

Mendas Cha-Ag

Constitution

Of The

Healy Lake Tribe

Healy Lake Village

Healy Lake, Alaska

Draft of January 2016

Technical assistance: lisa.jaeger@tananachiefs.org

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PREAMBLE

We the Mendas Cha-Ag people have lived at Healy Lake for more than 10,000 years, in one of the oldest continuously inhabited places in the Americas. We exercise our freedom and sovereign powers in creating our written Constitution in recognition of our ancestors and to support the well-being and unity of this and succeeding generations. In writing this Constitution we assert our fundamental Native rights and traditions in supporting our Tribe's social, cultural, economic and political progress, and to protect our people, land, and natural resources now and into the future. We adopt this Constitution as a federally recognized Tribe, under our inherent sovereign authority. The Healy Lake Tribe adopted our first written Constitution in 1977, the "Constitution and Bylaws of the Village of Healy Lake." We replaced that Constitution in 1997 with the "Traditional Constitution of the Mendas Cha-Ag Tribe." Upon adoption by the Healy Lake tribal membership, this Constitution shall amend and supersede the Constitutions of 1977 and 1997.

ARTICLE 1 - NAME

Our Athabascan name is 'Mendas Cha-Ag' meaning the 'place of a body of water with an outlet,' our Healy Lake. The name of our Tribe on the list of federally recognized tribes published by the United States Department of Interior is 'Healy Lake Village.' Our Tribe has been referred to in the past as the 'Healy Lake Band.' It is sometimes referred to as the 'Healy Lake Tribe.' All of these names refer to the one federally recognized Tribe. In this Constitution, our Tribe shall be referred to as the Healy Lake Tribe, and the governing body as the 'Healy Lake Tribal Council.'

ARTICLE 2 – JURISDICTION

The Healy Lake Tribe shall have all the jurisdiction, immunities and privileges available to federally acknowledged Indian tribes, in our government-to-government relationship with the United States and other governments, as well as the responsibilities, powers, limitations and obligations of such tribes.

ARTICLE 3 – MEMBERSHIP

Section 1. Base Membership. The base membership of the Healy Lake Tribe was identified as the residents residing in Healy Lake in 1977 according to the first written constitution of our Tribe, the “Constitution and Bylaws of the Village of Healy Lake.” That Constitution was substantially amended in 1997 by the adoption of the “Traditional Constitution of the Mendas Cha-Ag Tribe,” which simply identified the base membership as being the names on the “base membership roll adopted by the Mendas Cha-Ag Traditional Council at the passage of this Constitution, provided that the Council may correct the base membership roll within two years following the adoption of this Constitution.” The roll compiled for the Mendas Cha-Ag village corporation, pursuant to the Alaska Native Claims Settlement Act most clearly identified the residents of Healy Lake in 1977 when the “Constitution and Bylaws of the Village of Healy Lake” was passed. That roll was the foundational roll for recognition under the Alaska Native Claims Settlement Act and subsequently the formal recognition of Healy Lake Village as a federally recognized tribe, and inclusion on the federal list as such. To clarify the base roll for our federally recognized Tribe, the roll developed for the Mendas Cha-Ag village corporation formed pursuant to the Alaska Native Claims Settlement Act shall be the Base Membership Roll for our Tribe. The Alaska Native tribal members on that list are:

1. Beaver, Josephine
2. Chapman, Ada Margaret
3. Erickson, Linda
4. Fifer, Michael Dwayne

5. Fifer, Monte Lee
6. Fifer, Robert Ray
7. Gorrod, Sarah Ann
8. Healy, Gary Wayne
9. Healy, Jenny
10. Henry, Agnes
11. Joe, David Alexander
12. Kirsteatter, Dorothy
13. Kirsteatter, Freddie
14. Kirsteatter, Margaret
15. Lee, Gary Dean
16. Lee, Richard Dale
17. Lee, Robert Edward
18. Lee, Wayne Joseph
19. Luke, Frank
20. Luke, Gary Lee
21. Luke, Louise
22. Luke, Lucy
23. Polston, Joann Lorry
24. Saylor, Benjamin Louis
25. Saylor, Patrick Charles
26. Saylor, Stella Healy
27. Thomas, Lena

Section 2. Descendants of Base Roll Members. All lineal descendants of Base Roll members shall be automatically eligible for membership in the Healy Lake Tribe. Children under 18 and lineal descendants of members on the Base Membership Roll shall be tribal members regardless of whether or not they are formally enrolled into the Healy Lake Tribe or enrolled into another tribe. Lineal descendants over 18, who are not already formally enrolled, shall be considered automatically eligible for membership in the Healy Lake Tribe and may submit applications for formal enrollment subject to the provisions of the Healy Lake Membership and Enrollment Code as amended subsequent to the adoption of this Constitution.

