

**CONSTITUTION**

**OF**

**AILUK ATOLL**

**P R E A M B L E**

**WE, THE PEOPLE OF AILUK ATOLL, believing in God, the Almighty, do hereby establish this Constitution to be the next most supreme law of our land to the Constitution and any applicable laws of the Marshall Islands.**

**We have reasons to be proud of our forefathers and ourselves as their descendants for the sovereign right that we now possess. It is this reason that we now establish our own Constitution to reflect our wished and aspirations.**

**We wish to identify ourselves among our brothers, sisters, and their descendants who live within and outside of Ailuk Atoll. That among ourselves, we shall be able to exercise our own right to govern our own affairs.**

**So, let us ask God to lead us and be with us.**

**ARTICLE I**  
**INCORPORATION OF AILUK ATOLL**  
**LOCAL GOVERNMENT**

**Section 1. Name of the Local Government.**

**The name of the local government shall be Ailuk Atoll Local Government.**

**Section 2. Territorial Area.**

**(1) The local government shall exercise the territorial limit authorized under Article IX, Section 1(2) and (3) of the Constitution of the Marshall Islands which extends to the sea and the seabed of the internal waters of Ailuk Atoll and to the surrounding sea and seabed to a distance of five miles from the baselines from which the territorial sea of Ailuk Atoll is measured.**

**(2) Land right shall be extended to the reef in the ocean side or the lagoon side. Where there is no reef in the lagoon side, the right limit shall be extended to the baselines of the internal waters.**

**(3) The right beyond the limits provide in Section 2, Subsection (2) of this Article to an extend of five miles shall be under the jurisdiction of the local government.**

**Section 3. Capitol.**

**The seat of the Ailuk Atoll Local Government shall be located at Ailuk Island, Ailuk Atoll, or at any other location that the council by resolution declares.**

## ARTICLE II

### WARDS

#### Section 1. Local Government Wards

(1) The local government area shall be divided into four (4) wards (bukon), each electing equal number of members to the Council in the following manner –

**(a) WARD I: JITAKEN**

- |                        |          |
|------------------------|----------|
| <b>(i) Iroi Jedrik</b> | <b>1</b> |
| <b>(ii) Alap</b>       | <b>1</b> |
| <b>(iii) Kajoor</b>    | <b>2</b> |

**(b) WARD II.: AEN ION**

- |                        |          |
|------------------------|----------|
| <b>(i) Iroi Jedrik</b> | <b>1</b> |
| <b>(ii) Alap</b>       | <b>1</b> |
| <b>(iii) Kajoor</b>    | <b>2</b> |

**(c) WARD III.: JITOEN**

- |                        |          |
|------------------------|----------|
| <b>(i) Iroi Jedrik</b> | <b>1</b> |
| <b>(ii) Alap</b>       | <b>1</b> |
| <b>(iii) Kajoor</b>    | <b>2</b> |

**(d) WARD IV: AEN ROK**

- |                        |          |
|------------------------|----------|
| <b>(i) Iroi Jedrik</b> | <b>1</b> |
| <b>(ii) Alap</b>       | <b>1</b> |

- (2) The boundry line for ward I (JITAKEN) will start from the lagoon side of Monluial Weto Northward towards the Northeastern most part of Mononnat Weto. Eneje, Akulwe and the some islets within Ailuk Islands lagoon including the wetos in the small islands will all consist Ward I.
- (3) Ward II (AEN EON) starts from Jeloklap Islands northward to Kaven Island.
- (4) Ward III (JITOEN) covers the ocean side of Monluial Weto westward to Loluren Weto. Parcels of land and wetos in this area will be Ward III.
- (5) Ward IV (AEN ROK) covers Enekelik Island southward to Allirok Island.

### ARTICLE III

#### THE LEGISLATURE

##### Section 1. Establishment of the Legislature.

There is hereby established to be known as Ailuk Atoll Local Council pursuant to Section 14(1) of the Local Government Act of 1980. The power to make Ordinances shall be vested in the Council.

