

Declaration of the Rights of the Free and Sovereign People of the Modoc Indian Tribe *(Mowatocknie Maklaksûm)*

We, the *Mowatocknie Maklaksûm* (Modoc Indian People),

Guided by our faith in the One True God, the Great Spirit, Creator of Heaven and Earth and all living beings,

Reaffirming our spiritual obligation and commitment to protect, restore and preserve the health and wellbeing of this planet and of all living creatures in, on and above it, with specific regard to our ancestral homeland and its indigenous life-forms;

Reaffirming our spiritual obligation and commitment to walk the good red road of harmony and balance, establishing and maintaining goodwill and good relationships with all peoples and governments;

Solemnly committing ourselves to the perpetuation, development and manifestation of our unique indigenous tribal identity and culture, and to the attainment, preservation and enjoyment of all rights and privileges arising therefrom and attendant thereto;

Solemnly committing ourselves to the political and geographical reunification of our people, who are now suffering in exile from the land of our ancestors and separated by more than 1,500 miles as the great eagle flies;

Solemnly committing ourselves to the recovery, possession and sovereign control of our ancestral homeland;

Solemnly committing ourselves to the political sovereignty, cultural integrity, economic security, health and wellbeing of our people and to a better future for our descendants;

Recognizing that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, as well as the Vienna Declaration and Programme of Action, affirm the fundamental importance of the right to self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development,

Recognizing that the United Nations Declaration on the Rights of Indigenous Peoples affirms “that indigenous peoples are equal to all other peoples, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such”;

Asserting that we are a unique indigenous people different from the Klamath Indians or any other Indian people, and that our Tribe and People has lived continuously in our homeland for more than 14,000 years, and that we are a separate and distinct people, who have never been assimilated or absorbed into white culture or the culture of any other Indian tribe or people;

Concerned and convinced that the Constitution and Bylaws of the Klamath Tribes fail to address, protect, or preserve the unique political or cultural tribal identity of the Modoc Tribe or People, thus depriving us of our inherent right to be different, to consider ourselves different, and to be respected as such;

Recognizing that the Congress of the United States, in enacting the Self Determination Act of 1975, incorporated a specific finding that “*the Indian people will never surrender their desire to control their relationships both among themselves and with non-Indian governments, organizations, and persons*”;

Adamantly affirming that we, the *Mowatocknie Maklaksûm* (Modoc Indian People), will never surrender our desire and commitment to control our relationships, among ourselves, with other Indian tribes and governments, and with non-Indian governments, organizations, and persons;

Concerned and convinced that the Constitution and Bylaws of the Klamath Tribes fail to address, protect, or preserve the unique political identity of the Modoc Tribe or People, thus depriving us of the ability to control our internal political relationships, or those with the Klamath Tribe, Yahooskin Band of Snake Indians, other Indian governments, or with non-Indian governments, organizations, and persons;

Recognizing that the Self Determination Act of 1975, as amended, specifically commits the United States government to “*the establishment of a meaningful Indian self-determination policy*” which will provide “*effective and meaningful participation by the Indian people in the planning, conduct, and administration of [federal Indian] programs and services*” and “*In accordance with this policy, the United States is committed to supporting and assisting Indian tribes in the development of strong and stable tribal governments, capable of administering quality programs and developing the economies of their respective communities*”;

Concerned and convinced that the Constitution and Bylaws of the Klamath Tribes fail to address, protect, or preserve the unique political or cultural identity of the Modoc Tribe or People, thus depriving us of effective and meaningful participation in the planning, conduct and administration of federal Indian programs and services under the auspices of the Self Determination Act of 1975;

Concerned and convinced that the Constitution and Bylaws of the Klamath Tribes fail to address, protect, or preserve the unique political or cultural identity of the Modoc Tribe or People, thus depriving us of a strong and stable tribal government, capable of administering quality programs and developing the economy of our Modoc Tribe and People;