Section 3. Dual Enrollment. Dual enrollment is prohibited for adult members of the Tribe, 18 years of age and older. Dual enrollment is permitted for children. Children who are lineal descendants of base roll members are tribal members even if they are not formally enrolled, or if they are enrolled to another tribe. Children's enrollment or eligibility for enrollment may not be relinquished from the Healy Lake Tribe by any person for any reason.

Section 4. Adoption of New Members. The Tribal Council shall have the option to adopt Alaska Natives or American Indians with at least 1/8th Alaska Native or American Indian blood under the provisions of the Healy Lake Membership and Enrollment Code.

Section 5. Membership and Enrollment Code. The Tribal Council shall adopt and implement a revised Membership and Enrollment Code subsequent to the adoption of this Constitution which shall be consistent with this Constitution and may prescribe rules and regulations governing membership, including application and appeal procedures, maintenance of the membership roll, loss of membership, disenrollment, relinquishment of membership, and adoption of new members.

ARTICLE 4 – GOVERNING BODY

Section 1. Name and Powers. The governing body of the Healy Lake Tribe shall be the 'Healy Lake Tribal Council,' also referred to as the 'Council' or 'Tribal Council' in this Constitution. The Council shall represent the Tribe and shall exercise the powers of the Tribe cited in this Constitution unless otherwise provided by this Constitution or by Tribal Code.

Section 2. Number of Council Members, Officers, and Voting. The Healy Lake Tribal Council shall consist of 5 members. The Officers shall be the President, Vice President, and Secretary/Treasurer. The Officers shall be decided among the Council

members annually after the Council elections in March. All 5 members shall be entitled to vote, except on matters involving a conflict of interest.

Section 3. Qualifications for Serving on the Tribal Council. Enrolled tribal members who are 18 years of age or older, who are not enrolled into another tribe, who have not been convicted of a felony of moral turpitude within the past 10 years, or a crime involving sexual assault, embezzlement, or theft, conversion or misuse of tribal funds or property ever in their lives are eligible for serving on the Healy Lake Tribal Council. While it is the goal of the Healy Lake Tribe that all tribal council members be residents of Healy Lake, it is not practical to make residency a requirement for all tribal council members. A minimum of 2 council members shall be residents of Healy Lake. **[Shall this constitution require the President be a resident of Healy Lake?]**

Section 4. Quorum. Three Tribal Council members shall constitute a quorum for the transaction of business at any meeting of the Tribal Council unless a larger number is specifically required by this Constitution or by Tribal Code. The council members may meet either in person or be telephonically connected to meetings.

Section 5. Terms of Office and Time of Election. The 5 elected members of the Tribal Council shall hold office for a term of 2 years, provided that shorter terms may be used temporarily to begin or restore the staggering of terms. Two seats shall be up in even numbered years, and 3 seats in odd numbered years. A record shall be kept in the Tribal Office of when each seat was elected and when seat is up for re-election.

Section 6. Conflict of Interest. No Council member shall vote on any matter, including but not limited to employment hiring and contracts, project funding, provision of direct services, or appointments to tribal offices in which he or she has a direct, significant personal interest. A personal interest includes the involvement of his or her spouse or children. Healy Lake Council members shall not vote on any matter in which

they cannot be fair, for any reason. Council members present when such an issue is decided shall reveal such conflict prior to any vote, and shall abstain from voting.

ARTICLE 5 – DUTIES OF OFFICERS OF THE COUNCIL

Section 1. Assuming Duties. Newly elected Council members shall assume their duties immediately upon certification of election results.

