropriate provisions of the Bylaws, as to matters within its designated authority, which committee the Director reasonably believes to merit confidence, but the Director shall not be considered to be acting in good faith if the Director has knowledge concerning the matter in question that would cause such reliance to be unwarranted.
4. During the Corporate Director's term, he or she must disclose any changes to his or her qualifications as provided in this Article, Section C.

J. Liability of Corporate Directors. A Corporate Director shall not be personally liable to the Corporation or to the owner of the Corporation for monetary damages for breach of fiduciary duty as a Corporate Director unless:

1. the Corporate Director has breached or failed to perform the duties of the Corporate Director's office as provided in this Article, Section I, and

2. the breach or failure to perform constitutes willful misconduct or recklessness.
- K. Conflicts of Interest. Any contract or other transaction not otherwise prohibited under this Charter, between the Corporation or a Division and (a) a Director, Officer or Manager, (b) a member of the immediate family of a Director, Officer or Manager, or (c) an entity in which a Director, Officer or Manager is a stockholder, member, director, officer, agent or employee, or in which he or she is otherwise interested, shall be valid for all purposes, provided that
1. should a general conflict of interest develop for a Director, he or she shall state the conflict in writing to the Board and the Chief and Council (in the event that someone other than a Director believes that a conflict exists, that person may raise the issue in identical manner); and
  2. the terms of the contract or transaction are reasonable, competitive and fair to the Corporation or Division; and
  3. the Board unanimously approves the contract or transaction and a record of the decision is provided to the Tribal Council; and
  4. the Director shall recuse himself or herself from any vote involving the potential conflict of interest.
- L. Corporate Board Meetings. Regular or Special Meetings of the Corporate Board may be called upon the request of the Chairperson or of any two Corporate Directors.
- M. Annual Board Meeting. The Board shall conduct an annual meeting in June of each year (“Annual Board Meeting”), or as promptly as possible after the Annual Owner’s Meeting. As provided in this Article, Section G, Subsections 4 and 5, a successor to any Director whose term will expire in June of any year shall be appointed by the Tribal Council at the Annual Owner’s Meeting in advance of the Annual Board Meeting to be held that year. As provided in Article XII, Section B, Officers shall be appointed at the Organizational Meeting and at each Annual Board Meeting.
- N. Notice of Meetings. The Corporate Secretary shall give each Board member, including any ex-officio member appointed under this Article, Section B, written notice, delivered at least five business days before the date therein designated for Regular Meetings and 48 hours before the date therein designated for Special Meetings, of the time and place of such meeting, and the business to be brought before the meeting. The notice shall be delivered in-person or by mail (including the day of mailing), telefax, electronic email or similar means. To the extent known to the Corporate Secretary, the notice shall also briefly describe the matters to be discussed at the meeting. No business other than that

specified in such notice shall be transacted at any Special Meeting. Notice need not be given of a meeting resumed after any recess.