Recognizing that neither the Lakes Treaty of 1864, nor the Klamath Tribe Restoration Act of 1986, nor any other federal law or policy has extinguished the separate political or cultural identity of the Modoc Tribe or People;

Especially concerned and convinced that the Constitution and Bylaws of the Klamath Tribes, in combination with the numeric superiority of ethnic Klamath Indians enrolled in the Klamath Tribes, has resulted in a governing body that neither recognizes the ongoing separate political and cultural identity of the Modoc Tribe and People nor adequately represents our unique and separate political, economic or cultural interests;

Recognizing that our ancestral Modoc homeland, its air, water, forests and other resources have been plundered, polluted and destroyed, that our sacred places have been desecrated by white industrial and business interests with the blessing or acquiescence of local, state and federal government, and that such destructive activities are continuing unabated;

Especially concerned and convinced that the Klamath Tribes has failed to adequately protect our homelands from such despoliation and destruction, primarily because the Klamath Tribes’ priorities have been and remain consistently tilted in favor of the numerically superior ethnic

Klamath Indians; and that the Constitution and Bylaws of the Klamath Tribes deprive the Modoc Tribe and People of the political or legal ability to independently assert our rights and interests in protecting our ancestral Modoc homeland, its air, water, forests and other resources from such despoliation and destruction;

Recognizing that our cultural heritage is being plundered on a daily basis, and that the graves of our ancestors continue to be disturbed and looted;

Especially concerned and convinced that the Constitution and Bylaws of the Klamath Tribes deprive the Modoc Tribe and People of the political or legal ability to independently assert our rights and interests in protecting our cultural heritage and the sanctity of the graves of our ancestors;

Especially concerned and convinced that the Constitution and Bylaws of the Klamath Tribes deprive the Modoc Tribe and People of our inherent rights to tribal sovereignty and self determination, thus preventing us from freely determining our political status and freely pursuing our economic, social and cultural development;

Reminding all persons and governments that the Modoc Tribe and People have suffered from grave historic injustices as a result of, inter alia, colonization and dispossession of our lands, territories and resources, and more than one hundred forty four years of federal Indian policy antagonistic to the very existence of our Tribe and People, thus preventing us from exercising, in particular, our right to development in accordance with our own needs and interests;

Recognizing the urgent need to respect and promote the inherent rights of the Modoc Tribe and People, which derive from our political, economic and social structures and from our culture, spiritual and religious traditions, histories and philosophies, and especially our aboriginal rights to our lands, territories and resources;

Recognizing the urgent need to reassert, preserve and pass on to future generations our unique identity both as a uniquely cultured indigenous people and as a sovereign tribal body politic; and

Organizing ourselves to achieve political, economic, social and cultural empowerment and in order to bring to an end to all forms of discrimination and oppression against our people;

Convinced that the recognition of the rights of the Modoc Tribe and People set forth in this Declaration will enhance harmonious and cooperative relations between our Tribe of people, other Indian tribes, and the various levels and agencies of federal, state and local governments for the very reason that this Declaration is based on principles of justice, democracy, respect for human rights, non-discrimination and good faith;

Solemnly proclaim the following Declaration of the Rights of the Free and Sovereign People of the Modoc Tribe (*Mowatocknie Maklaksûm*) as a minimum standard of achievement to be pursued in a spirit of partnership and mutual respect:

Article 1

The Modoc Tribe and People have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the U.S. Declaration of Independence, the United States Constitution, the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Rights of Indigenous Peoples and international human rights law.

Article 2

The Modoc Tribe and People are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of our rights, in particular that based on our indigenous origin or identity.

Article 3

The Modoc People have the right to self-determination. By virtue of that right we shall freely determine our political status and freely pursue our economic, social and cultural development.

Article 4

The Modoc People, in exercising our right to self-determination, have the right to autonomy or self-government in matters relating to our internal and local affairs, as well as ways and means for financing our autonomous functions.

