

CONSTITUTION OF THE STATE OF AIRAI

PREAMBLE

WE THE PEOPLE OF AIRAI
EXERCISING OUR SOVEREIGNTY UNDER GOD,
GUIDED BY AND SUBJECT TO THE CONSTITUTION OF PALAU,
DO HEREBY DEDICATE OURSELVES
THROUGH THIS CONSTITUTION OF THE STATE OF AIRAI
TO THE PRESERVATION AND ENRICHMENT OF OUR PALAUAN HERITAGE
AND THE VALUES AND BELIEFS IT STANDS FOR,
WE PLEDGE OURSELVES TO LIVE IN PEACE
AND TO WORK TOGETHER IN HARMONY FOR GOOD OF ALL,
WITH FULL RESPECT FOR THE WISDOM AND JUDGMENT
OF THOSE WE CHOOSE TO LEAD US.

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ARTICLE I

TERRITORY

Section 1. Subject to the conditions set forth in the Constitution of Palau, the state of Airai shall be bounded by those borders traditionally associated with Airai, which are more specifically defined in the Charter of the Municipality of Airai dated February 18, 1963.

Section 2. The six (6) Traditional Hamlets of the State of Airai known as Ordomei, Ngerusar, Oikull, Ngeruluobel, Ngchesechang and Ngetkib shall bear the same name. The number of Hamlets shall not be decreased. The six (6) Traditional Hamlets shall be bounded according to customs and traditions.

ARTICLE II

SUPREMACY

Section 1. This constitution is the Supreme Law of the State of Airai.

Section 2. Any law or act of the Government of the State of Airai which conflicts with this constitution shall be invalid to the extent of such conflict.

ARTICLE III

SUFFRAGE AND ELECTIONS

Section 1. Citizenship and residence in the State of Airai shall be determined by traditional standards.

Section 2. Any person who is a citizen of both the Republic of Palau and the State of Airai, eighteen (18) years old or older, and a resident and registered to vote in accordance with the law, may vote in any State election.

Section 3. The State Legislature shall prescribe further qualifications and the methods of voting, provide for voter registration, and prescribe a minimum period of residence, where not otherwise provided by this Constitution.

ARTICLE IV

FUNDAMENTAL RIGHTS

Section 1. All persons in the State of Airai are entitled to those traditional and

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fundamental rights as provided by the Constitution of the Republic of Palau.

Section 2. Subject to this Constitution, the Government of the State of Airai shall take no action to prohibit, revoke, or take away a role or function of a traditional leader as recognized by custom and tradition.

ARTICLE V

RESPONSIBILITIES OF THE STATE GOVERNMENT

The Government of the State of Airai shall take every step reasonable and necessary to promote the education, health care and well-being of all the people in the State of Airai.

ARTICLE VI

EXECUTIVE

Section 1. The chief executive of Airai State government shall be the Governor.

Section 2. In order to be eligible for the Office of the Governor a person shall:

- (a) be a citizen of Palau and a person of Airai;
- (b) be at least thirty (30) years of age;
- (c) not have been convicted of a felony, nor be under probation or serving time in jail, provided that conviction of a felony shall be no bar if the person has been pardoned; and
- (d) not be employed by the State government or the national government.

Section 3. The Governor shall be elected in a state-wide election for a term of four (4) years. A person may not serve as Governor for more than two (2) consecutive terms.

Section 4. The Governor may have all the inherent powers and duties of a state chief executive, including, but not limited to the following:

- (a) to enforce the law of the State;
- (b) to spend money pursuant to appropriation laws and to collect taxes;
- (c) to represent the State in all legal matters;
- (d) to propose an annual budget for the State government and present it for consideration of the State Legislature;
- (e) to approve or veto bills passed by the State Legislature;
- (f) to represent the State government in all negotiations with other states of the Republic of Palau, the national government, and other nations and international bodies, provided that any agreement made with another nation or international body shall not become effective without the consent of the State Legislature;
- (g) to exercise emergency powers, not inconsistent with the Constitution of the Republic

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of Palau, as provided for by law; and
(h) to introduce legislative measures in the State Legislature.

Section 5. The compensation of the Governor shall be established by law.

Section 6. A Council of Chiefs composed of a traditional chief from each hamlet of Airai State, Ngiraked, Tuchermel, Ngirachitei, Iyechaderteluang, Spis, and Techedib, shall advise the Governor on matters concerning traditional laws, customs and their relationship to the Constitution and the laws of Airai State. The compensation of the members of the Council of Chiefs shall be established by law.

Section 7. The Speaker of the State Legislature shall succeed to the Office of Governor if it becomes vacant. If the vacancy occurs due to death, resignation or disability and more than one hundred and eighty (180) days remain in the term, a state-wide election for the Office of Governor for the remaining term shall be held within two (2) months of vacancy.