- O. Quorum. At a meeting of the Corporate Board, a quorum for the transaction of any item of business shall consist of the presence in person, including telephonic participation under Section Q of this Article, of a majority of the number of Corporate Directors entitled to vote. A majority of those Directors present at a meeting at which there is no quorum may adjourn the meeting from time to time for a period not exceeding ten (10) days in any one case.
- P. Voting, Presiding Officer; No Proxy Voting. At all Board meetings where a quorum is present, all matters shall be decided by a vote of the majority of the Directors present, unless a greater vote is required by this Charter, any Bylaws or Applicable Law. The Corporate President shall preside at each meeting, and in his or her absence, the Corporate Vice President shall preside. Each Director, including the presiding officer, shall be entitled to cast one vote on each matter before the Board. A Director may not by proxy or otherwise authorize another person to cast the Director's vote on any matter before the Board.
- Q. Telephonic Participation. A Director may participate in any Board meeting by means of conference telephone or similar communications equipment which enables all Directors participating in the meeting to hear one another.
- R. Action Without a Meeting. In instances where exigent circumstances prevent or render impracticable the holding of a Board meeting in person or by conference call, the Board may take action without a meeting if all Directors sign and file with the Corporate Secretary a memorandum showing the nature of the action taken, that at least a majority plus one of the Directors approve the action, and the position of any dissenting Director with respect to the action. To be effective, the memorandum must be filed with the Corporate Secretary within ten (10) calendar days after it is first signed by a Director.
- S. Record of Meetings. The Corporate Secretary shall keep, or cause to be kept, in a specific place at the Corporation's headquarters designated by the Board, complete and accurate minutes and records of all meetings of the Board and Board committees, and records of all actions taken without a meeting under this Article, Section R, copies of which promptly shall be furnished to any Director or Tribal Council acting as Owner, on request.
- T. Committees. The Board may from time to time establish committees of Directors having such responsibilities as the Board may assign, provided that the Board may not relinquish its powers or duties with respect to the business and affairs of the Corporation to any committee, Director, Officer, Manager, employee or agent of the Corporation.

- U. Attendance by Authorized Representatives. Duly authorized representatives of the Tribal Council shall be entitled to attend any Board meeting, other than executive sessions and, on request, shall be given a reasonable opportunity at the meeting to address and ask questions of the Board.
- V. Service of Directors in Other Capacities. Service as a Director shall not, in and of itself, disqualify the Director from serving the Tribe or any instrumentality of the Tribe in other capacities.
- W. Corporate Director Compensation. Corporate Directors shall receive such expense reimbursement; salary or compensation as may be determined by the Corporate Board as provided in the Corporate Bylaws.
- X. Resignation. Any Director may resign by delivering a written resignation to the Corporate Secretary. A resignation shall be effective upon receipt, unless the resignation states otherwise. The Tribal Chief or his or her designee as ex officio shall be deemed to have resigned upon resignation, retirement or removal from office or upon the swearing in of a successor.
- Y. Removal. Any Director may be removed in the following manner and circumstances:
1. By Board. The Board on its own initiative, with or without cause, may remove any Director by affirmative unanimous vote of the remaining Directors, provided that the Tribal Council may review any such removal and, by affirmative vote of a majority plus one of Tribal Council, suspend or reverse the removal.
  2. By Tribal Council. The Tribal Council may initiate proceedings to remove any Director (“Respondent”) for cause in the following manner:
    - a) The Tribal Council by affirmative vote of a majority plus one may issue a complaint (“Complaint”) itemizing and supporting claims of specific and substantial failures in Respondent’s performance as a Director. A true copy of the Complaint shall be delivered promptly to the Respondent and all other Directors. The Respondent may be placed on administrative leave pending the outcome of the process.
    - b) Within seven (7) calendar days with a fair opportunity to reply of receipt of the Complaint, Respondent shall deliver to the Tribal Council and each Director a written response (“Response”), replying in detail to the claims of the Complaint and indicating in detail what action, if any, Respondent has taken or will take to resolve or otherwise address the claims.

- c) No later than fourteen (14) calendar days after delivery of the Complaint to Respondent, if the Tribal Council by affirmative vote of a majority plus one determines that the Response is inadequate or that there is still good cause for concern about the claims in the Complaint, the Tribal Council promptly shall conduct a hearing at which Respondent shall be given full and fair opportunity to reply to the claims.
- d) After the hearing, the Tribal Council promptly shall determine: (i) whether there have been specific and substantial failures in Respondent's performance as a Director, and, if so, (ii) whether to remove Respondent as a Director. Respondent shall not be removed as a Director except upon affirmative majority plus one vote of Tribal Council on both questions (i) and (ii).
- e) Actions taken by the Tribal Council under this Section Y shall be final and not reviewable in any federal, tribal or state court, unless such review is explicitly authorized by the Council resolution.