Article 5

The Modoc people have the right to maintain and strengthen our distinct political, legal, economic, social and cultural institutions, while retaining our right to participate fully, if we so choose, in the political, economic, social and cultural life of the United States of America.

Article 6

Every Modoc individual has the right to a nationality.

Article 7

1. Every Modoc individual has the rights to life, physical and mental integrity, liberty and security of person.

2. The Modoc Tribe and People have the collective right to live in freedom, peace and security as a distinct people and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing Modoc children to another group.

Article 8

1. The Modoc Tribe and People have the right not to be subjected to forced assimilation or destruction of our culture.

2. The United States government shall provide effective mechanisms for the prevention of, and redress for:

(a) Any action which has the aim or effect of depriving us of our integrity as distinct peoples, or of our cultural values or ethnic identities;

(b) Any action which has the aim or effect of dispossessing us of our lands, territories or resources;

(c) Any form of forced population transfer which has the aim or effect of violating or undermining any of our rights;

(d) Any form of forced assimilation or integration;

(e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against us.

Article 9

The Modoc People individually and collectively have the right to belong to the Modoc Tribe and within our Tribe to a community and band in accordance with the traditions and customs of the Tribe and the community and band concerned. No discrimination of any kind may arise from the exercise of this right.

Article 10

The Modoc People shall not be forcibly removed from our lands or territories. No relocation shall take place without the free, prior and informed consent of the Modoc Tribe and People concerned and after agreement on just and fair compensation and, where possible, with the right of return.

Article 11

1. The Modoc Tribe and People have the right to practice and revitalize our cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of our culture, such as archaeological and historical sites, artifacts, designs, rituals, ceremonies, technologies and visual and performing arts and literature.

2. The United States government shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with the Modoc Tribe and People, with respect to our cultural, intellectual, religious and spiritual property taken without our free, prior and informed consent or in violation of our laws, traditions and customs.

Article 12

1. The Modoc Tribe and People have the right to manifest, practice, develop and teach our spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to our religious and cultural sites; the right to the use and control of our ritual and ceremonial objects; and the right to the repatriation of our human remains.

2. The United States government shall seek to enable the access and/or repatriation of ceremonial objects and human remains in its possession, or in the possession of universities, museums or other organizations that receive federal funding, through fair, transparent and effective mechanisms developed in conjunction with the Modoc Tribe and People.

Article 13

1. The Modoc Tribe and People have the right to revitalize, use, develop and transmit to future generations our history, language, oral traditions, philosophies, writing systems and literatures, and to designate and retain our own names for communities, places and persons.

2. The United States government shall take effective measures to ensure that this right is protected and also to ensure that the Modoc people can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of linguistic or cultural interpretation or by other appropriate means.

Article 14

1. The Modoc Tribe and People have the right to establish and control our own educational systems and institutions providing education in our own language, in a manner appropriate to our cultural methods of teaching and learning.

2. Modoc individuals, particularly children, have the right to all levels and forms of education available from educational institutions operating in the United States of America without discrimination.

3. Local, state and federal governments shall, in conjunction with the Modoc Tribe and People, take effective measures, in order for Modoc individuals, particularly children, including those living outside our communities, to have access, when possible, to an education in our own culture and provided in our own language.

Article 15

1. The Modoc Tribe and People have the right to the dignity and diversity of our culture, traditions, history and aspirations, which shall be appropriately reflected in education and public information.

2. Local, state and federal governments shall take effective measures, in consultation and cooperation with the Modoc Tribe and People, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among other Indian tribes and peoples and all other segments of society.

Article 16

1. The Modoc Tribe and People have the right to establish our own media in our own language and to have access to all forms of non-indigenous media without discrimination.

2. Local, state and federal governments, without prejudice to ensuring full freedom of expression, should encourage privately owned media to adequately reflect the indigenous cultural diversity of southern Oregon and northern California.

Article 17

1. The Modoc Tribe and People have the right to enjoy fully all rights established under applicable international, national and state labor law.