Section 2. Chain of Command, Decision Making, Financial Signatures. During meetings, the Council shall make decisions by consensus when possible and by majority vote when consensus is not possible. The chain of command for chairing Council meetings shall be the President, the Vice President, and then the Secretary/Treasurer. When the Council is not meeting, the President shall generally represent the Tribe and oversee the day-to-day activities of the Council. No member of the Council shall have the authority to sign resolutions, contracts, funding allocations, or make major commitments of tribal resources without an affirmative vote of at least 3 Tribal Council members, provided that a higher number of affirmative votes may be required by this Constitution or by Tribal Codes in specific circumstances. Authorized check signers shall be designated by resolution of the Council, as well as anyone permitted to use tribal credit cards.

Section 3. President. The President shall be the first in command to preside over meetings of the Council and of the Tribe. The President shall provide general supervision for the affairs of the Council with the assistance of the Vice President. The President may sign, with either the Vice President or Secretary/Treasurer, leases, contracts, and other significant documents approved by an affirmative vote of at least 4 Council members, provided that a higher number of affirmative votes may be required by this Constitution or by tribal codes in specific circumstances.

Section 4. Vice President. The Vice President shall preside over meetings of the Council and of the Tribe in the absence of the President. The Vice President shall assist at the direction of the President providing general supervision over the affairs of the Tribe and Tribal Council.

Section 5. Secretary/Treasurer. The Secretary/Treasurer shall take or delegate the taking of minutes of all meetings. The Secretary/Treasurer shall issue or delegate the duty of issuing notices of all meetings and elections. The Secretary/Treasurer may be shall generally be familiar with tribal finances and may be requested to give financial reports to the Council. Upon vacating his or her office, the Secretary/Treasurer shall immediately turn over any and all the records and papers in his or her possession to his or her successor or to the Council.

ARTICLE 6 – REMOVAL, RECALL, FORFEITURE, AND VACANCIES

Section 1. Removal. Any elected members of the Council found guilty by the Council of neglect of duty, gross misconduct in office, or an offense involving dishonesty may be removed from office by the Council. A minimum of at least 4 Council members must vote in favor of the removal. Council members who are the subject of a removal shall first be given 10 days' notice in writing of the charges against him or her and be given an opportunity to answer such charges before the Council during an executive session of the Council. If the person subject to removal fails to appear before the Council, the Council may proceed in making a decision. No person shall preside over a meeting at which his or her removal is being considered. All questions concerning removal under this Section shall be resolved by the Council and the decision of the Council shall be final.

Section 2. Recall. Any member of the Healy Lake Tribal Council may be recalled by the tribal voters through a petition and election process. A valid petition requesting such recall shall be signed by at least 40% of the enrolled tribal members who are 18 years

of age or older, gathered within a 30 day period, and be presented to the Council either by filing it with the Healy Lake tribal administrator or at a meeting of the Healy Lake Tribal Council. The Council shall call a special election to consider the recall of the named Council member or members within 60 days upon receiving the petition, in accordance with Article 8, Section 4. If the majority of the voters vote in favor of the recall, the official shall be recalled. If the Council fails to call a special election to consider the recall, the tribal membership may hold a tribal membership meeting to conduct such business, provided that a quorum of 40% of the enrolled tribal members who are 18 years of age or older is established. Circulating a new petition to call such a meeting shall not be required, but Notice shall be posted in at least 2 public places in Healy Lake and may be posted on the Tribe's website, on the Tribe's social media, and emailed or mailed to the adult tribal members.

Section 3. Forfeiture. Any member of the Tribal Council who submits a written resignation or is convicted of a felony or misdemeanor offence against a person or involving embezzlement, or theft, conversion or misuse of funds while in office shall automatically forfeit his or her seat. A member may also forfeit their seat when he or she is absent, in person or telephonically, from three successive regular meetings of the Tribal Council without notifying the Tribal Council Office with the reason they will not be able to attend prior to the meetings. Prior to declaring his or her seat forfeited for unexcused absences from Council meetings, the Council shall issue a written warning and allow the person the opportunity to attend the next Council meeting.

Section 5. Vacancies on the Tribal Council. A vacancy on the Tribal Council shall be filled by appointment by the remaining members of the Council, provided that there are at least 3 affirmative votes to support the appointment. If for some reason there are less than 3 tribal council members remaining on the Council, there shall be a special tribal election to fill those vacancies. A Council member appointed or elected to fill a vacancy shall serve until the term of that seat expires. Vacancies in the Officer positions shall be appointed by the majority vote of the Council until the next election.