##### Section 2. Membership and Elections.

- (1) The Ailuk Atoll Local Council shall consist of sixteen (16) voting members elected from the four (4) election wards, as provided for by Article II, Section 1(1) (a), (b), (c) and (d) at the first general

held after the effective date of this Constitution, including 2 at-large members election (Iroijlaplap and Ailuk Representative to the Nitijela) as provided for under this Article Section 2(2) and (3).

- (2) The Iroijlaplap seat shall be available whenever the Council is in session and he/she is present. The Iroijlaplap may designate a deputy having a close relationship to represent him in any proceeding of the Council. In the case where the Iroijlaplap is absent from a meeting of the Council, his seat will still be considered ex-officio and the Council shall seek his advice and/or answer.
- (3) The Senator elected to the Nitijela from Ailuk Atoll shall have the right to attend any Council meetings.
- (4) The Secretary/ Treasurer shall attend all meetings of the Council as a non-voting member. He shall keep minutes and records of each meeting of the Council, besides his other duties as Treasurer of the Council. The council shall by resolution if necessary separate the Secretary/Treasurer office into two separate office.
- (5) All sixteen (16) members to be elected from each of the four wards, pursuant to Article II, Section (1) (a), (b), (c) and (d) shall be elected by ballot by eligible voters in accordance with Section 24 of the Local Government Act 1980.
- (6) There shall be an election every two (2) years for 8 members of the Council, pursuant to Section 4(1) and (2) of this Article.

**Section 3. Qualification of Council Members.**

- (1) Each member of the Council must be at least 21 years age or older.**
- (2) He must be from Ailuk Atoll.**
- (3) He must have of Iroiylaplap, Iroiiedrik, Alap and Dri Jerbal rights in the ward in which he is seeking election from.**
- (4) He must have resident on Ailuk Atoll for at least three (3) years if he is not qualified under Subsection 3.**
- (5) He must not be mentally incapacitated.**
- (6) He must not be under criminal sentence at the time he/she as seeking election.**
- (7) He must be voter of the ward in which he is a candidate.**
- (8) No persons with Iroiiedrik or Alab will seek the Kajoor seats in the Council; and no person with Kajoor rights will seek to be elected to the Iroiiedrik and Alab seats in the Council.**
- (9) He must be dully elected by qualified voters of the ward he's seeking election from as provided for under Article II, Section 1(1)(a), (b), (c) and (d) of this Constitution.**

**Section 4. Term of Office.**

- (1) The term of office of members elected to the Council from each ward shall be a term of 4 years. Terms shall be staggered so that 8 members will hold office for a period of 2 years while the other 5 serve a full four year term.**
- (2) The Mayor and the 4 executive members shall serve a term of 4 years.**

- (3) Three (3) members of the other 11 members of the Council, who are not executive committee members, will be in office in accordance with Subsection 2, and the manner of selection will be by drawing lots from the 11 members left to accommodate Section 2(6) of this article.**
- (4) The term of office for council members shall commence the day after the election results have been announced and shall terminate (unless a seat becomes vacant under Section 5) on the day before a special or general election.**

**Section 5. Vacation of Seats.**

- (1) The seat of a member of the Council become vacant if, and only if –**
- (a) his term of office terminates pursuant to Section 4; or**
  - (b) he ceases to possess the qualifications required under Section 3; or**
  - (c) He dies; or**
  - (d) He resigns his seat in writing to the Mayor; or**
  - (e) He is removed from office under Subsection (2).**
  - (f) He is removed from office under Subsection (3).**
- (2) Any member of the Council who is absent from three consecutive Council meetings, without approval of the Mayor, shall be deemed to have resigned his office. The office of that member will be considered vacant and shall be filled promptly in a special election, unless it is less than 60 days prior to the next general election, or a special election.**
- (3) The Council may, by the affirmative vote of not less than three-fourth of the total voting membership of the Council, remove a member from his**