Section 8. The Governor may be removed from office by a recall. A recall is initiated by a petition which shall state the ground for recall, and be signed by not less than twenty-five (25%) percent of the registered voters who voted in the most recent election for the elected members of the Airai State Government. Within sixty (60) days of the filing of the petition the State Legislature shall provide for a recall election to be held pursuant to law. If a majority of the votes cast approves of the recall, the elected member shall be immediately removed from office.

ARTICLE VII

LEGISLATURE

Section 1. The legislative power shall be vested in the OLBIIIL RA NGERCHUMELBAI (Airai State Legislature).

Section 2. The membership of the State Legislature shall consist of one (1) elected from each hamlet of Airai State and nine (9) to be elected at large.

Section 3. A person may become a candidate for election to the State Legislature if the person:

- (a) Is a citizen of Palau and a person of Airai;
- (b) Is at least twenty-five (25) years of age; and
- (c) Has not been convicted of a felony, nor is under probation imposed by a court at the time of the election; conviction of a felony shall be no bar provided that the person has been pardoned.

Section 4. The term of office for the members of the State Legislature shall be four (4) years.

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Section 5. The State Legislature shall be the sole judge of the qualifications of its members. Any member may be disciplined by a majority vote, or expelled by a vote of not less than two-thirds (2/3) of the members for cause as prescribed by law.

Section 6. The State Legislature shall elect a Speaker of the State Legislature and its other officers by a majority vote of the membership.

Section 7. Subject to State law and the Constitution of the Republic of Palau, the State Legislature shall have the following powers and responsibilities:

- (a) To levy and collect taxes and other forms of revenues;
- (b) To borrow money on the credit of the State of Airai to finance public programs, investments, or to pay public debts;
- (c) To ratify major State agreements or contracts by a majority vote of the membership;
- (d) To promote the general peace, well-being, welfare and security of the people of the State of Airai;
- (e) To impeach and remove the Governor by a vote of not less than two-thirds (2/3) of its members; and
- (f) To enact any law which may be necessary and proper for exercising the foregoing responsibilities and all other responsibilities vested in the State Legislature by this Constitution or by the laws and Constitution of the Republic of Palau.

Section 8. The State Legislature shall promulgate its own rules and procedures not inconsistent with this Constitution and the laws of the Republic of Palau, and may compel the attendance of absent members. A majority of the members shall constitute a quorum to do business.

Section 9. The State Legislature shall convene on the Tuesday of the second (2nd) week of April after the general election. The State Legislature shall meet regularly thereafter. Special sessions may be called by the Governor or Speaker of the State Legislature or upon request by a majority of its members.

Section 10. The State Legislature shall enact no laws except by bill. A bill must be adopted by a majority of the members present on two (2) separate readings, each reading to be held on a separate day, except during Special Session when only one (1) reading shall be required, and it must be sent to the Governor for his approval prior to it becoming law. A bill shall contain the following enacting clause: "THE PEOPLE OF THE STATE OF AIRAI REPRESENTED IN THE STATE LEGISLATURE DO ENACT AS FOLLOWS:".

Section 11. Upon receiving a bill the Governor shall review it for approval or veto. If he vetoes the bill, he shall return the bill to the State Legislature with a statement of reasons for the veto. If he approves the bill, it shall become a public law. If the Governor holds a bill in excess of fifteen (15) days without action, or ten (10) days if the State Legislature is in session, it shall automatically become a public law.

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Section 12. A bill vetoed by the Governor may be considered by the State Legislature within thirty (30) calendar days of its return and shall become law as originally adopted upon approval of not less than two-thirds (2/3) of the members of the State Legislature.

Section 13. The people may recall an elected member of the State Legislature from office. A recall is initiated by a petition which shall name the member sought to be recalled, state the ground for recall and be signed by not less than twenty-five (25%) percent of the registered voters who voted in the most recent election for the elected members of the State Legislature. Within sixty (60) days of the filing of the petition, the Governor shall provide for a recall election to be held pursuant to law. If the majority of the votes cast approves of the recall, the elected member shall be immediately removed from the office.

Section 14. If a member's position becomes vacant due to recall, expulsion, death, resignation or disability, and more than one hundred eighty (180) days remain in the term, an election for the period remaining shall be held within thirty (30) days of such vacancy. If less than one hundred eighty (180) days remain, the seat shall remain vacant.

Section 15. No member of the State Legislature shall be held to answer in any other place for any statement delivered during a legislative session. A member of the State Legislature shall be privileged from arrest while going to and from a legislative session, except in cases of treason, felony, or breach of peace.

Section 16. Compensation of the members of the State Legislature shall be determined by law. No increase in the compensation shall apply to the members of the State Legislature during the term of enactment.

ARTICLE VIII

JUDICIARY

The Judicial power of the State shall be vested in the National Unified Judiciary pursuant to Article X of the Constitution of the Republic of Palau,

ARTICLE IX

FINANCE

Section 1. There shall be a State Treasury responsible for the receipt, retention and disbursement of the funds of the Government of Airai. One of the Executive officers of the Government shall be designated the Treasurer of Airai. Disbursement of funds shall be made only for the purposes specifically authorized by the State Legislature.

