

EXHIBIT 1

to the
RECOMMENDATIONS
of the
CHUGACH REGION LAND STUDY
and **REPORT**

EYAK AGREEMENTS
including

(1) Agreement for Sale and Purchase of Lands and Interests
in Land Among The Eyak Corporation and the United
States of America and the State of Alaska

(2) Exchange Agreement

(3) Amendment to Agreement for Sale and Purchase of
Lands and Interests in Land Among The Eyak Corporation
and the United States of America and the State of Alaska

(4) Second Amendment to Agreement for Sale and Purchase
of Lands and Interests in Lands Among The Eyak
Corporation and United States of America and the State of
Alaska

Agreement for Sale and

Purchase of Lands

And Interests in Land

Among

The Eyak Corporation

And

The United States of America

And

The State of Alaska

December 31, 1998

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(Relating to State Conveyance Lands - Parts 1 and 2)

State Conservation Easement -- Parts 1, 2 and 3 Exhibit II
(Relating to Federal Conveyance Lands - Parts 1, 2 and 3)

State Warranty Deed -- Parts 1 and 2 (Canoe Passage) Exhibit III

Eyak Conservation Easement Exhibit IV

Development Lands Easement Exhibit V

Timber Conservation Easement (including Road Right of Way) Exhibit VI

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**AGREEMENT FOR SALE AND
PURCHASE OF LANDS AND INTERESTS IN LAND**

THIS Agreement for Sale and Purchase of Lands and Interests in Land is entered into among The Eyak Corporation (Eyak), an Alaska Native Village Corporation, organized pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 *et seq.*, as amended ("ANCSA"), and duly organized under the business for profit laws of the State of Alaska; and the United States of America (United States); and the State of Alaska (State). Eyak, the United States and the State are collectively referred to as the "Parties."

WITNESSETH:

WHEREAS, pursuant to Section 12 of ANCSA, 43 U.S.C. § 1611, Eyak owns the surface estate of, or will receive conveyance to Lands located in Eastern Prince William Sound, Alaska, consisting of approximately 76,094 acres, which are the subject of this Agreement;

WHEREAS, the subsurface estate associated with the Lands is owned by Chugach Alaska Corporation;

WHEREAS, the Lands are within the oil spill area as defined by the *Exxon Valdez* Oil Spill Trustee Council (Trustee Council) in its Final Restoration Plan, which was approved on November 2, 1994;

WHEREAS, by Resolution of July 2, 1997, the Trustee Council determined that the purchase of a fee interest and conservation easement in the Lands is an appropriate means to restore a portion of the injured resources and reduced services resulting from the *Exxon Valdez* Oil Spill of March 24, 1989 (EVOS), and has authorized the expenditure of a portion of the settlement funds received by the United States and the State of Alaska as a result of their claims against the Exxon Corporation, *et al.* (Exxon) arising from the EVOS;

WHEREAS, the United States, acting by and through the Forest Service within the U.S. Department of Agriculture, and the State desire to purchase certain lands and interests in lands owned by Eyak;

WHEREAS, the Federal Trustees for the natural resources injured by the EVOS have authorized the expenditure of a portion of the federal EVOS restitution funds to assist in the funding of the acquisition of the Lands;

NOW THEREFORE, in consideration of the mutual promises set forth herein, and other good and valuable consideration, the receipt and adequacy of which are acknowledged and confessed, the Parties hereby covenant and agree as follows:

1. DEFINITIONS:

For purposes of this Agreement, the following terms shall have the following meanings:

- a. **Agreement or Lands Agreement.** The term "Agreement" or "Lands Agreement" as used herein shall mean this "Agreement for the Sale and Purchase of Lands and Interests in Land Among The Eyak Corporation and the United States of America and the State of Alaska," and all attached appendices and exhibits.
- b. **ANCSA.** The term "ANCSA" as used herein shall mean the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601, *et seq.*, as heretofore amended and supplemented.
- c. **ANILCA.** The term "ANILCA" as used herein shall mean the Alaska National Interest Lands Conservation Act, PL 96-487, 94 Stat. 2371, as heretofore amended and supplemented.
- d. **Conservation Easement Lands.** The term "Conservation Easement Lands" as used herein shall mean the interest in the surface estate to be conveyed under this Agreement of certain lands currently owned or to be received by Eyak and more fully described at Appendix D.
- e. **Development Lands.** The term "Development Lands" as used herein shall mean the interest in the surface estate of certain lands currently owned by Eyak and more fully described at Appendix C.
- f. **Development Lands Easement.** The term "Development Lands Easement" as used herein shall mean the easement granted by Eyak to the United States and the State in the form set forth at Exhibit V.
- g. **Easement for Subsistence Access.** The term "Easement for Subsistence Access" shall mean the rights reserved by Eyak for the residents of the Cordova, Alaska area (i.e., those persons who maintain their primary, permanent abode in Cordova, Alaska or within fifteen (15) miles of the Cordova City limits), to access the Federal Conveyance Lands for purposes of conducting lawful subsistence activities as set forth in the United States Warranty Deeds at Exhibit VII.
- h. **EVOS.** The term "EVOS" as used herein shall mean the *Exxon Valdez* oil spill of March 24, 1989.
- i. **Exchange Agreement.** The term "Exchange Agreement" as used herein shall mean the exchange agreement providing for the exchange of land and interests in land between the

United States and Eyak under authority of Section 22(f) of ANCSA and Section 1302(h) of ANILCA to enable the implementation of the Agreement.

- j. **Eyak Conservation Easement.** The term "Eyak Conservation Easement" as used herein shall mean the conservation easement granted by Eyak to the United States and the State in the form set forth at Exhibit IV.
- k. **Eyak Conveyance Lands.** The term "Eyak Conveyance Lands" as used herein shall mean the fee interests in the surface estate of certain lands currently owned or to be acquired by Eyak to be conveyed under this Agreement and more fully described at Appendix H.
- l. **Eyak Timber Conservation Easement.** The term "Eyak Timber Conservation Easement" as used herein shall mean the conservation easement granted by Eyak to the United States and the State in the form set forth at Exhibit VI.
- m. **Federal Conservation Easement.** The term "Federal Conservation Easement" as used herein shall mean easements granted by Eyak to the United States in the form set forth at Exhibit I (Parts 1 and 2) regarding Canoe Passage.
- n. **Federal Conveyance Lands.** The term "Federal Conveyance Lands" as used herein shall mean together the Federal Conveyance Lands - Part 1, the Federal Conveyance Lands - Part 2, and the Federal Conveyance Lands - Part 3.
- o. **Federal Conveyance Lands - Part 1.** The term "Federal Conveyance Lands-Part 1" as used herein shall mean those Eyak Conveyance Lands described at Appendix B to be conveyed to the United States in fee at closing pursuant to Paragraph 3(c) of this Agreement together with all right, title, and interest in avulsed lands, if any, within the area described, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.
- p. **Federal Conveyance Lands - Part 2.** The terms "Federal Conveyance Lands - Part 2" as used herein shall mean those Eyak Conveyance Lands described at Appendix N to be conveyed to the United States in fee at closing of the Exchange Agreement pursuant to Paragraph 3(f)(1)(A) of this Agreement, together with all right, title, and interest in avulsed lands, if any, within the area described, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.
- q. **Federal Conveyance Lands - Part 3.** The terms "Federal Conveyance Lands - Part 3" as used herein shall mean those Eyak Conveyance Lands described at Appendix O to be conveyed to the United States in fee immediately following the closing of the Exchange Agreement as described in Paragraph 3(f)(2)(B) of this Agreement, together with all right,

title, and interest in avulsed lands, if any, within the area described, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.

- r. **Hazardous Substances**. The term "Hazardous Substances" as used herein shall have the same meaning as given that term by Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 94 Stat. 2767, as amended and supplemented, or Section 311 of the Federal Water Pollution Control Act, 33 U.S.C. § 1251, *et seq.*, or by AS 46.03.826(5).
- s. **Homesite Easement Lands**. The term "Homesite Easement Lands" as used herein shall mean the lands owned by Eyak on which an easement interest in the surface estate is to be conveyed under this Agreement and subject to the Shareholder Homesite Program, and more fully described at Appendix G.
- t. **Homesite Lands Easement**. The term "Homesite Lands Easement" as used herein shall mean the easement granted by Eyak to the United States and the State in the form set forth at Exhibit VIII.
- u. **Lands**. The term "Lands" shall mean the lands or interests in lands identified in Appendices A-H and N-P to be conveyed in accordance with Exhibits I - IX.
- v. **Related Documents**. The term "Related Documents" as used herein shall mean not only all of the appendices and exhibits (and attachments thereto) that are attached to this Agreement but also the Exchange Agreement (and attachments thereto), as defined herein.
- w. **Restrictive Covenant**. The term "Restrictive Covenant" shall mean the restrictive covenants in the form set forth in the applicable Federal and State Conservation Easements and the Special Warranty Deeds.
- x. **Shareholder Homesite Program**. The term "Shareholder Homesite Program" as used herein shall mean the part of the Eyak Shareholder Land Use Program, established by Eyak pursuant to Section 21(j) of ANCSA, concerning shareholder homesites, the terms of which are described in Exhibit X.
- y. **Special Public Access Easement**. The term "Special Public Access Easement" as used herein shall mean the easement to provide permitted public access in the form set forth in Exhibit IX.
- z. **Special Public Access Easement Lands**. The term "Special Public Access Easement Lands" as used herein shall mean the lands described in Appendix F on which, through this

Agreement, a public access easement is to be conveyed to the United States and on which the commercial timber rights previously have been sold to the United States.

- aa. **State Conservation Easement.** The term "State Conservation Easement" as used herein shall mean an easement granted by Eyak to the State in the form set forth at Exhibit II (Parts 1 and 2).
- bb. **State Conveyance Lands.** The term "State Conveyance Lands" as used herein shall mean together the State Conveyance Lands - Part 1, the State Conveyance Lands - Part 2, and the State Conveyance Lands Part 3.
- cc. **State Conveyance Lands - Part 1.** The term "State Conveyance Lands - Part 1" as used herein shall mean those lands described at Appendix A to be conveyed to the State in fee at closing pursuant to Paragraph 3(e) of this Agreement together with all right, title, and interest in avulsed lands, if any, within the area described, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.
- dd. **State Conveyance Lands - Part 2.** The term "State Conveyance Lands - Part 2" as used herein shall mean those lands described at Appendix M to be conveyed to the State in fee immediately following the closing of the Exchange Agreement pursuant to Paragraph 3(f)(2)(B) together with all right, title, and interest in avulsed lands, if any, within the area described, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.
- ee. **Status Quo Ante.** The term "Status Quo Ante" means the payment of all moneys in escrow, including accumulated interest (less costs of escrow) to the United States, and the reconveyance by the State and the United States of all lands and interests in lands to Eyak. All lands or interests in lands reconveyed to Eyak shall, to the maximum extent permitted by law, have all the benefits and burdens of lands selected pursuant to ANCSA, as amended, and conveyed to a village corporation under ANCSA or ANILCA.
- ff. **Timber Conservation Easement Lands.** The term "Timber Conservation Easement Lands" as used herein shall mean the interest in the timber rights to be conveyed under this Agreement of certain lands currently owned or to be received by Eyak and more fully described at Appendix E.
- gg. **Warranty Deed.** The term "Warranty Deed" as used herein shall mean a Warranty Deed by which Eyak shall convey to the United States or the State, and warrant that it has so conveyed all the rights, title and interests it received from the United States pursuant to ANCSA, except for those exceptions and reservations specifically provided for in this

Agreement, and in the forms set forth at Exhibit III (Parts 1 and 2) and VII (Parts 1, 2 and 3).

2. EYAK SELECTIONS:

- (a) The Parties agree that with the exception of the finalization of Eyak's current prioritized selections at Boswell Bay and Hartney Bay, and selections in the Copper River Basin, which is equal to a total remaining unprioritized entitlement of 3612 acres contiguous to Eyak's currently owned lands in the Copper River Basin, Eyak will have obtained, at the completion of the closing on this Agreement and the closing on the Exchange Agreement, its full ANCSA entitlement of lands. Eyak agrees to and shall relinquish to the United States through such documents as may be acceptable to the Department of the Interior, Bureau of Land Management (BLM), 90% of its selections in excess of its entitlement in effect as of December 1, 1998, within 90 days after closing on this Agreement, and shall therefore retain approximately 8,000 acres of selections in excess of its entitlement. At such time that the BLM completes the conveyance of Eyak's remaining land entitlement described above, all remaining outstanding selections in excess of its entitlement will be relinquished.
- (b) The Parties recognize that the Lands conveyed hereunder have not been surveyed and the precise charge against Eyak's ANCSA entitlement arising from such conveyances has not therefore been determined. The Parties mutually agree that the determination by the BLM of acreage chargeability of the Lands shall be deemed final. The Parties also mutually agree that no change in the charge against ANCSA entitlement shall be made as a result of any future survey of the Lands, notwithstanding any future change in the method of computing the acres charged to entitlement.
- (c) With respect to Eyak's selections at Boswell Bay and Hartney Bay, the Parties agree that Eyak may pursue with the BLM its claim regarding the appropriate number of acres to which Eyak is lawfully entitled under ANCSA. Nothing in this Section is intended to prohibit any party from raising valid legal claims or defenses related to the determination of the appropriate number of acres of ANCSA entitlement that Eyak is entitled to receive at Boswell Bay and Hartney Bay. If a determination is made by BLM (or, if BLM's determination is appealed and a court or administrative board of competent jurisdiction issues a final determination) finding that Eyak is entitled to acreage in addition to the acreage described in the interim conveyance decisions for Boswell Bay and Hartney Bay, such additional acreage shall be made available to Eyak first from any remaining Eyak prioritized selections at Boswell Bay and Hartney Bay and then from its remaining selections in the Copper River Basin.
- (d) Eyak agrees that it will not oppose or otherwise appeal the reservation of the road easement E1N 102 G located in T. 17 S., R. 5 W., CRM, as identified in the internal BLM

Memorandum entitled Final Easement Recommendations for the Eyak Corporation and dated October 10, 1997, and as reserved in part in BLM Interim Conveyance 1772. In the event that the remaining portion of easement EIN 102 G is not reserved in a future conveyance, or either easement EIN 102 G or easement EIN 102 C or site easement EIN 306 B is terminated or modified, Eyak shall donate to the United States an easement providing equivalent access to public lands.

3. SALE AND PURCHASE OF LANDS AND INTERESTS IN LANDS:

Subject to the terms and conditions of this Agreement, at the closing the Parties agree to the following:

- (a) Eyak shall convey to the United States and the State, the Eyak Conservation Easement with respect to the Eyak Conservation Easement Lands, the Timber Conservation Easement with respect to the Timber Conservation Easement Lands, the Development Lands Easement with respect to the Development Lands, the Homesite Lands Easement with respect to the Homesite Easement Lands and the Special Public Access Easement with respect to the Special Public Access Easement Lands.
- (b) Eyak shall convey to the State, the State Conservation Easement (Exhibit II (Part 1)) with respect to the Federal Conveyance Lands - Part 1 in satisfaction of the requirements of paragraph 5 of this Agreement.
- (c) Eyak shall convey to the United States by Warranty Deed (Exhibit VII (Part 1)) all of the rights, title and interest of Eyak in the surface estate of the Federal Conveyance Lands - Part 1, reserving therefrom the Easement for Subsistence Access and the right to enforce the Restrictive Covenant, which reservations the United States agrees to accept and further agrees to be bound by the terms thereof, and subject to the enforcement rights established in the related State Conservation Easement (Exhibit II (Part 1)).
- (d) Eyak shall convey to the United States the Federal Conservation Easement (Exhibit I (Part 1)) with respect to the State Conveyance Lands - Part 1 in satisfaction of the requirements of paragraph 5 of this Agreement.
- (e) Eyak shall convey to the State by Warranty Deed (Exhibit III (Part 1)) all of the rights, title and interest of Eyak in the surface estate of the State Conveyance Lands - Part 1 reserving therefrom the right to enforce the Restrictive Covenant, which reservation the State agrees to accept and further agrees to be bound by the terms thereof, and subject to the enforcement rights established in the related Federal Conservation Easement (Exhibit I (Part 1)) and the Road Right of Way Easement attached to Exhibit VI.