**office for negligence or other wrongful act or any misconduct of public duties.**

**Section 6. Meetings of the Council.**

- (1) The meetings of the Council shall be held on the first Friday of and in accordance with the Rules of Procedure of the Council.**
- (2) Any meeting of the Council may be conducted at the seat of Ward II (Enejar Island) or as may be decided by the Council, by resolution adopted in the previous meeting.**
- (3) The Mayor may at any time, after receipt of a petition of a majority of the Council members, stating the business to be dealt with, call a special meeting of the Council pursuant to the Rules of Procedures.**
- (4) A special meeting shall deal only with the subjects stated in the notice calling the meeting.**
- (5) Meetings of the Council shall be open to the public.**
- (6) The Mayor shall preside at all meetings of the Council at which he is present. During his absence or incapacity, a member elected by the members present shall preside.**
- (7) Quorum for a meeting of the Council shall be 2/3 of the total voting membership shall preside.**
- (8) Except as otherwise provided by the Local Government Act 1980, all questions before a meeting of the Council shall be determined in accordance with the majority of the members present and voting, but no question will be decided on an evenly dived vote.**

**Section 7. Procedure of the Council**

- (1) The Secretary/Treasurer shall keep and publish a journal of the proceedings of the Council. All public records shall be open to the public.**
- (2) Non-voting members shall not be counted as members to constitute the two-thirds quorum required by this Constitution.**
- (3) The Council shall make Rules of Procedures, not inconsistent with this Constitution, any Central Government Law or any Ordinance of the local government for the regulation and orderly conduct of its proceedings and the dispatch of its official business.**
- (4) Subject to the Constitution and the Local Government Act 1980, the Council may regulate its own proceedings.**

**Section 8. Committees**

**The Council may establish standing and other committees to deal with any matter that can in its opinion more properly or more community be dealt with by a committee.**

**Section 9. Violation**

**Violation of ordinance shall be a misdemeanor. No fine imposed as penalty for violation of an ordinance shall exceed one hundred (\$100) dollars and no sentence to public labor for violation of any ordinance shall exceed 30 days.**

**ARTICLE IV**

**THE HEAD OF THE LOCAL GOVERNMENT**

**Section 1. Office and Qualifications of the Head of the Local Government.**

- (1) The Head of the Local Government shall be called the Mayor whose executive office will be located in the seat of the local government, provided for in Article I, Section 3 of this Constitution.**
- (2) In addition to the qualifications of the Council Members as set out under Article III, Section 8 of this Constitution, the Mayor shall be at least 25 years of age.**

**Section 2. Election of Mayor.**

- (1) The Mayor shall be elected by affirmative vote of the total number of the voting membership of the Council, having received the highest and the majority votes of the Council.**
- (2) Election of the Mayor shall be held at the first meeting of the Council, or in the case where the office of the Mayor is vacated, election to that office shall be at the next meeting of the Council.**

**Section 3. Vacation of Office.**

- (1) The office of the Mayor shall become vacant if, and only if –
  - (a) his seat in the Council becomes vacant pursuant to Article III, Section 5 of this Constitution; or**
  - (b) he is dismissed under subsection (2) of this Section; or**
  - (c) he resigns his office by notice in writing to the Secretary/Treasurer of the Council 30 days prior to resignation.****
- (2) The Council may remove the Mayor by an affirmative vote of three-fourths of the total voting membership of the Council for cause.**

- (3) If the office of the Mayor becomes vacant because his term of office expires in accordance with article III, Section 4(2), he shall continue to perform the functions of the Mayor until a new Mayor is elected, and unless he becomes again a member of the Council, he shall not vote and take part in the Council's deliberation, except as one chairing the meetings.**