Section 2. There shall be, at least once a year, an inspection and audit of the revenues and

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expenditures of the Government of the State of Airai as provided by the laws of the State of Airai and the Republic of Palau.

Section 3. No appropriation bill may be enacted until a bill appropriating money for the State Budget has been enacted.

Section 4. No tax shall be imposed on Land.

Section 5. No tax shall be imposed on People.

ARTICLE X

LANDS

Section 1. The State Government shall by law return all public lands which were acquired by the previous occupying powers or their nationals through force, coercion, fraud, or without just compensation or adequate consideration, in accordance with the laws and constitution of Palau, to the original owners or their heirs.

Section 2. The State Government shall have the power to take private property for public use upon payment of just compensation. No private property shall be taken by the State Government without prior consultation with the Council of Chiefs of each Hamlet in which the property is located. This power shall not be used for the benefit of a foreign entity and shall be used sparingly and only as a final resort after all means of good faith negotiations with the landowner have been exhausted.

Section 3. Any person who is not a citizen of the State of Airai shall not own land in Airai.

ARTICLE XI

CONSERVATION AND DEVELOPMENT OF RESOURCES

Section 1. It shall be the responsibility of the State Government to take positive action to conserve and develop its natural resources, to promote the state economy, and to protect the safety of property. For these purposes, investments relating to resources in Traditional Hamlets and on private property shall be subject to reasonable regulation, and notwithstanding any other provision of this Constitution, the State Government shall receive an amount equal to fifteen percent of the net profits derived from the exploitation of natural resources on all public and private lands.

Section 2. Subject to traditional rights and ownership, Airai State Government shall have the authority to regulate exploration, exploitation, protection, and ownership, including

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investment relating thereto, of marine resources as provided in the Constitution of the Republic of Palau.

ARTICLE XII

GENERAL PROVISIONS

Section 1. The Government of the State of Airai recognizes and respects and shall continue to so recognize and respect the traditional and customary relationships between itself and other states of the Republic of Palau.

Section 2. The State Legislature shall designate a place in Airai to be permanent Capital.

Section 3. The Palauan and English versions of this Constitution shall be equally authoritative; in case of conflict, the English version shall prevail.

ARTICLE XIII

AMENDMENT

Section 1. Any amendment to this Constitution may be proposed by a popular initiative or by the State Legislature as provided herein:

- (a) By a petition filed by not less than fifty percent (50%) of the registered voters of the State of Airai; or
- (b) By a resolution adopted by not less than three-quarters (3/4) of the members of the State Legislature.

Section 2. Any proposed amendment to this Constitution shall become effective when approved in a general election by a majority of the votes cast on that amendment.

ARTICLE XIV

TRANSITION

Section 1. A referendum for the ratification of the draft Constitution shall be held on March 8, 1990. All residents determined by their "traditional domicile" are allowed to participate in the referendum. Those who have not registered to vote in Airai shall be allowed to register to vote in this referendum without being required to first establish thirty (30) days physical presence in Airai prior to the election. As used in this section, "traditional domicile" is determined by clan affiliation and continuous contact with the community and other customary contacts with Airai State. The draft constitution shall be deemed ratified if approved by a majority of the votes cast in the referendum.

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Section 2. This Constitution shall take effect on April 5, 1990, unless otherwise provided herein.

Section 3. All existing laws in force and effect in Airai State immediately preceding the effective date of this Constitution shall, subject to the provisions of this Constitution, remain in force and effect until repealed, revoked, amended. or until they expire by their own terms.

IN WITNESS WHEREOF, we the undersigned Delegates to this Constitutional Convention of the State of Airai, assembled at Airai this 19th day of February 1990, have hereunto subscribed our names:

Ngiruchelbad Uchel, Ngiraked

/s/
Geggie Anson, Tuchermel

Baules Sechelong, Techaderteluang

Tatsuo Kamingaki, Techedib

/s/
Benancio B. Sasao for Ngirachitei

/s/
Ingereklii Emiliano, Rdialul

/s/
Rengulbai Ngirdimau, Adelbairureor

Elibosang Eungel, Uong

/s/
Lionsia Ngiratkakl, Remengesau

/s/
Richard Rechirei for Ederdei

HAMLET DELEGATES

Raymond Rebeluud,
ORDOMEL

Takeo Rengiil,
NGERULUOBEL

/s/
Meresbang Ngiralmu,
NGCHESECHANG

/s/
Merii Rengulbai,
NGERUSAR

Noah Secharraimul,
NGETKIB

/s/
Yoshitaka Adachi,
OIKULL

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DELEGATES AT-LARGE

_____/s/
Victor M. Yano

_____/s/
Charles I. Obichang

_____/s/
Martha Iechad

_____/s/
Lomisang Ngirmekur

_____/s/
Ngirangeang Ngiralmu

_____/s/
Teriong Beouch

_____/s/
Tmewang Rengulbai

Daniel Y. Ngirchokebai

Evasio Marino

Attested by: _____/s/
[for] Sandra S. Pierantozzi
Secretary of Convention