2. Local, state and federal governments shall, in consultation and cooperation with the Modoc Tribe and People, take specific measures to protect Modoc children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.

3. The Modoc Tribe and People as individuals have the right not to be subjected to any discriminatory conditions of labor and, inter alia, employment or salary.

Article 18

The Modoc Tribe and People have the right to participate in decision-making in matters that would affect our rights, through representatives chosen by ourselves in accordance with our own procedures, as well as to maintain and develop our own tribal decision-making institutions.

Article 19

Local, state and federal governments shall consult and cooperate in good faith with the Modoc Tribe and People through our own representative institutions in order to obtain our free, prior and

informed consent before adopting and implementing legislative or administrative measures that may affect us or our interests.

Article 20

1. The Modoc Tribe and People have the right to maintain and develop our own political, economic and social systems or institutions, to be secure in the enjoyment of our own means of subsistence and development, and to engage freely in all our traditional and other economic activities.

2. The Modoc Tribe and any of its individuals who have been deprived of their means of subsistence and development are entitled to just and fair redress.

Article 21

1. The Modoc Tribe and People have the right, without discrimination, to the improvement of our economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.

2. Local, state and federal governments shall take effective measures and, where appropriate, special measures to ensure continuing improvement of our economic and social conditions. Particular attention shall be paid to the rights and special needs of Modoc elders, women, youth, children and persons with disabilities.

Article 22

1. Particular attention shall be paid to the rights and special needs of Modoc elders, women, youth, children and persons with disabilities in the implementation of this Declaration.

2. Local, state and federal governments shall take measures, in conjunction with the Modoc Tribe and People, to ensure that Modoc women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

Article 23

The Modoc Tribe and People have the right to determine and develop priorities and strategies for exercising our right to development. In particular, the Modoc Tribe and People have the right to be actively involved in developing and determining health, housing and other economic and social programs affecting us and, as far as possible, to administer such programs through our own institutions.

Article 24

1. The Modoc Tribe and People have the right to our traditional medicines and to maintain our health practices, including the conservation of our vital medicinal plants, animals and minerals. The Modoc People individually also have the right to access, without any discrimination, to all social and health services.

2. The Modoc People as individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. Local, state and federal governments shall take the necessary steps with a view to achieving progressively the full realization of this right.

Article 25

The Modoc Tribe and People have the right to maintain and strengthen our distinctive

spiritual relationship with our traditionally owned or otherwise occupied and used lands, territories, waters and other resources and to uphold our responsibilities to future generations in this regard.

Article 26

1. The Modoc Tribe and People have the right to the lands, territories and resources, which we have traditionally owned, occupied or otherwise used or acquired.

2. The Modoc Tribe and People have the right to own, use, develop and control the lands, territories and resources that we possess by reason of aboriginal ownership or other traditional occupation or use, as well as those which we have otherwise acquired.

3. Local, state and federal governments shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the Modoc Tribe and People.

Article 27

The United States government shall establish and implement, in conjunction with the Modoc Tribe and People, a fair, independent, impartial, open and transparent process, giving due recognition to the Modoc Tribe and People's laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of the Modoc Tribe and People pertaining to our lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. The Modoc Tribe and People shall have the right to participate in this process.

Article 28

1. The Modoc Tribe and People have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without our free, prior and informed consent.

2. Unless otherwise freely agreed upon by the Modoc Tribe and People, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

Article 29

1. The Modoc Tribe and People have the right to the conservation and protection of the environment and the productive capacity of our lands or territories and resources. Local, state and federal governments shall establish and implement assistance programs for the Modoc Tribe and People for such conservation and protection, without discrimination.

2. Local, state and federal governments shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of the Modoc Tribe and People without our free, prior and informed consent.

3. Local, state and federal governments shall also take effective measures to ensure, as needed, that programs for monitoring, maintaining and restoring the health of the Modoc People, as developed and implemented by the Modoc Tribe and People affected by such materials, are duly implemented.