**Section 4. Acting Mayor**

- (1) An acting Mayor need not be 25 years of age while acting in that capacity.**
- (2) An acting Mayor may be appointed by the Mayor to perform his function in the event of illness, absence or incapacity. The Acting capacity shall be terminated upon the availability of the Mayor.**
- (3) The Mayor may in writing during absence, illness or incapacity, appoint any one of the 4 executive members to act in his place. The acting capacity shall be terminated upon the availability of the Mayor.**

**Section 5. Functions of the Mayor**

**The Mayor shall have the powers, functions, duties and responsibilities as are conferred on him by this Constitution, an Ordinance of the Local Government, a Central Government law or the Rules and Procedure of the Local Government.**

**Section 6. The Executive Committee**

- (1) There shall be an Executive Committee which will be the principal executive arm of the Ailuk Atoll Local Government.**
- (2) The Executive Committee is collectively responsible to the Council for the executive management of the local government in relation to the**

performance of its functions; or the carrying out of the local government Ordinance; and or the enforcement of any Central Government laws.

**Section 7. Composition of the executive Committee.**

- (1) The Executive Committee shall consist of the 4 members of the total voting membership of the Council, all of whom shall be appointed by the Mayor.**
- (2) The Secretary/Treasurer, who is a non-voting member, shall attend all Executive Committee meetings.**
- (3) The Mayor shall be the presiding officer of the Executive Committee meetings. The appointed Acting Mayor shall preside over all Executive Committee meetings in the event of illness, absence or incapacity of the Mayor.**
- (4) The quorum for a meeting of the Executive is three.**

**Section 8. Acting Appointment**

**The Mayor shall have the power to –**

- (a) appoint another Executive Member to perform all or part of his functions when a vacancy occurs; or**
- (b) appoint a member of the Council to perform and act as an Executive Member of the Committee.**

**Section 9. Allocation of Responsibilities to Executive Members**

- (1) Subject to this constitution, any ordinance of the local government, the Mayor from time to time allocate to an Executive Member responsibility for matters within the competence of the Executive Committee (including**

**responsibility for the administration of ordinances of the local government).**

- (2) The Mayor is responsible for any matter of responsibility for which is not for the time being allocated under Subsection (1).**
- (3) Nothing in this section affects the collective responsibility of the Executive Committee under Section 6(2).**

**Section 10. Advice to the Council, etc., on certain matters.**

- (1) The Mayor shall promptly notify the Council and the Minister of the Government of the Marshall Islands responsible for local government matters of –**
  - (a) the appointment, dismissed or resignation of a member of the Executive Committee; or**
  - (b) the appointment, or the termination of the appointment, of a member of the Council to act as an Executive Member under Section 8(1) (6); or**
  - (c) the appointment by him of a member of the Executive Committee to perform the functions of the Mayor under Section 4(2) and (3); or**
  - (d) the appointment under Section 9(1) of responsibilities of an Executive Member to perform functions of another Executive Member.**
- (2) The Executive Committee shall promptly notifying the Council and the Minister of the Government of the Marshall Islands responsible for local**

government matters of the appointment by it of a member of the Executive Committee to perform the functions of the Mayor under Section 4(2) and (3).

- (3) The Secretary/Treasurer shall promptly notify the Council and the Minister of the Government of the Marshall Islands responsible for local government matters of the resignation of the Mayor under Section 3(1) (e), or of the dismissal of the Mayor under Section 3(2).

## ARTICLE V

### FINANCE

#### Section 1. Control of Revenue and Expenditures

- (1) No taxes shall be imposed and no revenue shall be raised, and no money of the local government shall be expended, unless authorized by Ordinance.
- (2) All money received by the local government shall be deposited or paid into a general fund or account established in accordance with such an Ordinance.
- (3) Subsection (1) does not apply to the acceptance of grants (other than loans) from the Government of the Marshall Islands, nor to expenditure from such grants for the purpose for which, and subject to the conditions on which, they are made.