ARTICLE 7 – MEETINGS

Section 1. Notice for all Meetings of the Tribal Council and General Tribal Membership Meetings. Notice of meetings of the Tribal Council and general tribal membership meetings, except for emergency meetings of the Council, shall be posted in at least two places in Healy Lake, and may be posted on the Tribe’s website, on the Tribe’s social media, and emailed or mailed to the adult tribal members.

Section 2. Regular Meetings of the Tribal Council. Regular meetings of the Council shall be held monthly, on a date, time, and place to be determined by majority vote of the Council. Notice shall be posted at a minimum of 7 calendar days prior in at least 2 public places in Healy Lake, and may be posted on the Tribe’s website, on the Tribe’s social media, and emailed or mailed to the adult tribal members. Meetings shall be generally held under Roberts Rules of Order. Minutes shall be taken at all regular meetings of the Council, except when the Council is in executive session and shall be available for tribal members to see. Major business of the Council shall be done by tribal resolution. All regular meetings shall be open to the general tribal membership except when the Council is in executive session.

Section 3. Special Tribal Council Meetings. The President, or Vice President may call for a special meeting of the Council with an affirmative vote of at least two other council members. Notice shall be given at least 7 calendar days to tribal members, posted in at least 2 public places in Healy Lake, and may be posted on the Tribe’s website, on the Tribe’s social media, and emailed or mailed to the adult tribal members. The Notice shall contain what the special meeting is about and the time and place of the meeting. Special meetings shall be generally held under Roberts Rules of Order. Minutes shall be taken at special meetings of the Council, except when the Council is in executive session, and shall be available for tribal members to see. Major business of the Council conducted at special meetings shall be done by tribal resolution. All special

meetings shall be open to the general tribal membership except when the Council is in executive session.

Section 4. Emergency Tribal Council Meetings. The Council may meet for an emergency meeting without Notice only when emergency circumstances warrant such a meeting. Only emergency business may be taken up at emergency meetings, and decisions of a temporary nature made. Emergency meetings shall be generally held under Roberts Rules of Order. Minutes shall be taken at emergency meetings of the Council, except when the Council is in executive session, and shall be available for tribal members to see. Major business of the Council conducted at emergency meetings shall be done by tribal resolution. All emergency special meetings shall be open to the general tribal membership except when the Council is in executive session.

Section 5. Executive Session of the Tribal Council. The Healy Lake Tribal Council may move to meet in a closed executive session during regular, special or emergency meetings of the Council when the subject matter concerns child welfare, enrollment, personnel, litigation, and other matters made confidential by tribal code. The Council shall not go into executive session until the end of a meeting, and all other business for the meeting is complete.

Section 6. Tribal Membership Meetings.

- A. Annual Tribal Membership Meetings:** A meeting of the tribal membership of the Healy Lake Tribe shall be held once a year in March. The date, time and place shall be determined by the Council. The meeting shall be to inform the members about the goals, accomplishments, and business of the Tribe, including a financial report, and may be a part of the tribal election process. Notice shall be posted at least 30 days before tribal membership meeting in at least two places in Healy Lake, and may be posted on the Tribe's website, on the Tribe's social media, and emailed or mailed to the adult tribal members.

B. Council Calling Tribal Membership Meetings: General tribal membership meetings other than the annual meeting may be called by an affirmative vote of at least 3 tribal council members, provided that the President or Vice President is among the 3.

C. Tribal Members Calling Tribal Membership Meetings: Tribal members have the freedom of assembly as guaranteed by the Indian Civil Rights Act at any time. In order to conduct official business of the Tribe, tribal members must get 40% of the qualified tribal voters to sign a petition calling for a tribal membership meeting gathered within a 30 day period. The petition shall be presented to the Tribal Council either through the tribal administrator or at a Council meeting. Tribal members shall post Notice of when and where the meeting will take place in at least 2 public places in Healy Lake and may be posted on the Tribe's website, on the Tribe's social media, and emailed or mailed to the adult tribal members. A quorum to conduct business at a tribal membership meeting shall be 40% of the qualified voters of the Tribe.

D. Quorum of Tribal Membership Meetings: A quorum for tribal membership meetings where business is conducted shall be 40% of the qualified tribal voters.