- (f) The United States and Eyak agree to enter into and shall execute the Exchange Agreement simultaneously with the Lands Agreement. The Parties agree to make a good faith effort to achieve closing on the Exchange Agreement as soon as possible after closing on the Lands Agreement.

(1) At closing on the Exchange Agreement

- (A) Eyak shall convey to the State the State Conservation Easement (Exhibit II (Part 2)), which covers the 640 acres of land at Sheep Bay identified in Appendix A of the Exchange Agreement and thereafter convey by Warranty Deed (Exhibit VII (Part 2)) to the United States the Federal Conveyance Lands - Part 2 and relinquish all other interests described in Appendix A of the Exchange Agreement;
- (B) the United States shall amend the survey plat for T16S-R5W, CRM, to reflect the avulsed boundaries in Sections 1, 2, and 11 and then the State will relinquish its selections in accordance with the amended plat to the lands identified in Appendix C of the Exchange Agreement; and
- (C) the United States shall convey to Eyak 2,228 acres of land identified in Appendix B of the Exchange Agreement. The United States agrees to seek a closure order for the location of minerals from the BLM for the subsurface estate of the State Conveyance Lands - Part 2 and recognizes that the State Conveyance Lands - Part 2 are to be managed as a state park and that the removal of gravel from the subsurface estate may be incompatible with such land status.

(2) Immediately following the closing of the Exchange Agreement, Eyak shall convey

- (A) to the State, the State Conservation Easement (Exhibit II (Part 3)) at Olsen Bay and to the United States the Federal Conservation Easement (Exhibit I (Part 2)) at Canoe Passage; and then
- (B) to the State, by Warranty Deed (Exhibit III (Part 2)) the State Conveyance Lands - Part 2 at Canoe Passage and to the United States, by Warranty Deed (Exhibit VII (Part 3)) the Federal Conveyance Lands - Part 3 at Olsen Bay.

The Parties agree that contingencies that may arise with respect to this subsection shall be dealt with pursuant to section 18.

- (g) The United States shall pay to Eyak the sum of Thirteen Million and no/100 Dollars (\$13,000,000.00) upon recordation of the Purchase Agreement, easements and warranty deeds referred to in subparagraphs (a)-(e) and of the Exchange Agreement in subparagraph

- (f), and subject to subparagraph (j), and will be thereby obligated to pay additional payments to Eyak according to the following schedule: Fourteen Million and no/100 Dollars (\$14,000,000) not later than October 1, 1999; Five Million and no/100 Dollars (\$5,000,000) not later than October 1, 2000; Six Million and no/100 Dollars (\$6,000,000) not later than October 1, 2001; and Seven Million and no/100 Dollars (\$7,000,000) not later than October 1, 2002. The obligation to pay is subject to disbursement of the necessary joint settlement funds received from Exxon by the United States District Court for the District of Alaska. Eyak shall not seek any monetary claim of damages from the United States or the State for failure to pay any payment identified herein.
- (h) The closing shall occur within sixty (60) days after execution of this Agreement by the Parties except that the time for this closing may be extended, at the request of any party, for a period not to exceed sixty (60) days from that date if, despite the good faith best efforts of the United States, court approval of disbursement of the funds is not obtained or the conditions precedent set forth in paragraph 7 have not been completed. The United States agrees to exert its good faith best efforts to obtain all approvals, including court approval, so as to make payment within said sixty (60) day period, and, if the time period is extended, will endeavor in good faith to complete this acquisition as soon as reasonably practical within the extended time period. In the event the United States fails to make timely payment, Eyak shall have the right, but not the obligation, to extend the closing further in order to complete the transaction as otherwise agreed to by the Parties upon satisfaction of the conditions precedent set forth in paragraph 7.
- (i) The Parties shall agree in writing on a time, date, and place of the closing. The Parties shall execute and provide written closing instructions to the closing agent no later than three days prior to the date of closing, which instructions shall provide, among other things, that documents will be recorded when the closing agent can disburse payment to the party entitled thereto. Costs of closing, if any, shall be paid by the United States. The costs of surveying homesites and development sites exclusions, if any, shall be paid by Eyak. Any fees or costs for recordation of instruments or other curative material to release or subordinate mortgages, deeds of trust, judgments, or other encumbrances shall be paid by Eyak.
- (j) Eyak, the State, and the United States agree, as soon as possible after the execution of this Agreement, to establish an escrow account with an escrow agent acceptable to the Parties, which agent shall be a bank or other depository acceptable under Federal laws and regulations. The escrow agent shall hold the initial payment of \$13,000,000 and instruments necessary or desirable to effect the terms of this Agreement, including and deeds of reconveyance from Rayonier, Inc. to Eyak.

Upon a successful vote of concurrence by the Shareholders pursuant to paragraph 20(b), the escrow agent shall be instructed to deliver all instruments and related documents to the

United States or its designated agent for recordation, and make disbursements of funds in accordance with this Agreement. Accumulated interest during the period of escrow shall first be applied to payment of costs of escrow. Any remaining interest will be paid to Eyak.

In the event of an unsuccessful vote of concurrence by the Shareholders pursuant to paragraph 20(b), and provided that the Parties have not otherwise agreed after thirty days following such unsuccessful vote, the escrow agent shall be instructed to return the Parties back to their Status Quo Ante. All accumulated interest, less costs of escrow, shall be returned to the United States.

4. DEFAULT

In the event that a payment described in paragraph 3 of this Agreement is not paid when it is due, then the time for making such payment may be extended, at the request of the United States or Eyak, for a period not to exceed thirty (30) days from the date such payment was due if, despite the good faith best efforts of the United States, court approval of disbursement of the monies necessary for such payment is not obtained. The United States agrees to exert its good faith best efforts to obtain all approvals, including court approval, so as to make all payments in a timely manner; and, if the time period for any payment is extended, the United States will endeavor in good faith to make such payment as soon as reasonably practical within the extended time period. In the event the United States fails to make timely payment within the extended time period, Eyak shall have the right either to further extend the time period within which the payment may be made, or to declare this Agreement terminated. Even though Eyak elects to further extend a time period within which a payment may be made, it retains the right to terminate this Agreement if the payment is not made within the further extended time period. In the event Eyak elects to declare this Agreement terminated, title to a portion of the Lands and Interests in Lands shall be reconveyed to Eyak in accordance with the following provisions:

- (a) Default of October 1, 1999, payment: (i) Lands and Interests in Lands as described in Appendix I [Sheep Bay, Sheep Bay Islands, Simpson Bay (West), Mud Bay/Deep Bay]; (ii) Lands and interests in lands as described in Appendix J [Simpson Bay 40 acres public access parcel, Canoe Passage (provided closing on the Exchange Agreement has occurred), Orca Narrows]; (iii) Lands and interests in lands in Appendix K [Windy Bay]; and (iv) Lands and interests in lands in Appendix L [Rude River, Orca Narrows].
- (b) Default of October 1, 2000, payment: (i) Lands and interests in lands as described in Appendix J [Simpson Bay 40 acres public access parcel, Canoe Passage (provided closing on the Exchange Agreement has occurred), Orca Narrows]; (ii) Lands and interests in lands in Appendix K [Windy Bay]; and (iii) Lands and interests in lands in Appendix L [Rude River, Orca Narrows].

- (c) Default of October 1, 2001, payment: (i) Lands and Interests in Lands as described in Appendix K [Windy Bay]; and (ii) Lands and Interests in Lands as described in Appendix L [Rude River, Orca Narrows].
- (d) Default of October 1, 2002, payment: Lands and Interests in Lands as described in Appendix L [Rude River, Orca Narrows].

In the event this Agreement is terminated by Eyak and Eyak invokes its rights of Reconveyance of certain portions of the lands pursuant to the provisions of this paragraph, the Parties agree (1) lands that are not reconveyed shall continue to be subject to applicable terms, covenants, and conditions included in this Agreement and the conveyance documents and, (2) to execute and deliver, within sixty (60) days after the Notice of Termination by Eyak, all documents necessary to reconvey title to Eyak for all reconveyed Lands and Interests in Lands so that title to said reconveyed Lands and Interests in Lands; and that all lands or interests in lands reconveyed pursuant to this Agreement shall be deemed real property interests conveyed to Eyak pursuant to ANCSA. Therefore, all lands or interests in lands reconveyed to Eyak under this Agreement, to the maximum extent permitted by law, shall have all the benefits and burdens of lands selected pursuant to ANCSA, as amended, and conveyed to a village corporation under ANCSA or ANILCA. However, the time for execution and delivery of said documents may be extended at the request of any party for a period not to exceed an additional sixty (60) day period, if, despite the good faith best efforts of the United States and the State, the execution and delivery of said documents have not been completed.

5. ENFORCEMENT RIGHTS:

- (a) In recognition of the joint Federal and State responsibility to ensure that expenditure of the EVOS settlement funds properly achieves the Trustee Council's restoration objectives, the Trustee Council has required that, in return for the commitment of settlement funds for this acquisition, certain rights be established in the United States and the State with respect to this transaction. Accordingly, with respect to the interests conveyed to the United States in the Federal Conveyance Lands, Eyak shall convey to the State conservation easements authorizing the State to enforce the restoration objectives of these acquisitions and the title of the United States shall be subject to such easements. Further, with respect to the interest conveyed to the State in the State Conveyance Lands, Eyak shall convey to the United States conservation easements authorizing the United States to enforce the restoration objectives of this acquisition and the title of the State shall be subject to such easement. The conveyance documents are attached as Exhibits I-IX and are subject to approval and necessary modifications prior to closing as to form and substance as may be required by United States Department of Justice (DOJ) and Alaska Department of Law (DOL) and agreed upon by the Parties.

- (b) The Parties agree that this Agreement is not intended, and shall not be construed, to create any other third-party beneficiary rights.

6. RESTRICTIVE COVENANT:

- (a) Eyak hereby confirms, and the United States and the State acknowledge, that Eyak is only willing to undertake the sale of the Federal Conveyance Lands and State Conveyance Lands under this Agreement because of their intended management for conservation and wilderness purposes respectively by the United States as National Forest System lands or by the State as park lands. Accordingly, the United States and the State agree that the Federal Conveyance Lands and State Conveyance Lands purchased pursuant to this Agreement shall be maintained in perpetuity in their natural, pristine state in accordance with the terms of the Restrictive Covenant contained in the applicable Federal and State Conservation Easements Warranty Deeds.
- (b) **Federal Reverter.** In the event Eyak or the State becomes aware of an event or circumstance when the Federal Conveyance Lands, or any portion thereof, cease to be in compliance with the terms of any applicable Restrictive Covenant, that party shall give notice to the United States of such event or circumstance of non-compliance, and make demand that it be enjoined, corrected and/or that the land be restored as is appropriate to the circumstances. If the event or circumstance of non-compliance is not ceased immediately and corrected promptly, Eyak or the State may institute suits to enjoin any breach of, or to enforce compliance with, the Restrictive Covenant, and to require that the Federal Conveyance Lands, or the affected portion thereof, be restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance. If the event or circumstance of non-compliance is not corrected promptly and the Federal Conveyance Lands, or portion thereof, are not restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance, then title to said lands or portion thereof shall be conveyed automatically to the State, provided that the State agrees to accept it. If the State does not accept fee title, it shall revert automatically to Eyak. If the State accepts fee title, in the event that the State subsequently attempts to convey said lands or any part thereof in fee simple or to convey the timber rights thereto to another entity, at the time of such conveyance title to said lands or timber rights shall revert automatically to Eyak. The Federal Conveyance Lands shall continue in any event to be subject to the Restrictive Covenant. The Federal Conveyance Lands shall also continue to be subject to the Easement for Subsistence Access except that Eyak agrees that if fee title to some or all of said lands is conveyed to the State, under this provision or otherwise, then the Easement for Subsistence Access shall terminate as to such lands, but the State will have the obligation referenced in subparagraph (g) below to manage the property so as to ensure public access.

- (c) **State Reverter.** If the State attempts to convey the State Conveyance Lands or any part thereof in fee simple or to convey the timber rights thereto to another entity, at the time of such conveyance title to said portion of the State Conveyance Lands or said timber rights shall be conveyed automatically to the United States, provided that the United States agrees to accept such lands or timber rights. If the United States does not accept fee title or said timber rights, such lands or timber rights shall revert automatically to Eyak. If the United States accepts fee title or said timber rights, in the event Eyak or the State becomes aware of an event or circumstance when the State Conveyance Lands or any portion thereof, cease to be in compliance with the terms of any applicable Restrictive Covenant, that party shall give notice to the United States of such event or circumstance of non-compliance, and make demand that it be enjoined, corrected and/or that the land be restored as is appropriate to the circumstances. If the event or circumstance of non-compliance is not ceased immediately and corrected promptly, Eyak or the State may institute suits to enjoin any breach of, or to enforce compliance with, the Restrictive Covenant, and to require that the State Conveyance Lands or the affected portion thereof, be restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance. If the event or circumstance of non-compliance is not corrected promptly and the State Conveyance Lands or any portion thereof, are not restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance, then title to said lands or portion thereof shall be conveyed automatically to Eyak. The State Conveyance Lands shall continue in any event to be subject to the Restrictive Covenant.
- (d) If title automatically conveys or reverts under the conditions described in paragraphs 6(b) and (c) above, the party which ceases to hold fee title shall retain a conservation easement with restrictive covenants identical to those contained in the State and Federal Conservation Easements, over the land it formerly owned. The intention is that, should title to the State Conveyance Lands or Federal Conveyance Lands, or any portion thereof, ever be conveyed or revert as provided in paragraphs 6(b) and (c) above, as between Eyak, the State and the United States, one party will hold fee title, and the other two will hold conservation easements with enforceable restrictive covenants.
- (e) In any retained conservation easement as described in the above paragraph 6 (d), and in the State and Federal Conservation Easements, it shall be provided that the party named in the "Restricted Activities" section of the easement will change as ownership changes, so that the fee owner will always make the determinations called for in that paragraph. However, the easements shall also provide that if fee title is conveyed from the United States to any other entity, any determinations by that entity under the "Restricted Activities" section of the easement shall be subject to approval by Eyak and the State.

- (f) The United States and the State further agree that the Restrictive Covenant shall run with the land and shall be binding upon the United States and the State and their assigns or successors in interest in perpetuity.
- (g) The Federal Conveyance Lands and the State Conveyance Lands shall be managed so as to ensure public access, for purposes of subsistence use, sport fishing and hunting, personal use fishing, trapping, recreational uses and commercial fishing in accordance with applicable federal and State laws and regulations and the objective of restoring and protecting natural resources.
- (h) In granting the Federal and State Conservation Easements, Eyak reserves the non-exclusive right to enforce the Restrictive Covenant therein contained. The United States and the State further agree that the Restrictive Covenant may be enforced by either Eyak or the United States or the State, as applicable, with respect to the Federal and State Conservation Easements and Warranty Deeds, respectively.

7. CONDITIONS PRECEDENT TO THE CLOSING:

The Parties mutually agree to endeavor in good faith to obtain satisfaction of these conditions precedent at the earliest opportunity in order that the closing may take place as soon as possible:

- (a) The obligation of the United States to complete the closing is subject to disbursement of the necessary joint settlement funds received from Exxon by the United States District Court for the District of Alaska.
- (b) Completion of a title opinion or title review satisfying the DOJ regulations issued pursuant to 40 U.S.C. § 255 and the DOL, and receipt of an opinion of counsel for Eyak, satisfactory to DOJ and DOL, confirming its authority to enter into this Agreement and complete the transactions contemplated thereby. In order to obtain a title opinion or title review satisfying the DOJ and DOL requirements, the draft forms set forth at Exhibits I-IX are subject to approval and necessary modifications prior to closing as to form and substance that may be required by DOJ or DOL and agreed upon by the Parties.
- (c) No development or timber harvesting is to take place on the Lands prior to closing.
- (d) A Hazardous Substance survey must be completed and establish that there are no releases of Hazardous Substances on the Lands, except for the EVOS.
- (e) Satisfactory compliance by the Parties with the National Environmental Policy Act (NEPA).
- (f) Shareholder approval pursuant to paragraph 20 of this Agreement.