#### Section 2. Financial responsibility of the Executive Committee

- (1) It is the responsibility of the Executive Committee to make proposals to the Council on all matters relating to the budget, and in particular the Executive Committee shall make recommendations to the Council for the raising of taxes and other revenues, and for the expenditure of money of the local government.**
- (2) The Executive Committee is accountable to the Council for all expenditure of money of the local government and for relating such expenditure to appropriations made by the Council or to other authority conferred by this Constitution, and ordinance of the local government or a Central Government law.**
- (3) Except on the recommendation or with the consent of the Executive Committee, signified by or on behalf of the Mayor, the Council shall not make or approve any Ordinance or other proceeding introduced by a member other than the Mayor or an Executive Member if the Ordinance or proceeding would, in the opinion of the member of the Council presiding –**

  - (a) dispose of or charge any of the revenue of the local government; or**
  - (b) revoke or alter (otherwise than by the way of reduction) any such disposition or charge; or**
  - (c) impose, alter or abolish any tax, rate, due fee or fine.**

**Section 3. Budgets and appropriations.**

- (1) The Executive Committee shall cause to be introduced into the Council in respect of each financial year –**

- (a) a set of budget estimates of revenue and expenditure; and**
  - (b) an Appropriation Ordinance to make appropriations for expenditure, and may introduce additional supplementary estimates and Supplementary Appropriation Ordinances.**
- (2) Subject to any Local Government Administrative Memoranda issued under Section 46(1) (a) of the Local Government Act 1980 in relation to the format of Ordinances and to any Local Government Financial Memoranda issued under Section 46(2) of that Act, Appropriation Ordinances and Supplementary Appropriation Ordinances shall follow the general form of Central Government Appropriation Bills and Supplementary Appropriation Bills under Article VIII, Sections 6 and 8 of the Constitution of the Marshall Islands.**
- (3) Subject to any Local Government Financial Memoranda issued under Section 46(2) of the Local Government Act 1980, an Ordinance of the local government may make provision, in accordance with the principles of Article VIII, Section 7 and 9 of the Constitution of the Marshall Islands, for anticipated and re-programmed expenditure and a Contingencies Fund.**
- (4) Nothing in this section prevents appropriations for specific purposes being included in an Ordinance of the local government other than an Appropriation Ordinance or a Supplementary Appropriation Ordinance.**

- (5) Appropriations lapse at the end of the financial year to which they respectively relate, unless, in relation to any particular head of appropriation, an Ordinance of the local government provides otherwise.**

**Section 4. Anticipated Indebtedness**

- (1) Any loan raised or charged against the future measures of Ailuk Atoll Local Government shall be enacted by an Ordinance specifying the principal sum to be borrowed, the interest to be paid into the loan, the term and conditions of repayments and the purpose of the loan.**
- (2) Only fifteen percent (15%) of the total local revenues collected in the previous financial year shall be available for the raising of such loans.**

**Section 5. Accounts**

- (1) The Executive Committee shall cause to be kept full and proper accounts and records of revenue and expenditure of the local government, assets of or under the control of the local government and liabilities of the local government.**
- (2) The accounts and records shall comply with –**
- (a) any Local Government Financial Memoranda issued under Section 46(2) of the Local Government Act 1980; and**
  - (b) subject to such memoranda, any directions of the Auditor-General and**
  - (c) subject to such memoranda and directions, any ordinance of the local government.**

**(3) The Executive Committee shall, as soon as practicable after the end of a financial year, lay before the Council accounts relating to all revenues and expenditures of the local government for that financial year, together with any report of the audit of the accounts under Section 6.**

**Section 6. Audit**

**(1) In addition to the audit provided for by Section 40 of the Local Government Act 1980, the Auditor-General or a person authorized by him may at any time audit the accounts and records of the local government, and any accounts laid or to be laid before the Council under Section 5(3).**