ARTICLE 8 – ELECTIONS

Section 1. Voter Qualifications. Enrolled tribal members 18 years of age or older and who are not enrolled into another tribe shall be qualified to vote in Healy Lake tribal elections.

Section 2. General Guidelines for Elections. Tribal elections may be held through the use of meetings, polling hours, and/or mail out ballots according to the provisions of an election code developed pursuant to the adoption of this Constitution.

Section 3. Elections for Tribal Council Seats.

A. Elections for Council Seats: Elections for Tribal Council seats shall be held each year in March. The Council shall determine where and how the election shall be held.

B. Failure of the Council to hold Elections: If the Council fails to hold elections for tribal council positions within 4 months, by the end of July, the tribal membership may meet to conduct an election under the terms of Article 7, Section 6 (C) of this Constitution.

Section 4. Special Elections. The Council may, by resolution, call a special election for the purposes of deciding a referendum, initiative, or recall, upon giving at least a 30 calendar day Notice to the qualified voters. Notice shall be posted in two places in Healy Lake, and may be posted on the Tribe's website, on the Tribe's social media, and emailed or mailed to the adult tribal members. Notices shall contain information concerning what the special election is about. Special elections may take place either through a meeting format, polling hours, or mail out ballots. A minimum of 40% of the tribal voters must cast ballots for a valid special election.

Section 5. Election Code. An amended Healy Lake Election Code, consistent with this Constitution, shall be adopted by the Council subsequently to the adopting of this Constitution which shall set forth the procedures to be followed in conducting each of the various types of elections called for in this Constitution.

ARTICLE 9 – POWERS OF THE HEALY LAKE TRIBAL COUNCIL

Section 1. General Powers. Except as specifically limited by this Constitution or by tribal Code, the sovereign powers of the Tribe shall be exercised by the Council. The

powers shall include all the inherent powers of a federally recognized tribal government which do not violate federal law, including but not limited to those specified in this Article.

Section 2. Internal Procedures. Consistent with this Constitution, the Council may enact Codes and policies to govern its internal affairs, procedures and organization, and to further define the duties of tribal officers.

Section 3. Tribal Council Powers. The Council shall exercise the following powers, subject to any limitations imposed by federal law and subject further to express restrictions upon such powers contained in this Constitution:

- A.** To consult, negotiate, contract, oversee, or conclude agreements with and make recommendations to federal, state, local, and tribal governments on activities that may affect the Healy Lake Tribe.
- B.** To promote and protect the peace, health, education, and general welfare of the members of the Tribe and to administer services that contribute to the social and economic development of the Tribe and its members.
- C.** To levy and collect taxes, fees, and assessments for Tribal purposes.
- D.** To encourage, guard and foster Tribal cultural practices of the Healy Lake people, including the arts, crafts, religion, language and customs of the Native people of Healy Lake.
- E.** Except as limited by Article 10 of this Constitution, to manage, sell, lease, exchange, acquire, or otherwise deal with tribal or other property.
- F.** To acquire property and accept gifts.

- G.** To administer tribal assets, funds, bank accounts and funds and generally manage all economic affairs and enterprises of the Tribe.
- H.** To engage in tribal economic development enterprises for the benefit of tribal members.
- I.** To provide for the maintenance of domestic relations, law and order, health and safety, and the administration of justice, including the establishment of appropriate tribal courts or other judicial bodies.
- J.** To charter enterprises, corporations, and associations for the benefit of tribal members.
- K.** To enact Codes and policies consistent with this Constitution for the conduct and administration of all tribal functions.
- L.** To regulate inheritance among members whether by intestacy or otherwise.
- M.** To protect and preserve the wildlife and natural resources within the area under the jurisdiction of the Tribe or upon which its members rely for subsistence.
- N.** To regulate and control the use of natural resources within the area under the jurisdiction of the Tribe, or which otherwise affect the health, safety or economic well being of the Tribe or its members.
- O.** To employ legal counsel and fixing of fees.
- P.** To join and/or charter housing authorities.

- Q.** To protect members' rights in personal property.
- R.** To zone, exercise the power of eminent domain and otherwise regulate all land use within those areas under the jurisdiction of the Tribe.
- S.** To enact tribal employment rights ordinances and approve or disapprove the hiring of any employee in any field of work which directly or indirectly affects the Tribe or a tribal member.
- T.** To secure bank loans up to \$50,000 without a vote of the qualified voters where at least 40% of the voters participate.
- U.** To enact codes, procedures and policies necessary to give effect to any provision of this Constitution and to exercise any power not prohibited by federal law.