- (g) All trespassers, lessees, licensees and other occupants shall be removed from the Federal Conveyance Lands and State Conveyance Lands prior to closing.

8. DEVELOPMENT SITES:

- (a) Eyak retains ownership of the Development Lands located in proximity or adjacent to the Eyak Conservation Easement Lands and Eyak Conveyance Lands. Eyak's intended commercial development and use of these lands is an integral part of Eyak's willingness to enter into this Agreement and Eyak retains the right to use these lands for commercial purposes by providing lodging, meals, rentals, transportation and related services as well as opportunities for eco-tourism, fishing, hiking, hunting, kayaking, sightseeing and other similar outdoor-based recreational activities and, in the case of two one-acre sites in Simpson Bay, the opportunity to conduct on-shore activities associated with mariculture operations. Eyak shall have the right to construct structures and related facilities on these lands, as set forth in the Development Lands Easement.
- (b) Eyak retains an easement for purpose of access across and entry upon lands adjoining the Development Lands to transport fresh potable water, which may be allocated to Eyak pursuant to federal or State law, necessary to support the development and use of the Development Lands and to construct and maintain waterlines and water systems required for such purposes. Eyak's right to construct waterlines and water systems is subject to the prior written consent of the United States, or the State, depending on which entity holds title to the adjoining property, which consent shall not be delayed or withheld unreasonably. In determining whether to consent to Eyak's access for water, the United States or the State, as appropriate, shall consider the location and volume of water to be used, the reasonable availability of water in the areas to be developed, the proposed means and route of transport and any significant adverse effects on the ecosystem resulting from the removal of such water. The Parties intend that Eyak shall have access to a sufficient source of water in order to facilitate Eyak's economic development and use of the Development Lands. At such time as any waterlines and water systems are constructed pursuant to this paragraph, Eyak shall provide an as-built survey, with description(s), in recordable form, acceptable to the United States or the State, as appropriate, to locate all improvements.

9. HOMESITES:

- (a) Eyak retains ownership of the Homesite Easement Lands that are located adjacent to the Eyak Conservation Easement Lands and Eyak Conveyance Lands. The Parties acknowledge that (1) Eyak has adopted a Shareholder Homesite Program as part of its Shareholder Land Use Program pursuant to Section 21(j) of ANCSA, as amended, and as

set forth in Exhibit X and (2) that Eyak intends to use these lands for purposes of that program.

- (b) Eyak retains an easement for purpose of access across and entry upon lands adjoining the Homesite Easement Lands to transport fresh potable water through waterlines, which may be allocated to Eyak pursuant to federal or State law, necessary to support the use of the Homesite Easement Lands and to construct and maintain waterlines for such purposes. Eyak's right to installation or to authorize installation by a homesite lessee of such waterlines is subject to the prior written consent of the United States, or the State, depending on which entity holds title to the adjoining property, which consent shall not be delayed or withheld unreasonably. In determining whether to consent to Eyak's request for access for water, the United States or the State, as appropriate, shall consider the location and volume of water to be used, the reasonable availability of water on a homesite or in the vicinity of such homesite, the proposed means and route of transport and any significant adverse effects on the ecosystem resulting from the removal of such water. The Parties intend that Eyak shall have access to a sufficient source of water in order to facilitate Eyak's use of the Homesite Easement Lands as shareholder homesites or Bed and Breakfast Leases subject to the terms and conditions of Exhibits VIII and X of this Agreement. At such time as any waterlines are constructed pursuant to this paragraph, Eyak shall provide an as-built survey, with description(s), in recordable form, acceptable to the United States or the State, as appropriate, to locate the waterlines.

10. CULTURAL CONSERVATION:

Eyak, to the extent it holds ownership, reserves ownership of all Alaska Native human remains, cultural artifacts, and sacred objects currently located on the Lands to the extent consistent with the rights that it may be afforded as specified in the Native American Graves Protection and Repatriation Act, the Archaeological Resources Protection Act, the National Indian Forest Resources Management Act, the National Museum of the American Indian Act, the Indian Arts and Crafts Act, the Native American Language Acts, and related laws of the State, including the Alaska Historic Preservation Act.

11. ROAD RIGHT OF WAY:

Eyak agrees to convey to the State a Road Right of Way Easement as set forth in the attachment to Exhibit VI.

12. ACCESS TO INHOLDING:

The parties acknowledge the right of access to non-federally owned lands as provided in Section 1323 of the Alaska National Interest Lands Conservation Act (16 U.S.C. § 3210) "to secure to the owner the reasonable use and enjoyment" of such land in Sections 33, 34, and 35

of Township 13 South, Range 5 West and Sections 3 and 4 of Township 14 South, Range 5 West.

13. FOREST PRACTICES ACT:

Following the closing, Eyak shall comply with the requirements of AS 41.17 and regulations promulgated pursuant thereto on the Lands where Eyak has conveyed Conservation Easements or other easements to the State and the United States, and with the requirements if any, on the Lands where Eyak has conveyed fee simple title to the State or the United States as if Eyak still held fee simple title to the Lands, including but not limited to the requirements concerning reforestation, revegetation, brush, slash, debris, salvage of trees, soil erosion, and wasting of logging roads, including compliance with the requirements of 11 AAC 95.320 and 11 AAC 95.375-390.

14. REPRESENTATIONS AND WARRANTIES:

Eyak represents and warrants as follows:

- (a) Subject to the provisions of subsections 14(g) and 17(b) of ANCSA, the provisions of the act of May 17, 1906, 34 Stat. 197, as amended, and Section 905 of ANILCA, to the extent applicable, the regulations promulgated thereunder, and the reservations, restrictions and limitations set forth in the conveyances from the United States to Eyak, Eyak will be at closing the sole legal owner of the surface estate of the Lands to be conveyed to the United States and the State under this Agreement except as provided in subparagraph 14.b. hereof.
- (b) Title to the Lands to be conveyed to the United States and the State under this Agreement and the Exchange Agreement shall be, at the closing of this Agreement and the Exchange Agreement respectively, free and clear of all liens, charges, encumbrances, clouds and defects of record except for (i) liens, charges, encumbrances, clouds and defects of record, acceptable to DOJ and DOL; (ii) liens, charges, encumbrances, clouds and defects not of record which existed prior to the date(s) on which said Lands were conveyed to Eyak pursuant to Section 14 of ANCSA where Eyak had no actual knowledge of such liens, charges, encumbrances, clouds and defects not of record; (iii) all restrictions, reservations, encumbrances and limitations set forth in the conveyances from the United States to Eyak arising under ANCSA and the rules and regulations promulgated thereunder; (iv) Federal Conservation Easement; (v) State Conservation Easement; (vi) any exceptions and reservations included in the State and United States Warranty Deeds (Exhibits III and VII).
- (c) To the best of its knowledge and belief, Eyak has not placed, stored, spilled, dumped or released, nor has it allowed any other person or entity, not disclosed in the Hazardous Substance survey, since the conveyance of the Lands to Eyak by the United States pursuant to ANCSA, to place, store, spill, dump or release any Hazardous Substance or petroleum,

including crude oil or any fraction thereof that is not otherwise considered a Hazardous Substance, on the Lands; the Lands are not now nor since conveyance to Eyak have they ever been used for industrial purposes other than activities associated with timber harvesting; nor, except as disclosed in the Hazardous Substance Survey, has any third party ever placed, stored, spilled, dumped or released any Hazardous Substance, or petroleum, including crude oil or any fraction thereof that is not otherwise considered a Hazardous Substance, on the Lands during the time the Lands were owned by Eyak. The Parties stipulate and agree that no violation of the warranties in this paragraph shall be deemed to occur as a result of oiling of the Lands by the EVOS.

- (d) Eyak is a corporation duly organized, validly existing, and in good standing under the laws of the State of Alaska.
- (e) The execution, delivery and performance of this Agreement, the Exchange Agreement, the Warranty Deed, and all other agreements, instruments and documents that Eyak is to enter into or deliver pursuant to this Agreement or the Exchange Agreement and the transactions contemplated by this Agreement and the Related Documents (collectively, the "Transactions"), have been duly authorized by all necessary board of directors, shareholder and other corporate action of Eyak. Without otherwise limiting the representation and warranty of the foregoing sentence, the changes to this Agreement and the Transactions made from the draft Agreement and description of the Transactions as found in the Proxy Statement of August 20, 1998 prepared and circulated to the shareholders of Eyak at the direction of its board of directors ("Proxy Statement"), were (i) as required by DOJ or DOL or were otherwise necessary or convenient to finalize the transactions contemplated by the Proxy Statement and (ii) did not materially change the general substance or general economics of the documents attached to the Proxy Statement or the transactions described in the Proxy Statement. This Agreement and the Related Documents will constitute legal, valid and binding obligations of Eyak, enforceable against Eyak in accordance with their respective terms. The execution, delivery and performance of this Agreement and the Related Documents by Eyak, and the consummation of the Transactions by Eyak, will not (i) violate or result in a breach of or default under the Articles of Incorporation or bylaws of Eyak; (ii) violate any law (including, without limitation, ANCSA), regulation, rule, or administrative decision, or award or any court, arbitrator, mediator, tribunal, administrative agency or governmental body applicable to or binding upon Eyak or upon its securities, property or business; or (iii) conflict with or constitute a default under any contract, agreement, deed or other instrument to which Eyak or any of its assets are a party or by which Eyak is bound.
- (f) Execution, delivery and performance of this Agreement and the Related Documents by Eyak, and consummation of the Transactions by Eyak, do not require the consent or approval of any third party, except as has heretofore been obtained.

15. RECORDATION:

A copy of this Agreement and any amendment hereto may be recorded by any party following execution thereof by the Parties.

16. EXECUTION IN SEPARATE COUNTERPARTS:

For purposes of expeditious execution of this Agreement or any amendments hereto, this Agreement or any amendments may be signed in separate counterparts by the Parties, which, when all have so signed, shall be deemed a single Agreement or amendment hereto, and the effective date of the Agreement or any amendment hereto shall be the date upon which the last of the subscribed Parties signs the Agreement or the amendment.

17. AUTHORITY:

Each signatory to this Agreement represents that the signatory is authorized to execute this Agreement. The forgoing is in addition to the Eyak representations and warranties contained at Paragraphs 14 and 20.

18. UNANTICIPATED EVENTS:

The Parties acknowledge that there may exist circumstances beyond the reasonable control of a party that interfere with the Parties' ability to complete the Lands Agreement or the Exchange Agreement and to comply with the time constraints set forth in these Agreements. The Parties agree to use their best good faith efforts to complete the transactions contemplated by these Agreements as set forth herein and in the Exchange Agreement. In the event that circumstances occur beyond the reasonable control of a party that significantly impair, detract from or require modifications to the rights and benefits provided to any of the Parties, then the Parties will negotiate, in good faith, such reasonable modifications of this Agreement as are necessary to protect the rights, interests and duties of the Parties under this Agreement and to carry out the intent of this Agreement.

19. RESERVATION OF EXXON CLAIMS:

Eyak reserves and retains any and all claims and causes of action against Exxon Corporation, Exxon Shipping Company and any other person or entity for any and all loss, injury or damage, including compensatory and punitive damages, sustained by Eyak as a result of the EVOS. The Parties further agree that nothing in this Agreement or any document executed pursuant to this Agreement shall be deemed a release, waiver or assignment of any claim Eyak, or its individual shareholders, may have against Exxon Corporation, Exxon Shipping Company and any other

person or entity as a result of the EVOS, including, but not limited to, real property damage or loss.

20. SHAREHOLDER VOTE:

- (a) Eyak represents and warrants to the United States and the State that (i) a draft of this Agreement was submitted to the shareholders of Eyak for a vote of approval of at least two-thirds of the outstanding shares of Eyak settlement common stock before execution of this Agreement; (ii) such submission and shareholder meeting was in accordance with applicable law, regulations, and Eyak's Articles of Incorporation and bylaws; (iii) on October 10, 1998, shareholders of Eyak approved the draft Agreement by the requisite two-thirds vote of outstanding shares; and (iv) accordingly, and as set forth at paragraph 14, the execution, delivery and performance of this Agreement and the Related Documents by Eyak, and the consummation of the Transactions by Eyak, has been duly approved and authorized by Eyak's shareholders.
- (b) In addition to the above, at the request of the United States and the State, Eyak has agreed to submit modifications to the Agreement as reflected in the Exchange Agreement, and certain other modifications to the Agreement, to the shareholders of Eyak for a vote of concurrence of at least 2/3 of the outstanding shares of Eyak Settlement Common Stock as soon as reasonably possible after executing this Agreement, but no later than June 1, 1999. If the said vote of the Eyak shareholders is not secured by June 1, 1999, the Parties will immediately return to the Status Quo Ante. It is agreed that the United States shall pay the reasonable documented expenses incurred by Eyak for the additional shareholder ratification vote in accordance with the resolution of the Trustee Council dated December 30, 1998.

21. GENERAL PROVISIONS:

- (a) This Agreement embodies the entire agreement and understanding among the Parties and supersedes any and all prior agreements and understandings, oral or written, relating to the subject matter hereof.
- (b) This Agreement may be modified, supplemented, or amended only by a document in writing executed by all of the Parties hereto.
- (c) The failure of any party to this Agreement to insist upon the strict performance of any provision of this Agreement or to exercise any right, power, or remedy consequent upon a breach thereof shall not constitute a waiver by said party of any such provision, breach, or subsequent breach of the same or any other provision.

- (d) Except as otherwise provided in this Agreement, the Parties hereto shall be entitled to any and all remedies provided by law.
- (e) If, prior to closing, any material provision of this Agreement or any application thereof shall be invalid or unenforceable, this Agreement as a whole likewise shall be deemed invalid or unenforceable. However, after closing, if any material provision of this Agreement or any application thereof shall be invalid or unenforceable, then the Parties will negotiate, in good faith, such reasonable modifications of this Agreement as are necessary to protect the rights, interest and duties of the Parties under this Agreement and to carry out the intent of this Agreement.
- (f) This Agreement shall be interpreted, construed, and enforced in accordance with applicable federal or State law. To the extent allowed by law, jurisdiction for resolution of any dispute related to implementation of this Agreement or to the terms of any of the conveyance instruments granted thereunder, shall rest in the applicable federal or state court.
- (g) The parties agree that the United States, acting through the Forest Service, will address as part of the normal forest plan revision process for the Chugach National Forest a potential future transportation corridor in the Rude River area (Township 14S, Range 2W) to facilitate the possible future construction of a road connecting Eyak's lands.
- (h) This Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties. Any lease, sale, transfer or other disposition by Eyak of any interest in the Eyak Conservation Easement Lands, the Eyak Development Lands, the Eyak Timber Conservation Easement Lands or the Special Public Access Easement Lands shall be made subject to this Agreement and any amendments thereto. Any authorization to use said lands granted by Eyak shall be subject to this Agreement and any amendments thereto.
- (i) The Parties hereby agree to take any and all actions, and to execute, acknowledge, and deliver any and all documents, reasonably necessary to effect the purposes of this Agreement.
- (j) The descriptive paragraph headings throughout this Agreement are for convenience and reference only, and the words contained therein shall not be used to expand, modify, or amplify the meaning of this Agreement or to aid in the interpretation or construction of this Agreement.
- (k) No Member of or Delegate to Congress, or Resident Commissioner, after his election or appointment, and either before or after he has qualified, and during his continuance in office, shall be admitted to any share or part of this Agreement, or to any benefit to arise therefrom.