Z. Cause for Removal.

- 1. The Director violates any of necessary qualifications as set forth in Section C of this Article, or it is discovered that the Director has misled or provided false information during the screening process.
- 2. The Director has become physically or mentally incapable of performing the duties of a Director.
- 3. The Director has engaged in a significant conflict of interest, nepotism, or misconduct in office.
- 4. The Director has substantially failed to perform the duties of a Director pursuant to Section I of this Article.
- 5. The Director is employed by the Corporation.

AA. Vacancies. Whenever a vacancy on the Corporate Board occurs before expiration of the term for any reason, the vacancy promptly shall be filled:

- 1. in the case of a Director, in the manner described in Section G of this Article and the appointee shall hold office for the remainder of the term of the vacant seat;
- 2. in the case of the Tribal Chief as ex officio, who is seated pursuant to Section B of this Article, as appropriate,



- a) by the Chief's appointment of a new designee; or
- b) by the successor Chief of the Tribe; or
- c) that Chief's designee.

## **ARTICLE XII. OFFICERS**

- A. Number and Positions. From among the Directors, the Board shall appoint the following Officers of the Corporation: a President, Vice President, Secretary and Treasurer. Upon termination of any such Officer's status as a Director, that person's status as such Officer shall also terminate. The President and Vice President shall be Enrolled Tribal Members. Any two or more offices may be held by the same person, except the offices of President, Vice President, and Secretary.
- B. Election and Terms of Office. Officers of the Corporation shall be elected annually by the Corporate Board at its Annual Board Meeting and shall hold office for the term of one (1) year or until their successors are duly elected.
- C. Initial Officers. The first set of Officers shall be appointed at the Organizational Meeting of the Board held according to Article XI. Section E.
- D. Duties of Officers. The duties and powers of the officers of the Corporation shall be as provided in the Corporate Bylaws.
- E. Compensation. The officers shall receive such expense reimbursement; salary or compensation as may be determined by the Corporate Board.
- F. Resignation and Removal of Officers. Any officer may resign his or her position as an officer of the Corporate Board at any time by giving written notice to the Chairperson of the Corporate Board. Such resignation shall be effective on the date specified in the notice. Any one or more of the officers may be removed either with or without cause, at any time, by a majority vote of the Corporate Board, at any special meeting called for that purpose or at the annual meeting.
- G. Vacancies. All vacancies in any office shall be filled by the Corporate Board for the unexpired portion of the term without undue delay, at its regular meeting or at a meeting specifically called for that purpose.

### **ARTICLE XIII. BOOKS, RECORDS, CONTROLS AND MONITORING**

- A. Books and Records. The Corporation shall maintain its financial records in conformity with generally accepted accounting principles and shall keep the following books and records at its headquarters:
1. all financial books, records, statements, audits, management letters, reviews, reports and the like and all related materials, organized by Division;
  2. all contracts, leases, financing documents, conveyance documents, title documents, other legal instruments and the like, and all related materials, organized by Division;
  3. all Board-related minutes and records as provided in Article XI, Section S;
  4. this Charter as originally issued and ratified, and any amendments hereof;
  5. any Bylaws adopted by the Board pursuant to Article IX, Section A, and any amendments thereof;
  6. all correspondence, memoranda and the like relating to any of the foregoing, organized by Division; and
  7. all other material books, records, legal instruments, correspondence, memoranda and the like regarding any asset, liability, transaction or other activity of the Corporation, segregated by Division.
- B. Inspection by Council. The books and records described in this Article, Section A, and any other Corporate books and records, whether maintained at the Corporation's headquarters or elsewhere, shall, on written request of the Tribal Council, be expeditiously made available for inspection and copying by designees of the Council.