Section 4. Omissions. Any rights and powers vested in the Healy Lake Tribe but not expressly referred to in this Constitution shall not be lost by reason of their omission, but may be exercised by the Council unless expressly prohibited by this Constitution or by tribal code.

ARTICLE 10. POWERS RESERVED TO MEMBERSHIP

Section 1. Tribal Lands. The following powers are specifically reserved to the qualified voters of the Healy Lake Tribe acting through a general tribal membership meeting or a properly called election:

- A. Lands:** No lands or interests in lands owned by the Tribe may be sold or otherwise disposed of without an election where at least 75% of the tribal voters have voted.

B. Tribal Sovereign Immunity: Healy Lake tribal voters reserve the right to vote on waivers of sovereign immunity from claims by a non-governmental entity over **\$50,000** in value, or any claim by any entity seeking execution against tribal lands. Such a waiver shall not be valid without an election where at least 75% of the tribal voters have voted.

Section 3. Other Issues. The Healy Lake qualified voters reserve the right to vote on the amendment or repeal of this Constitution under the terms of Article 14. Specific tribal codes may require a referendum vote of the tribal members prior to amendment or repeal. An election on an initiative shall be called by the Council after ascertaining that sufficient numbers of qualified voters have signed a petition calling for an election.

ARTICLE 11 – POPULAR PARTICIPATION IN GOVERNMENT

Section 1. Initiative. The qualified voters of the Healy Lake Tribe shall have the right to propose and repeal initiatives, codes and resolutions not inconsistent with this Constitution, through a valid petition and election process. A valid petition requesting such an initiative shall be signed by at least 40% of the enrolled tribal members who are 18 years of age or older, gathered within a 30 day period, and be presented to the Council either by filing it with the Healy Lake tribal administrator or at a meeting of the Healy Lake Tribal Council. The Council shall call a special election to consider the initiative within 60 days upon receiving the petition, in accordance with Article 8, Section 4. If the majority of the voters vote in favor of the recall, the official shall be recalled. If the Council fails to call a special election to consider the recall, the tribal membership may hold a tribal membership meeting to conduct such business, provided that a quorum of 40% of the enrolled tribal members who are 18 years of age or older is participate in the election. Circulating a new petition to call such a meeting shall not be required, but Notice shall be posted at least 30 days in at least 2 public places in Healy

Lake and may be posted on the Tribe's website, on the Tribe's social media, and emailed or mailed to the adult tribal members.

Section 2. Referendum. The Council, by an affirmative vote of at least 3 of its members, which must include either the President or Vice President, may refer issues to the tribal membership in a tribal election. Such an election shall be conducted under the terms for special elections governed by Article 8, Section 4 of this constitution and by the Healy Lake Election Code.

Section 3. Initiative and Referendum Decisions. The decision of the voters in both initiative and referendum elections shall be binding on the Council and the Tribe and shall remain in full force until amended or rescinded by subsequent action of the voters or expires by its own terms.

ARTICLE 12 – RIGHTS OF MEMBERS

Section 1. Access to Tribal Records. Tribal members shall have the right to review all tribal records, including financial records and meeting minutes, during tribal office hours in accordance with procedures established by the Council, except in child welfare cases, tribal enrollment records, litigation, personnel and other matters made confidential by tribal Code. Tribal members shall have the right to be given a list of the names of tribal members.

Section 2. Open Tribal Council Meetings. Tribal members have the right to be present at all Council meetings and work sessions except during executive sessions of the Council.