- (l) Nothing herein shall be construed as obligating the Forest Service or the United States or the State to the expenditure of funds or the future payment of money in excess of that authorized by law.
- (m) Unless expressly provided otherwise, all notices, requests, orders and other communications under this Agreement shall be in writing and shall be deemed to have been duly given if delivered personally to the addresses, or upon receipt if mailed by certified or registered mail, return receipt requested, with postage prepaid, as follows:

1) To Eyak:

President
The Eyak Corporation
P. O. Box 340
Cordova, AK 99574

With copies to:

James D. Linxwiler, Esq.
Guess and Rudd
510 L Street
Anchorage, Alaska 99501

Roy Jones, Esq.
Birch, Horton, Bittner, and Cherot
1155 Connecticut Avenue, NW, Suite 1200
Washington, DC 20036

C. Walter Ebell, Esq.
Jamin, Ebell, Schmitt & Mason
605 First Avenue, Suite 300
Seattle, WA 98104

2) To the State:

Commissioner, Department of Natural Resources
State of Alaska
3601 C Street, Suite 1210
Anchorage, AK 99503-5921

With a copy to:

Attorney General
State of Alaska
P. O. Box 110300 - Dimond Courthouse
Juneau, AK 99811-0300

3) To the United States:

Regional Forester
U.S. Department of Agriculture
Forest Service
709 West 9th Street, Room 549
Juneau, AK 99802

With a copy to:

U.S. Department of Agriculture
Office of the General Counsel
P.O. Box 021628
Juneau, AK 99802

- (n) The commitments, representations and warranties contained in this Agreement shall survive closing and delivery of the easements and the Warranty Deeds. The ability of a party to rely on representations and warranties contained herein shall not be affected by (i) any inspection, evaluation or due diligence by the party(ies) to which such representations and warranties are directed or (ii) any knowledge, or reason to believe, of a party to which such representations and warranties are directed that such representations and warranties may be untrue. In the event of any conflict between this Agreement and the terms of any of the conveyance instruments granted hereunder, the terms of the conveyance instruments shall control. Such instances in which there is no comparable provision in the conveyance document to one in the Purchase Agreement, such as the "Cultural Conservation" provision, shall not constitute such a conflict and the Purchase Agreement controls.
- (o) Eyak shall retain the right, to the extent allowed by law, to comment upon and object to applications for permits and leases on tide lands adjacent to lands conveyed in surface fee to the United States or to the State through this Agreement.
- (p) The United States and the State intend to work cooperatively in research activities on the Federal Conveyance Lands and State Conveyance Lands. If the United States conveys fee

title to the Federal Conveyance Lands, the State shall have a right to conduct research on said land as follows: to plan, arrange for, and conduct: (1) fish, wildlife, and habitat surveys and research by all customary means and techniques, which include the use of aircraft, radio telemetry, and capture drugs; (2) the establishment of multi-year vegetation plots; and (3) with the prior written consent of the owner of the land, which consent shall not be delayed or withheld unreasonably, the right to establish, construct and operate weir sites and sonar sites and reasonably related facilities for the purposes of fish and wildlife management and general monitoring of ecosystem health. To the extent reasonably possible such sites shall be constructed, managed and operated in a manner that is consistent with the goal of maintaining the land in perpetuity for conservation and wilderness purposes, and, must be designed in a rustic manner so as to blend into the natural character of the area. Information on fish and wildlife collected through such activities and projects will be made available to Eyak upon its request to the extent authorized by law.

- (q) When performing research, study, or survey activities and projects on the Lands, the United States and the State agree, to the extent allowed by law and to the extent funding is available, to provide Eyak with notice and an opportunity to respond to requests for proposals that may be issued to participate in such activities and projects.
- (r) Nothing herein shall be deemed to pertain to, affect or in any way limit, the rights of the subsurface owner to utilize that estate in accordance with applicable law.
- (s) Nothing herein shall be deemed or construed to grant any rights to the public or to entities that are not Parties to this Agreement or in privity with said Parties.
- (t) The Parties recognize that for a substantial period of time a potential flood control project, located in the vicinity of Township 15 South, Range 2 West, Sections 32 and 33, Copper River Meridian, has been contemplated by the City of Cordova. A portion of this potential flood control project may be located on lands and land interests to be conveyed by Eyak pursuant to this Agreement. By entering into this Agreement, the Parties do not intend to jeopardize the potential approval and construction of such a project. The Parties intend that nothing in this Agreement shall cause or be construed to delay, impede, or prevent the approval of such a project that is undertaken pursuant to applicable federal and state law.
- (u) Eyak hereby agrees to indemnify the United States and the State and their respective agencies, (collectively, the "Indemnified Parties") from and against any and all damages directly incurred by the Indemnified Parties arising or resulting from a material breach of any of the covenants, representations and warranties made or given by Eyak in this Agreement or the Related Documents. Damages shall include reasonable attorney fees incurred by the United States or the State to defend litigation in the event of a successful lawsuit challenging the authority of Eyak to enter into this Agreement and effect its terms.

IN WITNESS WHEREOF, the Parties have set their hands and seals as of the date herein written.

THE EYAK CORPORATION

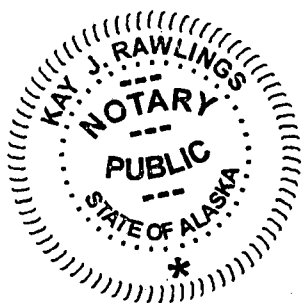
By: Nancy C Barnes
Nancy C Barnes, President

STATE OF ALASKA)
) ss:
3rd JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the 31 day of December, 1998, me, the undersigned, a Notary Public in and for the State of Alaska, commissioned and sworn, personally appeared Nancy C. Barnes, to me known to be the individual described and who executed the within and foregoing AGREEMENT FOR SALE AND PURCHASE OF LANDS AND INTERESTS IN LAND as President of The Eyak Corporation, the Corporation that executed the within and foregoing instrument, and acknowledged to me that she signed the same as President of The Eyak Corporation in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors and shareholders for the use and purposes therein mentioned.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

Notary Public in and for Alaska
My commission expires: 4/17/2002



Kay J Rawlings

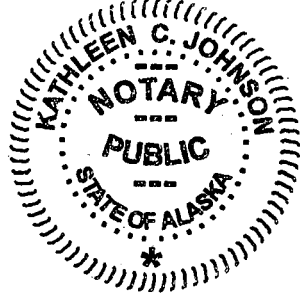
STATE OF ALASKA, DEPARTMENT OF
NATURAL RESOURCES

By: *Patty Bielawski*
Patty Bielawski
Special Assistant to the Commissioner

STATE OF ALASKA)
) ss.
3rd JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the 31 day of December, 1998, at Anchorage, Alaska, the foregoing AGREEMENT FOR SALE AND PURCHASE OF LANDS AND INTERESTS IN LAND was acknowledged before me by PATTY BIELAWSKI, Special Assistant to the Commissioner of the Department of Natural Resources of the State of Alaska on behalf of the State of Alaska.

GIVEN UNDER MY HAND and official seal the day and year last above written.



Kathleen C. Johnson
Notary Public in and for Alaska
My commission expires: 10-31-2002

UNITED STATES OF AMERICA

By: _____
James A. Caplan
Acting Regional Forester

STATE OF ALASKA)
) ss.
_____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on _____, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared James A. Caplan, personally known to me, and known to me to be the Acting Regional Forest, Alaska Region, USDA Forest Service, and who as such executed the foregoing Agreement for the Sale and Purchase of Lands and Interests in Lands Among The Eyak Corporation and the United States of America and the State of Alaska ("Agreement"), and acknowledged that the said Agreement is the free act and deed of the United States of America, and that he executed the same as Secretary of the United States Department of Agriculture, for the use and purposes therein expressed and with full authority to do so.

In Witness Whereof, I have hereunto set my hand and affixed my official seal this ____ day of _____, 1998.

Notary Public within and for the State of Alaska
My commission expires:

AFTER RECORDING RETURN TO:
U.S. Department of Agriculture
Forest Service
P.O. Box 21628
Juneau, Alaska 99802-1628
LOCATION INDEX: Appendices A-P

STATE OF ALASKA, DEPARTMENT OF
NATURAL RESOURCES

By: _____
Patty Bielawski
Special Assistant to the Commissioner

STATE OF ALASKA)
) ss.
_____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the ____ day of _____, 1998, at _____, Alaska, the foregoing AGREEMENT FOR SALE AND PURCHASE OF LANDS AND INTERESTS IN LAND was acknowledged before me by PATTY BIELAWSKI, Special Assistant to the Commissioner of the Department of Natural Resources of the State of Alaska on behalf of the State of Alaska.

GIVEN UNDER MY HAND and official seal the day and year last above written.

Notary Public in and for Alaska
My commission expires:

UNITED STATES OF AMERICA

By: James A. Caplan 12/31/98
James A. Caplan
Acting Regional Forester

STATE OF ALASKA)
) ss.
1st JUDICIAL DISTRICT)

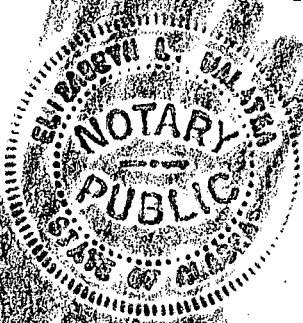
THIS IS TO CERTIFY that on 12/31/98 ^{in Juneau, Alaska}, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared James A. Caplan, personally known to me, and known to me to be the Acting Regional Forest, Alaska Region, USDA Forest Service, and who as such executed the foregoing Agreement for the Sale and Purchase of Lands and Interests in Lands Among The Eyak Corporation and the United States of America and the State of Alaska ("Agreement"), and acknowledged that the said Agreement is the free act and deed of the United States of America, and that he executed the same as Secretary of the United States

Department of Agriculture, for the use and purposes therein expressed and with full authority to do so.

In Witness Whereof, I have hereunto set my hand and affixed my official seal this 31st day of December, 1998.

Elizabeth H. White
Notary Public within and for the State of Alaska
My commission expires: 10/10/2002

AFTER RECORDING RETURN TO:
U.S. Department of Agriculture
Forest Service
P.O. Box 21628
Juneau, Alaska 99802-1628
LOCATION INDEX: Appendices A-P



**DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION PRIOR
TO CLOSING AS TO FORM AND SUBSTANCE BY U.S. DEPARTMENT OF JUSTICE
AND ALASKA DEPARTMENT OF LAW**

STATE BUSINESS - NO CHARGE

AFTER RECORDING RETURN TO:
U.S. Department of Agriculture
Forest Service
P.O. Box 21628
Juneau, Alaska 99802-1628

EXHIBIT I

FEDERAL CONSERVATION EASEMENT

Part One

THIS CONSERVATION EASEMENT (the "Conservation Easement") is made this ____ day of December, 1998, by **The Eyak Corporation** ("Eyak"), a Native Village Corporation organized pursuant to the Alaska Native Claims Settlement Act, as amended, 43 U.S.C. § 1601 *et. seq.* ("ANCSA"), and the laws of the State of Alaska, whose address is P. O. Box 340, Cordova, Alaska 99574, as grantor, and the **United States of America** ("United States"), and its assigns ("United States"), whose address is P. O. Box 21628, Juneau, Alaska 99802-1628, as grantee, under the authority of 7 U.S.C. § 428a and the Agreement for Sale and Purchase of Lands and Interests in Land Among The Eyak Corporation and the United States of America and the State of Alaska, dated December ____, 1998 (the "Agreement"), and for good and valuable consideration.

WHEREAS, the real property subject to this conservation easement (the "Protected Property") is a natural area located near the Chugach National Forest that provides significant habitat for migratory birds and other fish and wildlife and plant species that were injured as a result of the *Exxon Valdez* oil spill of March 24, 1989; and

WHEREAS, Eyak is the owner in fee simple of the surface estate of the Protected Property, which is described below; and

WHEREAS, the *Exxon Valdez* Oil Spill Trustee Council ("Trustee Council") has approved the use of joint settlement funds for acquisition by the State of Alaska ("State") of the Protected Property, subject to certain third-party rights to be held by the United States to ensure that the restoration objectives for use of the settlement funds are achieved; and

WHEREAS, Eyak intends to convey its interest in the surface estate of the Protected Property to the State; and

WHEREAS, Eyak desires to provide to the United States an independent right in perpetuity to enforce the restrictive covenants as to the surface estate set forth herein;

NOW, THEREFORE, pursuant to the laws of Alaska and in particular Alaska Statute § 34.17.010 - § 34.17.060, and the Agreement, Eyak does hereby grant and convey to the United States, its successors and assigns, forever, with special warranties of title, subject to conditions, restrictions and limitations of record, a conservation easement (the "Easement") in perpetuity over the Protected Property of the nature and character and to the extent hereinafter set forth herein, as to the Protected Property described as follows:

See Attached Appendix A

Containing in sum 3000 acres more or less;

TOGETHER WITH the avulsed lands, if any, in which Eyak may hold title, within the area above described, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964;

SUBJECT, however, to easements, rights and reservations of the United States, and third parties, if any, of record.

The acquiring federal agency is the U.S. Department of Agriculture, Forest Service.

The United States shall be entitled to enforce on a non-exclusive basis the terms of the following restrictive covenants against Eyak, its successors or assigns:

1. RESTRICTED ACTIVITIES:

The activities listed below are prohibited on the Protected Property except as determined to be necessary for conveying information to the public to protect public safety or natural resources, or for research or management of the Protected Property consistent with the goal of maintaining the Protected Property in perpetuity for conservation and wilderness purposes. Any buildings or mobile homes determined to be necessary for research or management of the Protected Property, to the extent reasonably possible, must be designed in a rustic manner so as to blend into the natural character of the area, must be constructed and managed in a manner that minimizes adverse effects on the land, and must be operated for use by research

or land management personnel only. Determinations under the provisions of this section will be made by the owner of the fee simple estate if the owner is the State or the United States. If the owner of the fee simple estate is any other entity, determinations under this section shall be made by the owner subject to approval by the United States and Eyak.

- a. constructing or placing buildings, fixed or improved camping accommodations, or mobile homes, fences, billboards or signs other than those signs for boundary, trespass, direction or general information; provided that, notwithstanding the above limitation for use by research or management personnel only, this provision shall not be construed to prohibit the State, if it is the owner of all or any applicable portion of the Protected Property, from having the right to construct public use cabins and occupancy support facilities on the Protected Property, so long as Eyak has given written consent to the State's design of such structures, which consent may not be delayed or withheld unreasonably. Any such public use cabins must be designed in a rustic manner so as to blend into the natural character of the area and must be constructed and managed in a manner that minimizes adverse effects on the land;
- b. changing the topography of the Protected Property in any manner;
- c. removing or destroying plants except for subsistence uses or medicinal uses;
- d. using biocides;
- e. manipulating or altering natural water courses, shores, marshes or other water bodies or activities or uses detrimental to water purity on the Protected Property; and
- f. operating motorized vehicles; provided that this provision shall not be construed to prohibit the use of float equipped aircraft on waterbodies within the Protected Property.

2. PROHIBITED ACTIVITIES:

The following listed activities by any person are prohibited:

- a. removing or harvesting timber, including but not limited to, all standing and downed timber, logs, inventory, lumber, and any other goods or products obtained or derived from the forest, now or in the future, except for subsistence uses or for the purpose of implementing the activities identified in Section 1 (Restricted Activities) above;

- b. introducing fish, wildlife or plants not indigenous to Eastern Prince William Sound, including, but not limited to, the grazing of domestic animals or the introduction of reindeer, unless unanimously agreed upon by Eyak, the United States and the State; and
- c. dumping or releasing trash, garbage, hazardous substances or other unsightly or offensive material.