**(2) The Auditor-General or authorized person shall report to the Council and to the Minister of the Government of the Marshall Islands responsible for local government matters on the audit and shall, in his report, draw attention to any irregularities in the accounts and records, or in the accounts, as the case may be.**

**(3) For the purpose of an audit under Subsection (1), the Auditor-General or authorized person has the powers and rights referred to in Article VIII, Section 15 of the Constitution of the Marshall Islands.**

**Section 7. Financial Memoranda**

**Subject to this Constitution, all person concerned with the financial administration of the local government shall comply with any Local Government Financial Memoranda issued under Section 46(2) of the Local Government Act 1980.**

## ARTICLE VI

### STAFF

#### Section 1. Employment of staff

- (1) The Mayor, on behalf of the local government, may appoint a Secretary/Treasurer of the local government, and such other officers and employees as he considers necessary for the effective operation of the local government.
- (2) The local government is the employer of the Secretary/Treasurer and the other officers and employees.
- (3) The terms and conditions of appointment and employment of the Clerk and the officers and employees shall be determined by or under an Ordinance of the local government, and in the absence of such an Ordinance are, with the necessary modifications, those of members of the Public Service holding equivalent positions, for which purpose any reference in any Central Government law to –
  - (a) the Chief Secretary or a Department head shall be read as reference to the Secretary/Treasurer; or
  - (b) the Public Service Commission – shall be read as reference to the Executive Committee.

#### Section 2. Seconded, etc., public servants

**Subject to any arrangements made under Section 16(3) of the Local Government Act 1980, and to anything to the contrary in any Ordinance of the local government, a member of the Public Service who is seconded to the local government in accordance with the section, or whose services are made available to the local government in accordance with that section, shall be deemed to be an officer of the local government for the purposes of any Ordinance of the local government other than an Ordinance prescribing terms and conditions of employment by the local government.**

## **ARTICLE VII**

### **AMENDED TO THE CONSTITUTION**

#### **Section 1. Methods of Amendment**

- (1) The Constitution of Ailuk Atoll shall be amended only by an ordinance approved by two-thirds majority of the total number of voting membership of the council and subsequently ratified by referendum of all eligible voters of Ailuk Atoll.**
- (2) The opportunity to amend this constitution will be up every five years.**

## **ARTICLE VIII**

### **MISCELLANEOUS**

#### **Section 1. Central Government recommendations as to Ordinances, etc.**

**If the Minister of the Government of the Marshall Islands responsible for local government matters recommends to the local government that an Ordinance be made, amended or repealed, the Mayor shall cause the recommendation to be presented to the Council together with the comments of the Executive Committee on it.**

**Section 2. Advice as to Validity of Ordinances, etc.**

**(1) The Mayor may, and shall if so directed by the Council, request the Minister of the Government of the Marshall Islands responsible for local government matters for a report by the Attorney-General on the validity of an Ordinance or proposed Ordinance of the local government, or of any action or proposed action by the local government.**

**(2) If the Minister furnished a report as requested in accordance with Subsection (1), the Mayor shall present the report to the Council.**

**Section 3. Vacancies**

**The validity of any thing done by the Council or the Executive Committee or, subject to any Ordinance of the local government and to the Rules of Procedure of the council, of a Committee of Council is not affected by any vacancy in its membership, provided that the number necessary to form a quorum for a meeting remains.**

**Section 4. Service.**

**Where any document or thing is to be given to, served on or communicated to a local government at a time when –**

- (a) there is a vacancy in the office of the Mayor or the Mayor is absent or incapacitated; and**
- (b) there is no person appointed under Article IV, Section 4, it is sufficient if it is addressed to the Secretary/Treasurer of the local government.**

**Section 5. Effective Date**

**The effective date of this Constitution shall be April 22, 1982 (or a date a near as practicable to this date) after a referendum in the issue. “Do you approve of the proposed Constitution of Ailuk Atoll” (vote Yes or No) which the Minister of the Government of the Marshall Islands Government responsible for local government matters will declare.**