### **ARTICLE XIV. INSURANCE AND INDEMNIFICATION**

- A. Insurance. The Corporation shall obtain fire and casualty insurance on property owned by the Corporation and on property in which the Corporation has an insurable interest, general liability insurance, Directors and Officers liability insurance, and other appropriate insurance, shall be maintained in such reasonable amounts and with such reasonable deductibles as the Board may determine.
- B. Indemnification. The Corporation shall defend, indemnify and hold harmless the Directors and Officers of the Corporation ("Indemnitees") from any demand, claim, action or other proceeding, for injury, loss, damage, obligation, assessment or penalty,

and from any liabilities arising therefrom, and from all reasonable expenses, costs and fees (including reasonable attorney's fees) incurred in connection therewith, claimed or determined to result from the conduct by the Indemnitee of the business and affairs of the Corporation, provided such conduct was performed by the Indemnitee in good faith and without malice or fraudulent intent.

## **ARTICLE XV. OWNERSHIP, RESERVES AND DIVIDENDS**

- A. Ownership. All assets acquired by the Corporation shall belong to the Corporation as a separate and distinct instrumentality of the Tribe. The Corporate Board may declare dividends from the surplus 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; provided, that no distribution may be made:
1. during the Corporation's first five (5) years of operation; or
  2. until the funding reserve funds that are adequate in the Board's judgement for working capital and reinvestment. The Board shall cause the Corporation and its Divisions to retain that portion of their profits the Board deems necessary or appropriate to perpetuate operations, meet obligations, maintain property, provide for expansion or diversification of operations, and meet contingencies. The remaining balance of net profits ("Surplus Funds") shall be distributed as provided in this Article, Section B.
- B. Dividends from Surplus Funds. All Surplus Funds shall be paid as a dividend or otherwise distributed to the Tribe no later than twelve months after the close of the Corporation's fiscal year, or more frequently if feasible in the judgment of the Board.

## **ARTICLE XVI. REPORTS TO OWNER**

- A. Quarterly Reports. No less frequently than quarterly and as often as the Chief and Council directs, the Corporate Board shall report in writing to the Chief and 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.
- B. Business Plan and Strategic Plan. The Corporate Board shall prepare an initial Business Plan along with a long term strategic or economic vision plan and submit it to the Chief and Council for review and shall annually provide updates to these plans to Chief and Council not less than sixty (60) days prior to the beginning of each fiscal year.

- C. Performance Report. The Corporation shall, within ninety (90) days following the close of the Corporation's fiscal year, submit to the Chief and Council a performance report showing the status of the Corporation as of the last day of the Corporation's fiscal year.
- D. Audits. Unless the Tribal Council authorizes a less rigorous financial review, within one hundred twenty (120) days after the close of the Corporation's fiscal year an independent certified public accountant shall audit the books of the Corporation, including all Divisions, at the expense of the Corporation and its Divisions. In addition, the Tribal Council may request, and the Corporation shall commission and the Corporation and involved Divisions shall pay for, an audit or review of the financial statements of the Corporation or any of its Divisions, at earlier points during any fiscal year. All review and audit reports and related management letters (or other less rigorous financial reports authorized by the Tribal Council) promptly shall be submitted to each Director and Officer and the Tribal Council. All proposed audit adjustments and financial reports submitted by the auditor shall be reviewed by the Board of Directors and the Tribal Council.

#### **ARTICLE XVII. DEACTIVATION OF CORPORATION; REVOCATION OR SURRENDER OF CHARTER**

- A. Deactivation of Corporation. The Tribal Council may initiate proceedings to deactivate the Corporation and cease all Corporate and Division operations in the following manner:
1. The Tribal Council by affirmative vote of a majority plus one may issue a complaint ("Complaint"), a true copy of which shall be delivered promptly to each Director, specifying and supporting one or more of the following grounds for deactivation of the Corporation:
    - a) serious and repeated violation by the Corporation of the Charter, any Bylaws or Applicable Law; or
    - b) extended and substantial failure to make reasonable progress toward achievement of the Corporation's Goals.
  2. Within twenty (20) calendar days of receipt of the Complaint, the Board shall deliver to the Council a written response ("Response"), replying in detail to the claims in the Complaint and indicating in detail what action, if any, the Board has taken or will take to resolve or otherwise address the claims.
  3. If the Council by affirmative vote of a majority plus one determines that the Response is inadequate or that there is still good cause for concern about the

claims in the Complaint, the Council promptly shall conduct a hearing at which the Board shall be given full and fair opportunity to reply to the claims.