3. **WATER EASEMENT:**

Notwithstanding Section 1.e., Eyak retains an easement for purposes of access across and entry upon the Protected Property to transport, through waterlines, fresh potable water that may be allocated to Eyak pursuant to federal or state law, necessary to support the use of the Homesite Easement Lands described in the Homesite Lands Easement recorded simultaneously herewith, and to construct and maintain waterlines for such purposes. Eyak's right to installation or to authorize installation by a homesite lessee of such waterlines is subject to the prior written consent of the United States and the State, which consent shall not be delayed or withheld unreasonably. In determining whether to consent to Eyak's request for access for water, the United States and the State shall consider the location and volume of water to be used, the reasonable availability of water on a homesite or in the vicinity of such homesite, the proposed means and route of transport and any significant adverse effects on the ecosystem resulting from the removal of such water. Eyak, the State, and the United States intend that Eyak shall have access to a sufficient source of water in order to facilitate Eyak's use of the Homesite Easement Lands as shareholder homesites or Bed and Breakfast Leases subject to the terms and conditions of Exhibits VIII and X of the Agreement. At such time as any waterlines are constructed pursuant to this paragraph, Eyak shall provide an as-built survey, with description(s), in recordable form, acceptable to the United States and the State, to locate the waterlines.

4. **GENERAL PROVISIONS:**

- a. The parties make no representations as to whether the lands that are described herein include avulsed lands, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.
- b. Eyak retains the rights, to the extent that it has the rights, granted in Section 14(f) of ANCSA, including the right to consent to exploration, development or removal of minerals from the subsurface estate in the lands within the boundaries of any Native village.

- c. Nothing herein shall be deemed to create in any third party the right to enforce these covenants.
- d. Nothing herein shall be deemed to affect or in any way limit the rights of the owner of the subsurface estate in accordance with applicable law.
- e. Eyak agrees that these restrictive covenants shall run with the land and shall be binding upon Eyak, its successors and assigns.
- f. Eyak hereby covenants to and with the United States and its assigns, that Eyak is lawfully seized of the surface estate in fee simple of the Protected Property, has good and lawful right and power to sell and convey the same, that the same is free and clear of encumbrances, except as shown above, and that Eyak will forever warrant and defend this Easement, limited to that portion of the chain of title from the moment of conveyance by the United States to Eyak pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 et. seq., to and including the moment at which this Easement is validly conveyed to the United States and its assigns, against the lawful claims and demands of all persons.
- g. This conveyance is subject to the default provisions of paragraph 4 of the Agreement.

TO HAVE AND TO HOLD unto the United States, its successors, and assigns forever.

IN WITNESS WHEREOF, Eyak and the United States have set their hands on the day and year first above written.

THE EYAK CORPORATION

By

Nancy C. Barnes, President

STATE OF ALASKA)
) ss.
 JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the _____ day of _____, 1998, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared Nancy C. Barnes, President of The Eyak Corporation, to me known and known to be the President of The Eyak Corporation and the person who executed the above and foregoing FEDERAL CONSERVATION EASEMENT on behalf of The Eyak Corporation, and who acknowledged to me that she signed the same as President of The Eyak Corporation, in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors and shareholders for the use and purposes therein mentioned.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

(SEAL)

Notary Public in and for Alaska

My commission expires: _____

ACCEPTANCE

Pursuant to 7 U.S.C. § 428a and the Agreement, the United States hereby accepts this Conservation Easement conveying to the United States and its assigns, those interests in lands described therein.

USDA FOREST SERVICE ALASKA REGION

By: _____
James A. Caplan
Acting Regional Forester

STATE OF ALASKA)
) ss.
_____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this _____ day of _____, 1998, before me, that undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such,

personally appeared James A. Caplan, known to me and to me known to be the Acting Regional Forester, Alaska Region, USDA Forest Service, and he acknowledged to me that he signed as accepting the foregoing Conservation Easement conveying to the United States, those lands described therein, and he executed the foregoing instrument freely and voluntarily.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first written above.

(SEAL)

Notary Public in and for Alaska

My commission expires: _____

LOCATION INDEX:
See attached Appendix A

**DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION PRIOR
TO CLOSING AS TO FORM AND SUBSTANCE BY U.S. DEPARTMENT OF JUSTICE
AND ALASKA DEPARTMENT OF LAW**

STATE BUSINESS - NO CHARGE

AFTER RECORDING RETURN TO:

State of Alaska

Department of Law

Environmental Section

1031 W. 4th Avenue, Suite 200

Anchorage, Alaska 99501

EXHIBIT I

STATE CONSERVATION EASEMENT

Part Two

THIS CONSERVATION EASEMENT (the "Conservation Easement") is made this ____ day of December, 1998, by **The Eyak Corporation** ("Eyak"), a Native Village Corporation organized pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 *et. seq.*, as amended ("ANCSA") and the laws of the State of Alaska, whose address is P. O. Box 340, Cordova, Alaska 99574, as grantor, and the **State of Alaska**, ("State"), and its assigns, whose address is Department of Natural Resources, 3601 C Street, Suite 960, Anchorage, Alaska 99503, as grantee, under authority of AS § 38.05.035(a)(12) and the Agreement for Sale and Purchase of Lands and Interests in Land Among The Eyak Corporation and the United States of America and the State of Alaska, dated December __, 1998 (the "Agreement").

WHEREAS, the real property subject to this Conservation Easement (the "Protected Property") lies within the boundaries of the Chugach National Forest, in the State of Alaska, administered by the U.S. Department of Agriculture Forest Service; and

WHEREAS, Eyak is the owner in fee simple of the surface estate of the Protected Property, which is described below; and

WHEREAS, the Protected Property is a natural area that provides significant habitat for migratory birds and other fish and wildlife and plant species that were injured as a result of the *Exxon Valdez* oil spill of March 24, 1989; and

WHEREAS, the *Exxon Valdez* Oil Spill Trustee Council ("Trustee Council") has approved the use of joint settlement funds for acquisition by the United States of America ("United States") of the Protected Property, subject to certain third-party rights to be held by the State in order to assure that the restoration objectives for use of the settlement funds are achieved; and

WHEREAS, Eyak intends to convey its fee simple interest in the surface estate of the Protected Property to the United States; and

WHEREAS, Eyak desires to provide the State an independent and non-exclusive right in perpetuity to enforce the restrictive covenants as to the surface estate set forth herein and to undertake limited research on the Protected Property under specified circumstances;

NOW THEREFORE, pursuant to the laws of Alaska and in particular Alaska Statute § 34.17.010 - § 34.17.060, and the Agreement, Eyak does hereby grant and convey to the State, its successors and assigns, forever, with special warranties of title, subject to conditions, restrictions and limitations of record, a Conservation Easement in perpetuity over the Protected Property of the nature and character and to the extent hereinafter set forth, as to the Protected Property described as follows:

See Attached Appendix N

Containing in sum 640 acres more or less.

TOGETHER WITH the avulsed lands, if any, in which Eyak may hold title, within the area above described, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.

SUBJECT, however, to easements, rights and reservations of the United States, and third parties, if any, of record.

The State shall be entitled to enforce, on a non-exclusive basis, the terms of the following restrictive covenants against Eyak, its successors or assigns:

1. **RESTRICTED ACTIVITIES:**

The activities listed below are prohibited on the Protected Property except as determined to be necessary for conveying information to the public to protect public safety or natural resources, or for research or management of the Protected Property consistent with the goal of maintaining the Protected Property in perpetuity for conservation and wilderness purposes. Any buildings or mobile homes determined to be necessary for research or management of the Protected Property to the extent reasonably possible must be designed in a rustic manner so as to blend into the natural character of the area, must be constructed and managed in a manner that minimizes adverse effects on the land and must be operated for use by research and land management personnel only. Determinations under the provisions of this section will be made by the owner of the fee simple estate if the owner is the State or the United States. If the owner of the fee simple estate is any other entity, determinations under this section shall be made by the owner subject to approval by the State and Eyak.

- a. constructing or placing buildings, fixed or improved camping accommodations, or mobile homes, fences, billboards or signs other than those signs for boundary, trespass, direction or general information;
- b. changing the topography of the Protected Property in any manner;
- c. removing or destroying plants except for subsistence uses or medicinal uses;
- d. using biocides;
- e. manipulating or altering natural water courses, shores, marshes or other water bodies or activities or uses detrimental to water purity on the Protected Property; and
- f. operating motorized vehicles provided that this provision shall not be construed to prohibit the use of float equipped aircraft on waterbodies within the Protected Property.

2. PROHIBITED ACTIVITIES:

The following listed activities by any person are prohibited:

- a. removing or harvesting timber, including but not limited to, all standing and downed timber, logs, inventory, lumber, and any other goods or products obtained or derived from the forest, now or in the future, except for subsistence uses, and for the purpose of implementing the activities identified in Section 1 (Restricted Activities) above;
- b. introducing fish, wildlife or plants not indigenous to Eastern Prince William Sound, including, but not limited to, the grazing of domestic animals or the introduction of

reindeer, unless unanimously agreed upon by Eyak, the United States and the State;
and

- c. dumping or releasing trash, garbage, hazardous substances or other unsightly or offensive material.

If the United States conveys fee title to the Protected Property, the State shall have a right to conduct research on the Protected Property to plan, arrange for, and conduct: (1) fish, wildlife, and habitat surveys and research by all customary means and techniques, which include the use of aircraft, radio telemetry, and capture drugs; (2) the establishment of multi-year vegetation plots; and (3) with the prior written consent of the owner of the land, which consent shall not be delayed or withheld unreasonably, the right to establish, construct and operate weir sites and sonar sites and reasonably related facilities for the purposes of fish and wildlife management and general monitoring of ecosystem health. To the extent reasonably possible such sites shall be constructed, managed and operated in a manner that is consistent with the goal of maintaining the land in perpetuity for conservation and wilderness purposes, and, must be designed in a rustic manner so as to blend into the natural character of the area. Information on fish and wildlife collected through such activities and projects will be made available to Eyak upon its request to the extent authorized by law.

3. BEAR VIEWING AREA:

Eyak retains, subject to existing 17(b) easements, an exclusive easement, from June 1 through September 1 of each calendar year, for a bear viewing site in the approximate dimension of 150 feet x 2000 feet, and a platform, and a fifteen (15) foot wide trail for access. The location of the trail and bear viewing site easement shall be as generally shown on the sketch map at Appendix B. Eyak retains the right, subject to the consent of the United States, which consent shall not be unreasonably withheld, to clear vegetation necessary for construction of a bear viewing platform and trail to facilitate the bear viewing operation. In addition, Eyak retains the right to exclusive access for commercial bear viewing operations on those lands described in Appendix N, from June 1 through September 1 of each calendar year. The term "commercial bear viewing operations" includes those commercial and non-profit operations for which a primary objective, based on the marketing of services and actual operations, is providing bear viewing. The term does not include commercial and non-profit operations for which bear viewing is secondary to the other aspects of such commercial operations, such as entities that provide kayaking and fishing trips where bear viewing is secondary to the services marketed and provided. Eyak shall give notice in writing to the Forest Service as follows: (1) not less than 30 days prior to commencement of construction of the bear viewing platform and/or trail identified above; (2) upon completion of construction of the bear viewing platform and/or trail; and (3) not less than 30 days prior to actual commencement of the bear viewing operation. Eyak's right of exclusive use of the

bear viewing site and trail, and its right to exclusive access in those lands described in Appendix N, shall not be effective until such time as Eyak notifies the Forest Service that Eyak has completed construction of the bear viewing platform and trail or the date Eyak commences a bear viewing operation at the site, whichever is later. In the event that Eyak does not undertake a bear viewing operation within fifteen (15) years from the date of this conveyance or Eyak does not maintain a bear viewing operation for a period of seven (7) consecutive years after Eyak undertakes the bear viewing operation, the aforesaid exclusive easement for bear viewing shall be terminated. The term "bear viewing operation" shall mean a commercial operation in which not less than twenty-five (25) customers per year pay to Eyak or its authorized agent the reasonable fair market value, including transportation costs, for the experience of bear viewing at the above site and visit the site for the purpose of bear viewing. For the purpose of verifying the bear viewing operation, Eyak shall maintain adequate records of its bear viewing operation, which records shall be made available to the Forest Service upon request.

4. **GENERAL PROVISIONS:**

- a. Nothing herein shall be deemed to create in any third party the right to enforce these covenants.
- b. Nothing herein shall be deemed to affect or in any way limit the rights of the owner of the subsurface in accordance with applicable law.
- c. Eyak agrees that these restrictive covenants shall run with the land and shall be binding upon Eyak, its successors and assigns.
- d. The parties make no representation as to whether the lands that are described herein include avulsed lands, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.
- e. Eyak hereby covenants to and with the State and its assigns, that Eyak is lawfully seized of the surface estate in fee simple of the Protected Property, has good and lawful right and power to sell and convey the same, that the same is free and clear of encumbrances, except as shown above, and that Eyak will forever warrant and defend this Conservation Easement, limited to that portion of the chain of title from the moment of conveyance by the United States to Eyak pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 *et. seq.*, to and including the moment at which this Conservation Easement is validly conveyed to the State of Alaska and its assigns, against the lawful claims and demands of all persons.
- f. Eyak retains the rights, to the extent that it has the rights, granted in Section 14(f) of

ANCSA, including the right to consent to exploration, development and removal of minerals from the subsurface estate in the lands within the boundaries of any Native village.

g. This conveyance is subject to the default provisions of paragraph 4 of the Agreement.

TO HAVE AND TO HOLD unto the State, its successors and assigns forever.

IN WITNESS WHEREOF Eyak and the State have set their hands on the day and year first above written.

THE EYAK CORPORATION

By: _____
Nancy C. Barnes, President

ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
_____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the _ day of _____, 1998, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared Nancy C. Barnes, President of The Eyak Corporation, to me known and known to be the person who executed the above and foregoing STATE CONSERVATION EASEMENT on behalf of The Eyak Corporation, and who acknowledged to me that she signed the same as President of The Eyak Corporation, in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors and shareholders for the use and purposes therein mentioned.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

(SEAL)

Notary Public in and for Alaska
My commission expires: _____

ACCEPTANCE

Pursuant to AS § 38.05.035(a)(12), I do hereby accept title to the above described interest in real property on behalf of the State of Alaska.

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES**

By: _____
Marty Rutherford
Deputy Commissioner

ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
_____ JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 1998, by MARTY RUTHERFORD, who is known to me to be the Deputy Commissioner of the Department of Natural Resources, State of Alaska.

(SEAL)

Notary Public in and for Alaska
My commission expires: _____

LOCATION INDEX:
See attached Appendix N

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION PRIOR TO CLOSING AS TO FORM AND SUBSTANCE BY U.S. DEPARTMENT OF JUSTICE AND ALASKA DEPARTMENT OF LAW

STATE BUSINESS - NO CHARGE

AFTER RECORDING RETURN TO:
U.S. Department of Agriculture
Forest Service
P.O. Box 21628
Juneau, Alaska 99802-1628

EXHIBIT I

FEDERAL CONSERVATION EASEMENT

Part Two

THIS CONSERVATION EASEMENT (the "Conservation Easement") is made this ____ day of December, 1998, by **The Eyak Corporation** ("Eyak"), a Native Village Corporation organized pursuant to the Alaska Native Claims Settlement Act, as amended, 43 U.S.C. § 1601 *et. seq.* ("ANCSA"), and the laws of the State of Alaska, whose address is P. O. Box 340, Cordova, Alaska 99574, as grantor, and the **United States of America** ("United States"), and its assigns ("United States"), whose address is P. O. Box 21628, Juneau, Alaska 99802-1628, as grantee, under the authority of 7 U.S.C. § 428a and the Agreement for Sale and Purchase of Lands and Interests in Land Among The Eyak Corporation and the United States of America and the State of Alaska, dated December __, 1998 (the "Agreement"), and for good and valuable consideration.