Article 30

1. Military activities shall not take place in the lands or territories of the Modoc Tribe and People, unless justified by a relevant public interest or otherwise freely agreed with or requested by the Modoc Tribe and People.

2. Local, state and federal governments shall undertake effective consultations with the Modoc Tribe and People, through appropriate procedures and in particular through our representative institutions, prior to using our lands or territories for military activities.

Article 31

1. The Modoc Tribe and People have the right to maintain, control, protect and develop our cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of our sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. We also have the right to maintain, control, protect and develop our intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

2. In conjunction with the Modoc Tribe and People, local, state and federal governments shall take effective measures to recognize and protect the exercise of these rights.

Article 32

1. The Modoc Tribe and People have the right to determine and develop priorities and strategies for the development or use of our lands or territories and other resources.

2. Local, state and federal government shall consult and cooperate in good faith with the Modoc Tribe and People through our own representative institutions in order to obtain our free and informed consent prior to the approval of any project affecting our lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water, forest, geothermal, solar, wind or other resources.

3. Local, state and federal governments shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

Article 33

1. The Modoc Tribe and People have the right to determine our own identity or membership in accordance with our customs and traditions. This does not impair the right of Modoc individuals to obtain citizenship of the states and/or countries in which we live.

2. The Modoc Tribe and People have the right to determine the structures and to select the membership of our institutions in accordance with our own procedures.

Article 34

The Modoc Tribe and People have the right to promote, develop and maintain our institutional structures and our distinctive customs, spirituality, traditions, procedures, practices and juridical systems or customs, in accordance with international human rights standards.

Article 35

The Modoc Tribe and People have the right to determine the responsibilities of Modoc individuals to their communities.

Article 36

1. The Modoc Tribe and People, in particular those divided by international and/or state borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with our own members as well as other peoples across borders.

2. Local, state and federal governments, in consultation and cooperation with the Modoc Tribe and People, shall take effective measures to facilitate the exercise and ensure the implementation of this right.

Article 37

1. The Modoc Tribe and People have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with the United States government, its official agents or their successors and to have the United States government respect such treaties, agreements and other constructive arrangements.

2. Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of the Modoc Tribe and People contained in treaties, agreements and other constructive arrangements.

Article 38

Local, state and federal governments, in consultation and cooperation with the Modoc Tribe and People, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

Article 39

The Modoc Tribe and People have the right to have access to financial and technical assistance from the United States government and through international cooperation, for the enjoyment of the rights contained in this Declaration.

Article 40

The Modoc Tribe and People have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with local, state or federal governments or other parties, as well as to effective remedies for all infringements of our individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the Modoc Tribe and People and international human rights.

Article 41

The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilization, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of the Modoc Tribe and People on issues affecting them shall be established.

Article 42

The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and nation-states shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.

Article 43

The rights recognized herein constitute the minimum standards for the survival, dignity and wellbeing of the Modoc Tribe and People.

Article 44

All the rights and freedoms recognized herein are equally guaranteed to male and female Modoc individuals.

Article 45

Nothing in this Declaration may be construed as diminishing or extinguishing the rights the Modoc Tribe and People have now or may acquire in the future.

Article 46

1. Nothing in this Declaration may be interpreted as implying for any nation-state, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent nation-states.

2. In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law and in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society.

3. The provisions set forth in this Declaration shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith.

Now therefore, by affixing our signatures hereto, we, the free and sovereign people of the Modoc Indian Tribe (*Mowatocknie Maklaksûm*), acting in accordance with the principles of self-determination, and pledging ourselves to the reunification of our Tribe, the end of exile for our People, and the recovery and restoration of our sacred homeland, hereby affirm and ratify this Declaration.¹

DATED this _____ day of November, 2008.

¹Attached hereto are individually numbered signature sheets ratifying this Declaration