4. After the hearing, the Council promptly shall determine: (1) whether there has been serious and repeated violation by the Corporation of the Charter, Bylaws or Applicable Law, or extended and substantial failure to make reasonable progress toward achievement of the Corporation's Goals, and, if so, (2) whether to direct the deactivation of the Corporation. The Corporation shall not be deactivated except upon affirmative vote of a majority plus one of the Tribal Council members on both questions (1) and (2).
  5. Upon adoption of a resolution directing deactivation of the Corporation under Section A-4 of this Article, the Corporation and all Divisions shall cease to conduct operations except as necessary to wind up their affairs, and the Board immediately shall cause a notice of the deactivation to be mailed to each known creditor of the Corporation and the Divisions and proceed to collect the assets of the Corporation and dispose of them in the manner provided in Section A-6 of this Article.
  6. Upon the deactivation of the Corporation, the Board shall proceed to collect the assets of the Corporation and dispose of them as follows: first, in accordance with such priorities as may exist under Applicable Law, the Board shall pay, or provide for the payment of, all debts and liabilities of the Corporation and its Divisions, including any which may be owed to the Tribe; and second, the Board shall thereafter pay, convey, assign, and otherwise distribute all remaining assets to the Tribe or its designee(s), as directed by the Tribal Council. Thereafter, the Corporation shall continue to exist in inactive status, subject to reactivation by resolution of the Tribal Council.
- B. Revocation or Surrender of Charter. This Charter may be revoked or surrendered only by Act of Congress as provided in Section 17 of the IRA.

#### **ARTICLE XVIII. COMPLIANCE WITH CHARTER, BYLAWS AND APPLICABLE LAW**

- A. Compliance. The Corporation and its Divisions, and all Directors, Officers, Managers, employees and agents, while engaged in the business and affairs of the Corporation or its Divisions, shall comply with all provisions of this Charter, any Bylaws and Applicable Law.

- B. Invalidity of Provision. If any provision of this Charter is found to be violative of Applicable Law, that provision shall be considered null and void and this Charter shall otherwise remain in full force and effect.

#### **ARTICLE XIX. AMENDMENTS**

- A. Authority of Tribal Council. The authority to petition for amendments to this Charter is vested in the Chief and Council, but such amendments shall have no legal effect until approved by the Secretary of the Interior and ratified by the Chief and Council in accordance with 25 U.S.C. § 477, as amended, and in accordance with applicable Tribal law.
- B. Corporate Board Request. The Corporate Board may request the Chief and 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 Chief and Council.

**CERTIFICATE OF APPROVAL**

I, **Bruce W. Maytubby, Sr.**, Regional Director, Eastern Regional Office, Bureau of Indian Affairs, by virtue of the authority granted to the Secretary of the Interior by the Act of June 18, 1934 (48 Stat. 9845, 25 U.S.C. § 5124 (editorially reclassified from section 477 as of September 1, 2016), as amended, and further delegated to me by 230 D.M. 1.4, and 3 IAM 4, do hereby approve this FEDERAL CHARTER OF INCORPORATION, for use by the Aroostook Band of Micmacs and its enterprise **ELTUEG CORPORATION**. It shall become effective upon ratification by **The Micmac Tribal Council**, PROVIDED, that nothing in this approval shall be construed as authorizing any action under this document that would be contrary to Federal law.

  
Regional Director, Eastern Region

Nashville, Tennessee

Date: 2/24/17