WHEREAS, the real property subject to this conservation easement (the "Protected Property") is a natural area located near the Chugach National Forest that provides significant habitat for migratory birds and other fish and wildlife and plant species that were injured as a result of the *Exxon Valdez* oil spill of March 24, 1989; and

WHEREAS, Eyak is the owner in fee simple of the surface estate of the Protected Property, which is described below; and

WHEREAS, the *Exxon Valdez* Oil Spill Trustee Council ("Trustee Council") has approved the use of joint settlement funds for acquisition by the State of Alaska ("State") of the Protected Property, subject to certain third-party rights to be held by the United States to ensure that the restoration objectives for use of the settlement funds are achieved; and

WHEREAS, Eyak intends to convey its interest in the surface estate of the Protected Property to the State; and

WHEREAS, Eyak desires to provide to the United States an independent right in perpetuity to enforce the restrictive covenants as to the surface estate set forth herein;

NOW, THEREFORE, pursuant to the laws of Alaska and in particular Alaska Statute § 34.17.010 - § 34.17.060, and the Agreement, Eyak does hereby grant and convey to the United States, its successors and assigns, forever, with special warranties of title, subject to conditions, restrictions and limitations of record, a conservation easement (the "Easement") in perpetuity over the Protected Property of the nature and character and to the extent hereinafter set forth herein, as to the Protected Property described as follows:

See Attached Appendix M

Containing in sum 1,435 acres more or less;

TOGETHER WITH the avulsed lands, if any, in which Eyak may hold title, within the area above described, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964;

SUBJECT, however, to easements, rights and reservations of the United States, and third parties, if any, of record.

The acquiring federal agency is the U.S. Department of Agriculture, Forest Service.

The United States shall be entitled to enforce on a non-exclusive basis the terms of the following restrictive covenants against Eyak, its successors or assigns:

1. RESTRICTED ACTIVITIES:

The activities listed below are prohibited on the Protected Property except as determined to be necessary for conveying information to the public to protect public safety or natural resources, or for research or management of the Protected Property consistent with the goal of maintaining the Protected Property in perpetuity for conservation and wilderness purposes. Any buildings or mobile homes determined to be necessary for research or management of the Protected Property, to the extent reasonably possible, must be designed in a rustic manner so as to blend into the natural character of the area, must be constructed and managed in a manner that minimizes adverse effects on the land, and must be operated for use by research or land management personnel only. Determinations under the provisions of this section will

be made by the owner of the fee simple estate if the owner is the State or the United States. If the owner of the fee simple estate is any other entity, determinations under this section shall be made by the owner subject to approval by the United States and Eyak.

- a. constructing or placing buildings, fixed or improved camping accommodations, or mobile homes, fences, billboards or signs other than those signs for boundary, trespass, direction or general information; provided that, notwithstanding the above limitation for use by research or management personnel only, this provision shall not be construed to prohibit the State, if it is the owner of all or any applicable portion of the Protected Property, from having the right to construct public use cabins and occupancy support facilities on the Protected Property, so long as Eyak has given written consent to the State's design of such structures, which consent may not be delayed or withheld unreasonably. Any such public use cabins must be designed in a rustic manner so as to blend into the natural character of the area and must be constructed and managed in a manner that minimizes adverse effects on the land;
- b. changing the topography of the Protected Property in any manner;
- c. removing or destroying plants except for subsistence uses or medicinal uses;
- d. using biocides;
- e. manipulating or altering natural water courses, shores, marshes or other water bodies or activities or uses detrimental to water purity on the Protected Property; and
- f. operating motorized vehicles; provided that this provision shall not be construed to prohibit the use of float equipped aircraft on waterbodies within the Protected Property.

2. **PROHIBITED ACTIVITIES:**

The following listed activities by any person are prohibited:

- a. removing or harvesting timber, including but not limited to, all standing and downed timber, logs, inventory, lumber, and any other goods or products obtained or derived from the forest, now or in the future, except for subsistence uses or for the purpose of implementing the activities identified in Section 1 (Restricted Activities) above;
- b. introducing fish, wildlife or plants not indigenous to Eastern Prince William Sound, including, but not limited to, the grazing of domestic animals or the introduction of

reindeer, unless unanimously agreed upon by Eyak, the United States and the State; and

- c. dumping or releasing trash, garbage, hazardous substances or other unsightly or offensive material.

3. **GENERAL PROVISIONS:**

- a. The parties make no representations as to whether the lands that are described herein include avulsed lands, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.
- b. Eyak retains the rights, to the extent that it has the rights, granted in Section 14(f) of ANCSA, including the right to consent to exploration, development or removal of minerals from the subsurface estate in the lands within the boundaries of any Native village.
- c. Nothing herein shall be deemed to create in any third party the right to enforce these covenants.
- d. Nothing herein shall be deemed to affect or in any way limit the rights of the owner of the subsurface estate in accordance with applicable law.
- e. Eyak agrees that these restrictive covenants shall run with the land and shall be binding upon Eyak, its successors and assigns.
- f. Eyak hereby covenants to and with the United States and its assigns, that Eyak is lawfully seized of the surface estate in fee simple of the Protected Property, has good and lawful right and power to sell and convey the same, that the same is free and clear of encumbrances, except as shown above, and that Eyak will forever warrant and defend this Easement, limited to that portion of the chain of title from the moment of conveyance by the United States to Eyak pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 *et. seq.*, to and including the moment at which this Easement is validly conveyed to the United States and its assigns, against the lawful claims and demands of all persons.
- g. This conveyance is subject to the default provisions of paragraph 4 of the Agreement.

TO HAVE AND TO HOLD unto the United States, its successors, and assigns forever.

IN WITNESS WHEREOF, Eyak and the United States have set their hands on the day and year first above written.

THE EYAK CORPORATION

By: _____
Nancy C. Barnes, President

STATE OF ALASKA)
) ss.
____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the ____ day of _____, 1998, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared Nancy C. Barnes, President of The Eyak Corporation, to me known and known to be the President of The Eyak Corporation and the person who executed the above and foregoing FEDERAL CONSERVATION EASEMENT on behalf of The Eyak Corporation, and who acknowledged to me that she signed the same as President of The Eyak Corporation, in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors and shareholders for the use and purposes therein mentioned.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

(SEAL)

Notary Public in and for Alaska
My commission expires: _____

ACCEPTANCE

Pursuant to 7 U.S.C. § 428a and the Agreement, the United States hereby accepts this Conservation Easement conveying to the United States and its assigns, those interests in lands described therein.

**USDA FOREST SERVICE
ALASKA REGION**

By: _____
James A. Caplan
Acting Regional Forester

STATE OF ALASKA)
) ss.
____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this ____ day of _____, 1998, before me, that undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared James A. Caplan, known to me and to me known to be the Acting Regional Forester, Alaska Region, USDA Forest Service, and he acknowledged to me that he signed as accepting the foregoing Conservation Easement conveying to the United States, those lands described therein, and he executed the foregoing instrument freely and voluntarily.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first written above.

(SEAL)

Notary Public in and for Alaska
My commission expires: _____

LOCATION INDEX:
See attached Appendix M

**DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION PRIOR
TO CLOSING AS TO FORM AND SUBSTANCE BY U.S. DEPARTMENT OF JUSTICE
AND ALASKA DEPARTMENT OF LAW**

STATE BUSINESS - NO CHARGE

AFTER RECORDING RETURN TO:

State of Alaska
Department of Law
Environmental Section
1031 W. 4th Avenue, Suite 200
Anchorage, Alaska 99501

EXHIBIT II

STATE CONSERVATION EASEMENT

Part One

THIS CONSERVATION EASEMENT (the "Conservation Easement") is made this ____ day of December, 1998, by **The Eyak Corporation** ("Eyak"), a Native Village Corporation organized pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 *et. seq.*, as amended ("ANCSA") and the laws of the State of Alaska, whose address is P. O. Box 340, Cordova, Alaska 99574, as grantor, and the **State of Alaska**, ("State"), and its assigns, whose address is Department of Natural Resources, 3601 C Street, Suite 960, Anchorage, Alaska 99503, as grantee, under authority of AS § 38.05.035(a)(12) and the Agreement for Sale and Purchase of Lands and Interests in Land Among The Eyak Corporation and the United States of America and the State of Alaska, dated December __, 1998 (the "Agreement").

WHEREAS, the real property subject to this Conservation Easement (the "Protected Property") lies within the boundaries of the Chugach National Forest, in the State of Alaska, administered by the U.S. Department of Agriculture Forest Service; and

WHEREAS, Eyak is the owner in fee simple of the surface estate of the Protected Property, which is described below; and

WHEREAS, the Protected Property is a natural area that provides significant habitat for migratory birds and other fish and wildlife and plant species that were injured as a result of the *Exxon Valdez* oil spill of March 24, 1989; and

WHEREAS, the *Exxon Valdez* Oil Spill Trustee Council ("Trustee Council") has approved the use of joint settlement funds for acquisition by the United States of America ("United States") of the Protected Property, subject to certain third-party rights to be held by the State in order to assure that the restoration objectives for use of the settlement funds are achieved; and

WHEREAS, Eyak intends to convey its fee simple interest in the surface estate of the Protected Property to the United States; and

WHEREAS, Eyak desires to provide the State an independent and non-exclusive right in perpetuity to enforce the restrictive covenants as to the surface estate set forth herein and to undertake limited research on the Protected Property under specified circumstances;

NOW THEREFORE, pursuant to the laws of Alaska and in particular Alaska Statute § 34.17.010 - § 34.17.060, and the Agreement, Eyak does hereby grant and convey to the State, its successors and assigns, forever, with special warranties of title, subject to conditions, restrictions and limitations of record, a Conservation Easement in perpetuity over the Protected Property of the nature and character and to the extent hereinafter set forth, as to the Protected Property described as follows:

See Attached Appendix B

Containing in sum 49, 457 acres more or less.

TOGETHER WITH the avulsed lands, if any, in which Eyak may hold title, within the area above described, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.

SUBJECT, however, to easements, rights and reservations of the United States, and third parties, if any, of record.

The State shall be entitled to enforce, on a non-exclusive basis, the terms of the following restrictive covenants against Eyak, its successors or assigns:

1. **RESTRICTED ACTIVITIES:**

The activities listed below are prohibited on the Protected Property except as determined to be necessary for conveying information to the public to protect public safety or natural resources, or for research or management of the Protected Property consistent with the goal of maintaining the Protected Property in perpetuity for conservation and wilderness purposes. Any buildings or mobile homes determined to be necessary for research or management of the Protected Property to the extent reasonably possible must be designed in a rustic manner so as to blend into the natural character of the area, must be constructed and managed in a manner that minimizes adverse effects on the land and must be operated for use by research and land management personnel only. Determinations under the provisions of this section will be made by the owner of the fee simple estate if the owner is the State or the United States. If the owner of the fee simple estate is any other entity, determinations under this section shall be made by the owner subject to approval by the State and Eyak.

- a. constructing or placing buildings, fixed or improved camping accommodations, or mobile homes, fences, billboards or signs other than those signs for boundary, trespass, direction or general information;
- b. changing the topography of the Protected Property in any manner;
- c. removing or destroying plants except for subsistence uses or medicinal uses;
- d. using biocides;
- e. manipulating or altering natural water courses, shores, marshes or other water bodies or activities or uses detrimental to water purity on the Protected Property; and
- f. operating motorized vehicles provided that this provision shall not be construed to prohibit the use of float equipped aircraft on waterbodies within the Protected Property.

2. **PROHIBITED ACTIVITIES:**

The following listed activities by any person are prohibited:

- a. removing or harvesting timber, including but not limited to, all standing and downed timber, logs, inventory, lumber, and any other goods or products obtained or derived from the forest, now or in the future, except for subsistence uses, and for the purpose of implementing the activities identified in Section 1 (Restricted Activities) above;

- b. introducing fish, wildlife or plants not indigenous to Eastern Prince William Sound, including, but not limited to, the grazing of domestic animals or the introduction of reindeer, unless unanimously agreed upon by Eyak, the United States and the State; and
- c. dumping or releasing trash, garbage, hazardous substances or other unsightly or offensive material.

If the United States conveys fee title to the Protected Property, the State shall have a right to conduct research on the Protected Property to plan, arrange for, and conduct: (1) fish, wildlife, and habitat surveys and research by all customary means and techniques, which include the use of aircraft, radio telemetry, and capture drugs; (2) the establishment of multi-year vegetation plots; and (3) with the prior written consent of the owner of the land, which consent shall not be delayed or withheld unreasonably, the right to establish, construct and operate weir sites and sonar sites and reasonably related facilities for the purposes of fish and wildlife management and general monitoring of ecosystem health. To the extent reasonably possible such sites shall be constructed, managed and operated in a manner that is consistent with the goal of maintaining the land in perpetuity for conservation and wilderness purposes, and, must be designed in a rustic manner so as to blend into the natural character of the area. Information on fish and wildlife collected through such activities and projects will be made available to Eyak upon its request to the extent authorized by law.

3. **BEAR VIEWING AREA:**

Eyak retains, subject to existing 17(b) easements, an exclusive easement, from June 1 through September 1 of each calendar year, for a bear viewing site in the approximate dimension of 150 feet x 2000 feet, and a platform, and a fifteen (15) foot wide trail for access. The location of the trail and bear viewing site easement shall be as generally shown on the sketch map at Appendix B. Eyak retains the right, subject to the consent of the United States, which consent shall not be unreasonably withheld, to clear vegetation necessary for construction of a bear viewing platform and trail to facilitate the bear viewing operation. In addition, Eyak retains the right to exclusive access for commercial bear viewing operations on those lands conveyed by this Conservation Easement in Sections 27 and 34 of Township 13 South, Range 4 West, Copper River Meridian, from June 1 through September 1 of each calendar year. The term "commercial bear viewing operations" includes those commercial and non-profit operations for which a primary objective, based on the marketing of services and actual operations, is providing bear viewing. The term does not include commercial and non-profit operations for which bear viewing is secondary to the other aspects of such commercial operations, such as entities that provide kayaking and fishing trips where bear viewing is secondary to the services marketed and provided. Eyak shall give notice in

writing to the Forest Service as follows: (1) not less than 30 days prior to commencement of construction of the bear viewing platform and/or trail identified above; (2) upon completion of construction of the bear viewing platform and/or trail; and (3) not less than 30 days prior to actual commencement of the bear viewing operation. Eyak's right of exclusive use of the bear viewing site and trail, and its right to exclusive access in Sections 27 and 34, shall not be effective until such time as Eyak notifies the Forest Service that Eyak has completed construction of the bear viewing platform and trail or the date Eyak commences a bear viewing operation at the site, whichever is later. In the event that Eyak does not undertake a bear viewing operation within fifteen (15) years from the date of this conveyance or Eyak does not maintain a bear viewing operation for a period of seven (7) consecutive years after Eyak undertakes the bear viewing operation, the aforesaid exclusive easement for bear viewing shall be terminated. The term "bear viewing operation" shall mean a commercial operation in which not less than twenty-five (25) customers per year pay to Eyak or its authorized agent the reasonable fair market value, including transportation costs, for the experience of bear viewing at the above site and visit the site for the purpose of bear viewing. For the purpose of verifying the bear viewing operation, Eyak shall maintain adequate records of its bear viewing operation, which records shall be made available to the Forest Service upon request.

4. **WATER EASEMENT:**

- (a) Notwithstanding Section 1 e., Eyak retains an easement for purposes of access across and entry upon any portion of the Protected Property adjoining the Development Lands described in the Development Lands Easement recorded simultaneously herewith, to transport fresh potable water that may be allocated to Eyak pursuant to federal or State law, necessary to support the development and use of the Development Lands, and to construct and maintain waterlines and water systems required for such purposes. Eyak's right to construct waterlines and water systems is subject to the prior written consent of the United States and the State, which consent shall not be delayed or withheld unreasonably. In determining whether to consent to Eyak's access for water, the United States and the State shall consider the location and volume of water to be used, the reasonable availability of water in the areas to be developed, the proposed means and route of transport and any significant adverse effects on the ecosystem resulting from the removal of such water. Eyak, the State, and the United States intend that Eyak shall have access to a sufficient source of water in order to facilitate Eyak's economic development and use of the Development Lands. At such time as any waterlines and water systems are constructed pursuant to this section, Eyak shall provide an as-built survey, with descriptions, in recordable form, acceptable to the United States and the State, to locate all improvements.