Section 3. Indian Civil Rights. The Tribe shall provide to all persons within its jurisdiction the rights guaranteed by the Indian Civil Rights Act of 1968 as amended, enforceable by the Healy Lake Tribal Court. In summary, the tribal government shall:

- A.** Not prohibit the free exercise of speech, press, religion, or rights of the people to assemble peacefully or file grievances against the tribal government.
- B.** Not allow unreasonable search and seizure or issue search warrants without probable cause.
- C.** Not try anyone in the Healy Lake Tribal Court for the same offense twice.
- D.** Not make any person testify against himself in a criminal matter.
- E.** Not take private property for public use without paying the owner the fair market value.
- F.** Not deny a person the right to a speedy public trial. An accused person shall be informed of the nature of the crime he is accused of, told about the witnesses against him, be allowed to have witnesses testify in his favor and be allowed a lawyer at his own expense.
- G.** Not impose excessive bail or fines, nor impose cruel or unusual punishments.
- H.** Give all persons equal protection under tribal laws.
- I.** Not pronounce anyone guilty of a crime or civil violation without a fair trial. The tribal government shall not pass an ordinance and charge a person with a violation of that ordinance or change penalties, after an incident (Ex Post Facto).
- J.** Provide anyone accused of an offense punishable by jail time the right to a trial by jury of no less than six persons.

ARTICLE 13 – SOVEREIGN IMMUNITY OF THE HEALY LAKE TRIBE

Section 1. Waivers of Sovereign Immunity

Nothing in this Constitution shall be deemed, interpreted or construed to be a waiver of any immunity from suit or execution against tribal property that the Healy Lake Tribe possesses, under tribal, state or federal law, provided however, that persons subject to the jurisdiction of the Tribe may bring claims against the Healy Lake tribal government in the Healy Lake Tribal Court, arising under the terms of the Indian Civil Right Act.

The Council may enact resolutions to waive any immunity from suit or execution subject to the terms of this section. A resolution waiving any immunity from suit or execution shall be passed by an affirmative vote of at least 4 Council members, and evidenced by a written document contemporaneously signed by Council members voting in favor of passage. Any resolution waiving any immunity from suit for claims by a non-governmental entity over \$50,000 in value, or claim by any entity seeking execution against tribal lands, shall be approved by a majority vote of the qualified tribal voters, provided that at least 40% of the qualified voters have voted in such an election. The Council shall not enact any waiver of immunity for claims by a governmental entity, except for the purposes of satisfying the conditions or requirements of a grant, contract or compact, which are generally applicable.

Waivers of immunity shall not be general, but must specify the parties who may bring an action against the Tribe, duration for bringing a cause of action, the amount of funds or other property upon which execution may be had, the nature of the transaction giving rise to claims, and any other limitations deemed appropriate by the Council.

Upon adoption of this Constitution, all prior waivers of immunity to suit or execution of the Healy Lake Tribe shall be void, unless claims arising under such waivers are brought within two years of adoption of this Constitution or such waivers comply with

this section. This section shall be strictly construed and ambiguities as to the terms of any waiver shall be construed in favor of finding immunity of the Tribe.

ARTICLE 14 – AMENDMENTS OR REPEAL

This Constitution may be amended or repealed by a majority vote of the qualified voters of Healy Lake Tribe voting in an election called for that purpose, provided that at least 40% of the qualified tribal voters participate in such election, and that Notice has been posted in at least 2 public places in Healy Lake for a minimum of 30 days prior to the election, posted on the Healy Lake Tribal Website, posted on the Tribe’s Social Media, and emailed or mailed to tribal voters.

ARTICLE 15 – SEVERABILITY

If any provision of this Constitution shall, in the future, be declared invalid by a court of competent jurisdiction, the invalid provision shall be severed and the remaining provisions shall continue in full force and effect.

ARTICLE 16 – SAVINGS

Unless inconsistent with this Constitution, all tribal legislation enacted prior to adoption of this Constitution shall remain in effect.

ADOPTION OF THIS CONSTITUTION

This Constitution shall be adopted by a majority vote in an election called for that purpose. According the Article 14 – Amendments or Repeal of the Traditional Constitution of the Mendas Cha-Ag Tribe of 1997, “at least 50% of those entitled to vote shall vote in such election, and that notice has been posted for a minimum of 2 weeks in public places in Healy Lake.” This Constitution shall be effective from the date of certification of such tribal membership approval.

CERTIFICATE OF ELECTION RESULTS

This Constitution of the Healy Lake Tribe was submitted to the qualified voters of the Healy Lake Tribe and was duly adopted by a vote of ____ Tribal Members voting in favor, and ____ Members voting against the adoption of this Constitution. Notice was posted for prior to the election in at least 2 public places in Healy Lake, and at least 50% of the qualified voters voted.

_____ President

_____ Vice President

_____ Secretary/Treasurer

_____ Council Member

_____ Council Member

_____ Date Signed