- (b) Notwithstanding Section 1.e., Eyak retains an easement for purposes of access across and entry upon the Protected Property to transport, through waterlines, fresh potable water that may be allocated to Eyak pursuant to federal or State law, necessary to support the use of the Homesite Easement Lands described in the Homesite Lands Easement recorded simultaneously herewith, and to construct and maintain waterlines for such purposes. Eyak's right to installation or to authorize installation by a homesite lessee of such waterlines is subject to the prior written consent of the United States and the State, which consent shall not be delayed or withheld unreasonably. In determining whether to consent to Eyak's request for access for water, the United States and the State shall consider the location and volume of water to be used, the reasonable availability of water on a homesite or in the vicinity of such homesite, the proposed means and route of transport and any significant adverse effects on the ecosystem resulting from the removal of such water. Eyak, the State, and the United States intend that Eyak shall have access to a sufficient source of water in order to facilitate Eyak's use of the Homesite Easement Lands as shareholder homesites or Bed and Breakfast Leases subject to the terms and conditions of Exhibits VIII and X of the Agreement. At such time as any waterlines are constructed pursuant to this paragraph, Eyak shall provide an as-built survey, with description(s), in recordable form, acceptable to the United States and the State, to locate the waterlines.

5. GENERAL PROVISIONS:

- a. Nothing herein shall be deemed to create in any third party the right to enforce these covenants.
- b. Nothing herein shall be deemed to affect or in any way limit the rights of the owner of the subsurface in accordance with applicable law.
- c. Eyak agrees that these restrictive covenants shall run with the land and shall be binding upon Eyak, its successors and assigns.
- d. The parties make no representation as to whether the lands that are described herein include avulsed lands, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.
- e. Eyak retains an easement across lands in T15S-R2W, CRM, Section 7 to provide reasonable access for use by Cordova Electric Cooperative (or its successors in interests) to lay a cable from the power generating site to Eyak Lake to transmit electricity from the proposed power generating facility at Power Creek to power users in the Cordova, Alaska area.

- f. Eyak hereby covenants to and with the State and its assigns, that Eyak is lawfully seized of the surface estate in fee simple of the Protected Property, has good and lawful right and power to sell and convey the same, that the same is free and clear of encumbrances, except as shown above, and that Eyak will forever warrant and defend this Conservation Easement, limited to that portion of the chain of title from the moment of conveyance by the United States to Eyak pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 et. seq., to and including the moment at which this Conservation Easement is validly conveyed to the State of Alaska and its assigns, against the lawful claims and demands of all persons.
- g. Eyak retains the rights, to the extent that it has the rights, granted in Section 14(f) of ANCSA, including the right to consent to exploration, development and removal of minerals from the subsurface estate in the lands within the boundaries of any Native village.
- h. This conveyance is subject to the default provisions of paragraph 4 of the Agreement.

TO HAVE AND TO HOLD unto the State, its successors and assigns forever.

IN WITNESS WHEREOF Eyak and the State have set their hands on the day and year first above written.

THE EYAK CORPORATION

By: _____
Nancy C. Barnes, President

ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
 JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the _____ day of _____, 1998, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared Nancy C. Barnes, President of The Eyak Corporation, to me known and known to be the person who executed the above and foregoing STATE CONSERVATION EASEMENT on behalf of The Eyak Corporation, and who acknowledged to me that she signed the same as President of The Eyak Corporation, in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors and shareholders for the use and purposes therein mentioned.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

(SEAL)

Notary Public in and for Alaska
My commission expires:

ACCEPTANCE

Pursuant to AS § 38.05.035(a)(12), I do hereby accept title to the above described interest in real property on behalf of the State of Alaska.

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES

By: Marty Rutherford
Deputy Commissioner

ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
_____ JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 1998, by MARTY RUTHERFORD, who is known to me to be the Deputy Commissioner of the Department of Natural Resources, State of Alaska.

(SEAL)

Notary Public in and for Alaska
My commission expires: _____

LOCATION INDEX:
See attached Appendix B

**DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION PRIOR
TO CLOSING AS TO FORM AND SUBSTANCE BY U.S. DEPARTMENT OF JUSTICE
AND ALASKA DEPARTMENT OF LAW**

STATE BUSINESS - NO CHARGE

AFTER RECORDING RETURN TO:

State of Alaska
Department of Law
Environmental Section
1031 W. 4th Avenue, Suite 200
Anchorage, Alaska 99501

EXHIBIT II

STATE CONSERVATION EASEMENT

Part Two

THIS CONSERVATION EASEMENT (the "Conservation Easement") is made this ____ day of December, 1998, by **The Eyak Corporation** ("Eyak"), a Native Village Corporation organized pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 *et. seq.*, as amended ("ANCSA") and the laws of the State of Alaska, whose address is P. O. Box 340, Cordova, Alaska 99574, as grantor, and the **State of Alaska**, ("State"), and its assigns, whose address is Department of Natural Resources, 3601 C Street, Suite 960, Anchorage, Alaska 99503, as grantee, under authority of AS § 38.05.035(a)(12) and the Agreement for Sale and Purchase of Lands and Interests in Land Among The Eyak Corporation and the United States of America and the State of Alaska, dated December __, 1998 (the "Agreement").

WHEREAS, the real property subject to this Conservation Easement (the "Protected Property") lies within the boundaries of the Chugach National Forest, in the State of Alaska, administered by the U.S. Department of Agriculture Forest Service; and

WHEREAS, Eyak is the owner in fee simple of the surface estate of the Protected Property, which is described below; and

WHEREAS, the Protected Property is a natural area that provides significant habitat for migratory birds and other fish and wildlife and plant species that were injured as a result of the *Exxon Valdez* oil spill of March 24, 1989; and

WHEREAS, the *Exxon Valdez* Oil Spill Trustee Council ("Trustee Council") has approved the use of joint settlement funds for acquisition by the United States of America ("United States") of the Protected Property, subject to certain third-party rights to be held by the State in order to assure that the restoration objectives for use of the settlement funds are achieved; and

WHEREAS, Eyak intends to convey its fee simple interest in the surface estate of the Protected Property to the United States; and

WHEREAS, Eyak desires to provide the State an independent and non-exclusive right in perpetuity to enforce the restrictive covenants as to the surface estate set forth herein and to undertake limited research on the Protected Property under specified circumstances;

NOW THEREFORE, pursuant to the laws of Alaska and in particular Alaska Statute § 34.17.010 - § 34.17.060, and the Agreement, Eyak does hereby grant and convey to the State, its successors and assigns, forever, with special warranties of title, subject to conditions, restrictions and limitations of record, a Conservation Easement in perpetuity over the Protected Property of the nature and character and to the extent hereinafter set forth, as to the Protected Property described as follows:

See Attached Appendix N

Containing in sum 640 acres more or less.

TOGETHER WITH the avulsed lands, if any, in which Eyak may hold title, within the area above described, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.

SUBJECT, however, to easements, rights and reservations of the United States, and third parties, if any, of record.

The State shall be entitled to enforce, on a non-exclusive basis, the terms of the following restrictive covenants against Eyak, its successors or assigns:

1. **RESTRICTED ACTIVITIES:**

The activities listed below are prohibited on the Protected Property except as determined to be necessary for conveying information to the public to protect public safety or natural resources, or for research or management of the Protected Property consistent with the goal of maintaining the Protected Property in perpetuity for conservation and wilderness purposes. Any buildings or mobile homes determined to be necessary for research or management of the Protected Property to the extent reasonably possible must be designed in a rustic manner so as to blend into the natural character of the area, must be constructed and managed in a manner that minimizes adverse effects on the land and must be operated for use by research and land management personnel only. Determinations under the provisions of this section will be made by the owner of the fee simple estate if the owner is the State or the United States. If the owner of the fee simple estate is any other entity, determinations under this section shall be made by the owner subject to approval by the State and Eyak.

- a. constructing or placing buildings, fixed or improved camping accommodations, or mobile homes, fences, billboards or signs other than those signs for boundary, trespass, direction or general information;
- b. changing the topography of the Protected Property in any manner;
- c. removing or destroying plants except for subsistence uses or medicinal uses;
- d. using biocides;
- e. manipulating or altering natural water courses, shores, marshes or other water bodies or activities or uses detrimental to water purity on the Protected Property; and
- f. operating motorized vehicles provided that this provision shall not be construed to prohibit the use of float equipped aircraft on waterbodies within the Protected Property.

2. **PROHIBITED ACTIVITIES:**

The following listed activities by any person are prohibited:

- a. removing or harvesting timber, including but not limited to, all standing and downed timber, logs, inventory, lumber, and any other goods or products obtained or derived from the forest, now or in the future, except for subsistence uses, and for the purpose of implementing the activities identified in Section 1 (Restricted Activities) above;
- b. introducing fish, wildlife or plants not indigenous to Eastern Prince William Sound, including, but not limited to, the grazing of domestic animals or the introduction of

reindeer, unless unanimously agreed upon by Eyak, the United States and the State; and

- c. dumping or releasing trash, garbage, hazardous substances or other unsightly or offensive material.

If the United States conveys fee title to the Protected Property, the State shall have a right to conduct research on the Protected Property to plan, arrange for, and conduct: (1) fish, wildlife, and habitat surveys and research by all customary means and techniques, which include the use of aircraft, radio telemetry, and capture drugs; (2) the establishment of multi-year vegetation plots; and (3) with the prior written consent of the owner of the land, which consent shall not be delayed or withheld unreasonably, the right to establish, construct and operate weir sites and sonar sites and reasonably related facilities for the purposes of fish and wildlife management and general monitoring of ecosystem health. To the extent reasonably possible such sites shall be constructed, managed and operated in a manner that is consistent with the goal of maintaining the land in perpetuity for conservation and wilderness purposes, and, must be designed in a rustic manner so as to blend into the natural character of the area. Information on fish and wildlife collected through such activities and projects will be made available to Eyak upon its request to the extent authorized by law.

3. **BEAR VIEWING AREA:**

Eyak retains, subject to existing 17(b) easements, an exclusive easement, from June 1 through September 1 of each calendar year, for a bear viewing site in the approximate dimension of 150 feet x 2000 feet, and a platform, and a fifteen (15) foot wide trail for access. The location of the trail and bear viewing site easement shall be as generally shown on the sketch map at Appendix B. Eyak retains the right, subject to the consent of the United States, which consent shall not be unreasonably withheld, to clear vegetation necessary for construction of a bear viewing platform and trail to facilitate the bear viewing operation. In addition, Eyak retains the right to exclusive access for commercial bear viewing operations on those lands described in Appendix N, from June 1 through September 1 of each calendar year. The term "commercial bear viewing operations" includes those commercial and non-profit operations for which a primary objective, based on the marketing of services and actual operations, is providing bear viewing. The term does not include commercial and non-profit operations for which bear viewing is secondary to the other aspects of such commercial operations, such as entities that provide kayaking and fishing trips where bear viewing is secondary to the services marketed and provided. Eyak shall give notice in writing to the Forest Service as follows: (1) not less than 30 days prior to commencement of construction of the bear viewing platform and/or trail identified above; (2) upon completion of construction of the bear viewing platform and/or trail; and (3) not less than 30 days prior to actual commencement of the bear viewing operation. Eyak's right of exclusive use of the

bear viewing site and trail, and its right to exclusive access in those lands described in Appendix N, shall not be effective until such time as Eyak notifies the Forest Service that Eyak has completed construction of the bear viewing platform and trail or the date Eyak commences a bear viewing operation at the site, whichever is later. In the event that Eyak does not undertake a bear viewing operation within fifteen (15) years from the date of this conveyance or Eyak does not maintain a bear viewing operation for a period of seven (7) consecutive years after Eyak undertakes the bear viewing operation, the aforesaid exclusive easement for bear viewing shall be terminated. The term "bear viewing operation" shall mean a commercial operation in which not less than twenty-five (25) customers per year pay to Eyak or its authorized agent the reasonable fair market value, including transportation costs, for the experience of bear viewing at the above site and visit the site for the purpose of bear viewing. For the purpose of verifying the bear viewing operation, Eyak shall maintain adequate records of its bear viewing operation, which records shall be made available to the Forest Service upon request.

4. GENERAL PROVISIONS:

- a. Nothing herein shall be deemed to create in any third party the right to enforce these covenants.
- b. Nothing herein shall be deemed to affect or in any way limit the rights of the owner of the subsurface in accordance with applicable law.
- c. Eyak agrees that these restrictive covenants shall run with the land and shall be binding upon Eyak, its successors and assigns.
- d. The parties make no representation as to whether the lands that are described herein include avulsed lands, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.
- e. Eyak hereby covenants to and with the State and its assigns, that Eyak is lawfully seized of the surface estate in fee simple of the Protected Property, has good and lawful right and power to sell and convey the same, that the same is free and clear of encumbrances, except as shown above, and that Eyak will forever warrant and defend this Conservation Easement, limited to that portion of the chain of title from the moment of conveyance by the United States to Eyak pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 *et. seq.*, to and including the moment at which this Conservation Easement is validly conveyed to the State of Alaska and its assigns, against the lawful claims and demands of all persons.
- f. Eyak retains the rights, to the extent that it has the rights, granted in Section 14(f) of

ANCSA, including the right to consent to exploration, development and removal of minerals from the subsurface estate in the lands within the boundaries of any Native village.

g. This conveyance is subject to the default provisions of paragraph 4 of the Agreement.

TO HAVE AND TO HOLD unto the State, its successors and assigns forever.

IN WITNESS WHEREOF Eyak and the State have set their hands on the day and year first above written.

THE EYAK CORPORATION

By: _____
Nancy C. Barnes, President

ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
_____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the _ day of _____, 1998, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared Nancy C. Barnes, President of The Eyak Corporation, to me known and known to be the person who executed the above and foregoing STATE CONSERVATION EASEMENT on behalf of The Eyak Corporation, and who acknowledged to me that she signed the same as President of The Eyak Corporation, in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors and shareholders for the use and purposes therein mentioned.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

(SEAL)

Notary Public in and for Alaska
My commission expires: _____

ACCEPTANCE

Pursuant to AS § 38.05.035(a)(12), I do hereby accept title to the above described interest in real property on behalf of the State of Alaska.

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES**

By: _____
Marty Rutherford
Deputy Commissioner

ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
_____ JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 1998, by MARTY RUTHERFORD, who is known to me to be the Deputy Commissioner of the Department of Natural Resources, State of Alaska.

(SEAL)

Notary Public in and for Alaska
My commission expires: _____

LOCATION INDEX:
See attached Appendix N

**DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION PRIOR
TO CLOSING AS TO FORM AND SUBSTANCE BY U.S. DEPARTMENT OF JUSTICE
AND ALASKA DEPARTMENT OF LAW**

AFTER RECORDING RETURN TO:

State of Alaska
Department of Law
Environmental Section
1031 W. 4th Avenue, Suite 200
Anchorage, Alaska 99501

EXHIBIT II

STATE CONSERVATION EASEMENT

**On Lands to be Conveyed in Surface Fee
By Eyak to the United States at Olsen Bay**

Part Three

THIS CONSERVATION EASEMENT (the "Conservation Easement") is made this _____ day of _____, 1999, by **The Eyak Corporation** ("Eyak"), a Native Village Corporation organized pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 et. seq., as amended ("ANCSA") and the laws of the State of Alaska, whose address is P. O. Box 340, Cordova, Alaska 99574, as grantor, and the **State of Alaska**, ("State"), and its assigns, whose address is Department of Natural Resources, 3601 C Street, Suite 960, Anchorage, Alaska 99503, as grantee, under authority of AS § 38.05.035(a)(12) and the Agreement for Sale and Purchase of Lands and Interests in Land Among The Eyak Corporation and the United States of America and the State of Alaska, dated _____, 1998 (the "Agreement").

WHEREAS, the real property subject to this Conservation Easement (the "Protected Property") lies within the boundaries of the Chugach National Forest, in the State of Alaska, administered by the U.S. Department of Agriculture Forest Service; and

WHEREAS, Eyak is the owner in fee simple of the surface estate of the Protected Property, which is described below; and

WHEREAS, the Protected Property is a natural area that provides significant habitat for migratory birds and other fish and wildlife and plant species that were injured as a result of the Exxon Valdez oil spill of March 24, 1989; and

WHEREAS, the Exxon Valdez Oil Spill Trustee Council ("Trustee Council") has approved the use of joint settlement funds for acquisition by the United States of America ("United States") of the Protected Property, subject to certain third-party rights to be held by the State in order to assure that the restoration objectives for use of the settlement funds are achieved; and

WHEREAS, Eyak intends to convey its fee simple interest in the surface estate of the Protected Property to the United States; and

WHEREAS, Eyak desires to provide the State an independent and non-exclusive right in perpetuity to enforce the restrictive covenants as to the surface estate set forth herein and to undertake limited research on the Protected Property under specified circumstances;

NOW THEREFORE, pursuant to the laws of Alaska and in particular Alaska Statute § 34.17.010 - § 34.17.060, and the Agreement, Eyak does hereby grant and convey to the State, its successors and assigns, forever, with special warranties of title, subject to conditions, restrictions and limitations of record, a Conservation Easement in perpetuity over the Protected Property of the nature and character and to the extent hereinafter set forth, as to the Protected Property described as follows:

See Attached Appendix O

Containing in sum 793 acres more or less.

TOGETHER WITH the avulsed lands, if any, in which Eyak may hold title, within the area above described, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.

SUBJECT, however, to easements, rights and reservations of the United States, and third parties, if any, of record.

The State shall be entitled to enforce, on a non-exclusive basis, the terms of the following restrictive covenants against Eyak, its successors or assigns:

1. **RESTRICTED ACTIVITIES:**

The activities listed below are prohibited on the Protected Property except as determined to be necessary for conveying information to the public to protect public safety or natural resources, or for research or management of the Protected Property consistent with the goal of maintaining the Protected Property in perpetuity for conservation and wilderness purposes. Any buildings or mobile homes determined to be necessary for research or management of the Protected Property to the extent reasonably possible must be designed in a rustic manner so as to blend into the natural character of the area, must be constructed and managed in a manner that minimizes adverse effects on the land and must be operated for use by research and land management personnel only. Determinations under the provisions of this section will be made by the owner of the fee simple estate if the owner is the State or the United States. If the owner of the fee simple estate is any other entity, determinations under this section shall be made by the owner subject to approval by the State and Eyak.

- a. constructing or placing buildings, fixed or improved camping accommodations, or mobile homes, fences, billboards or signs other than those signs for boundary, trespass, direction or general information;
- b. changing the topography of the Protected Property in any manner;
- c. removing or destroying plants except for subsistence uses or medicinal uses;
- d. using biocides;
- e. manipulating or altering natural water courses, shores, marshes or other water bodies or activities or uses detrimental to water purity on the Protected Property; and
- f. operating motorized vehicles provided that this provision shall not be construed to prohibit the use of float equipped aircraft on waterbodies within the Protected Property.

2. **PROHIBITED ACTIVITIES:**

The following listed activities by any person are prohibited:

- a. removing or harvesting timber, including but not limited to, all standing and downed timber, logs, inventory, lumber, and any other goods or products obtained or derived

from the forest, now or in the future, except for subsistence uses, and for the purpose of implementing the activities identified in Section 1 (Restricted Activities) above;

- b. introducing fish, wildlife or plants not indigenous to Eastern Prince William Sound, including, but not limited to, the grazing of domestic animals or the introduction of reindeer, unless unanimously agreed upon by Eyak, the United States and the State; and
- c. dumping or releasing trash, garbage, hazardous substances or other unsightly or offensive material.

If the United States conveys fee title to the Protected Property, the State shall have a right to conduct research on the Protected Property to plan, arrange for, and conduct: (1) fish, wildlife, and habitat surveys and research by all customary means and techniques, which include the use of aircraft, radio telemetry, and capture drugs; (2) the establishment of multi-year vegetation plots; and (3) with the prior written consent of the owner of the land, which consent shall not be delayed or withheld unreasonably, the right to establish, construct and operate weir sites and sonar sites and reasonably related facilities for the purposes of fish and wildlife management and general monitoring of ecosystem health. To the extent reasonably possible such sites shall be constructed, managed and operated in a manner that is consistent with the goal of maintaining the land in perpetuity for conservation and wilderness purposes, and, must be designed in a rustic manner so as to blend into the natural character of the area. Information on fish and wildlife collected through such activities and projects will be made available to Eyak upon its request to the extent authorized by law.

3. GENERAL PROVISIONS:

- a. Nothing herein shall be deemed to create in any third party the right to enforce these covenants.
- b. Nothing herein shall be deemed to affect or in any way limit the rights of the owner of the subsurface in accordance with applicable law.
- c. Eyak agrees that these restrictive covenants shall run with the land and shall be binding upon Eyak, its successors and assigns.
- d. The parties make no representation as to whether the lands that are described herein include avulsed lands, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.

- e. Eyak hereby covenants to and with the State and its assigns, that Eyak is lawfully seized of the surface estate in fee simple of the Protected Property, has good and lawful right and power to sell and convey the same, that the same is free and clear of encumbrances, except as shown above, and that Eyak will forever warrant and defend this Conservation Easement, limited to that portion of the chain of title from the moment of conveyance by the United States to Eyak pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 et. seq., to and including the moment at which this Conservation Easement is validly conveyed to the State of Alaska and its assigns, against the lawful claims and demands of all persons.
- f. Eyak retains the rights, to the extent that it has the rights, granted in Section 14(f) of ANCSA, including the right to consent to exploration, development and removal of minerals from the subsurface estate in the lands within the boundaries of any Native village.
- g. This conveyance is subject to the provisions of paragraph 4. Default of the Agreement.

TO HAVE AND TO HOLD unto the State, its successors and assigns forever.

IN WITNESS WHEREOF Eyak and the State have set their hands on the day and year first above written.

THE EYAK CORPORATION

By: _____
Nancy C. Barnes, President

ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
_____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the ____ day of _____, 1999, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared Nancy C. Barnes, President of The Eyak Corporation, to me known and known to be the person who executed the above and foregoing STATE CONSERVATION EASEMENT on behalf of The Eyak Corporation, and who acknowledged to me that she signed the same as President of The Eyak Corporation, in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors and shareholders for the use and purposes therein mentioned.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

(SEAL)

Notary Public in and for Alaska
My commission expires: _____

ACCEPTANCE BY THE STATE OF ALASKA

Pursuant to AS § 38.05.035(a)(12), I do hereby accept title to the above described interest in real property on behalf of the State of Alaska.

STATE OF ALASKA, DEPARTMENT OF NATURAL RESOURCES

By: _____
Marty Rutherford
Deputy Commissioner

ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
_____ JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 1999, by MARTY RUTHERFORD, who is known to me to be the Deputy Commissioner of the Department of Natural Resources, State of Alaska.

(SEAL)

Notary Public in and for Alaska
My commission expires: _____

LOCATION INDEX:
See attached Appendix P

**DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION PRIOR
TO CLOSING AS TO FORM AND SUBSTANCE BY U.S. DEPARTMENT OF JUSTICE
AND ALASKA DEPARTMENT OF LAW**

STATE BUSINESS - NO CHARGE

AFTER RECORDING RETURN TO:

State of Alaska
Department of Law
Environmental Section
1031 W. Fourth Avenue, Suite 200
Anchorage, AK 99501

EXHIBIT III

STATE WARRANTY DEED

Part One

THIS STATE WARRANTY DEED (the "Deed") is made this ____ day of December, 1998, between **The Eyak Corporation** ("Eyak"), a Native Village Corporation organized pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 *et. seq.*, as amended ("ANCSA"), and the laws of the State of Alaska, whose address is P. O. Box 340, Cordova, Alaska 99574, as grantor, and the **State of Alaska, Department of Natural Resources** ("State"), and its assigns, whose address is 3601 C Street, Suite 960, Anchorage, Alaska 99503, as grantee, under the authority of AS § 41.21.020(a)(3), and the Agreement for the Sale and Purchase of Lands and Interests in Land Among The Eyak Corporation and the United States of America and the State of Alaska, dated December __, 1998 (the "Agreement").

WITNESSETH, that Eyak, for and in consideration of the terms of the Agreement, which provides for conveyances of lands and interests in lands from Eyak to the State and to the United States, of which this is one, for a sum of Forty-Five Million and no/100 dollars, [\$45,000,000.00] to be paid in five payments, the first of which is Thirteen Million and no/100 Dollars, [\$13,000,000.00], to it in hand paid by the United States, the receipt of which is hereby acknowledged, conveys and warrants to the State and its assigns forever, the surface estate of all those lands lying and being in the Eastern Prince William Sound, State of Alaska (the "Protected Property") more particularly described as follows:

See Attached Appendix A

Containing 3000 acres, more or less, at Canoe Passage.

TOGETHER WITH all right, title, and interest in avulsed lands, if any, within the area above described, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.

TO HAVE AND TO HOLD THE SAME, together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining, to the State and its assigns, forever.

SUBJECT, however, to:

1. **PUBLIC ACCESS:**

The State shall manage the Protected Property so as to ensure public access, including access by the Shareholders of Eyak for purposes of Subsistence Use, sport fishing and hunting, personal use fishing, trapping, recreational uses, and commercial fishing in accordance with applicable laws and regulations and the objective of restoring and protecting natural resources.

2. **RESTRICTIVE COVENANTS:**

Eyak reserves unto itself the non-exclusive right to enforce the following Restrictive Covenants:

a. **Restricted Activities:**

The activities listed below are prohibited on the Protected Property except as determined to be necessary for conveying information to the public to protect public safety or natural resources, or for research or management of the Protected Property consistent with the goal of maintaining the Protected Property in perpetuity for conservation and wilderness purposes. Any buildings or mobile homes determined to be necessary for research or management of the Protected Property, to the extent reasonably possible, must be designed in a rustic manner so as to blend into the natural character of the area, must be constructed and managed in a manner that minimizes adverse effects on the land, and must be operated for use by research or land management personnel only. Determinations under the provisions of this section will be made by the owner of the fee simple surface estate if the owner is the State or the United States. If the owner of the fee simple estate is any other entity, determinations under this section shall be made subject to approval by the State and Eyak:

- (1) constructing or placing buildings, fixed or improved camping accommodations, or mobile homes, fences, billboards or signs other than those signs for boundary, trespass, direction or general information; provided that, notwith-

standing the above limitations for use by research or management personnel only, this provision shall not be construed to prohibit the State, if it is the owner of all or any applicable portion of the subject land, from having the right to construct public use cabins and occupancy support facilities on the Protected Property so long as Eyak has given written consent to the State's design of such structures, which consent may not be delayed or withheld unreasonably. Any such public use cabins must be designed in a rustic manner so as to blend into the natural character of the area and must be constructed and managed in a manner that minimizes adverse effects on the land;

- (2) changing the topography of the Protected Property in any manner;
- (3) removing or destroying plants except for subsistence uses or medicinal uses;
- (4) using biocides;
- (5) manipulating or altering natural water courses, shores, marshes or other water bodies or activities or uses detrimental to water purity on the Protected Property; and
- (6) operating motorized vehicles, provided that this provision shall not be construed to prohibit the use of float equipped aircraft on water bodies within the Protected Property.

b. **Prohibited Activities:**

The following listed activities by any person are prohibited:

- (1) removing or harvesting timber, including but not limited to, all standing and downed timber, logs, inventory, lumber, and any other goods or products obtained or derived from the forest, now or in the future, except for subsistence uses and for the purpose of implementing the activities identified in Subsection a (Restricted Activities) above;
- (2) introducing fish, wildlife or plants not indigenous to Eastern Prince William Sound, including, but not limited to, the grazing of domestic animals or the introduction of reindeer, unless unanimously agreed upon by Eyak, the United States and the State; and

- (3) dumping or releasing trash, garbage, hazardous substances or other unsightly or offensive material.

3. **ENFORCEMENT:**

- a. Nothing contained in the Restrictive Covenants shall be construed to entitle Eyak to bring any action against the State for any injury to or change resulting from causes beyond the State's control, including, without limitation, naturally caused fire, flood, storm, and earth movement, or from any action resulting from a third party's negligence or prudent action taken by the State under emergency conditions to prevent, abate or mitigate significant injury resulting from such causes. Nothing contained herein shall be construed to limit the obligation under applicable state or federal laws of third parties for injury or damage to the above-described lands. Nothing contained herein shall be construed to create any third party rights.
- b. In the event Eyak becomes aware of an event or circumstance of non-compliance with the Restrictive Covenants, Eyak shall give written notice to the State, its successors or assigns, at its last known post office address, of such event or circumstance of non-compliance. If the event or circumstance of non-compliance is not corrected immediately, Eyak is entitled to institute suit to enjoin any breach or enforce any covenant and require that the Protected Property be restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance. Nothing in this section shall limit any other legal rights or remedies available to Eyak.

4. **ITEMS OF RECORD:**

Easements, rights and reservations of the United States, and third parties, if any, of record.

5. **CONSERVATION EASEMENT:**

Enforcement Rights of the United States as established by the Conservation Easement granted by Eyak to the United States and recorded immediately prior to this Deed, authorizing the United States, on a non-exclusive basis, to enforce the Restrictive Covenants set forth therein.

6. **WATER EASEMENT:**

Notwithstanding Section 2.a.(5), Eyak retains an easement for purposes of access across and entry upon the Protected Property to transport, through waterlines, fresh potable water that may be allocated to Eyak pursuant to federal or state law, necessary to support the use of the

Homesite Easement Lands described in the Homesite Lands Easement recorded simultaneously herewith, and to construct and maintain waterlines for such purposes. Eyak's right to installation or to authorize installation by a homesite lessee of such waterlines is subject to the prior written consent of the United States and the State, which consent shall not be delayed or withheld unreasonably. In determining whether to consent to Eyak's request for access for water, the United States and the State shall consider the location and volume of water to be used, the reasonable availability of water on a homesite or in the vicinity of such homesite, the proposed means and route of transport and any significant adverse effects on the ecosystem resulting from the removal of such water. Eyak, the State, and the United States intend that Eyak shall have access to a sufficient source of water in order to facilitate Eyak's use of the Homesite Easement Lands as shareholder homesites or Bed and Breakfast Leases subject to the terms and conditions of Exhibits VIII and X of the Agreement. At such time as any waterlines are constructed pursuant to this paragraph, Eyak shall provide an as-built survey, with description(s), in recordable form, acceptable to the United States and the State, to locate the waterlines.

7. **REVERTER:**

If the State attempts to convey the Protected Property or any part thereof in fee simple or to convey the timber rights thereto to another entity, at the time of such conveyance, title to said portion of the Protected Property or said timber rights shall be conveyed automatically to the United States, provided that the United States agrees to accept it. If the United States does not accept fee title to the surface estate, or said timber rights, title to such estate or timber rights shall revert automatically to Eyak. If the United States accepts fee title to the surface estate or timber rights, in the event Eyak or the State becomes aware of an event or circumstance when the Protected Property or any portion thereof ceases to be in compliance with the terms of any applicable Restrictive Covenant, that party shall give notice to the United States of such event or circumstance of non-compliance, and make demand that it be enjoined, corrected and/or that the land be restored as is appropriate to the circumstances. If the event or circumstance of non-compliance is not ceased immediately and corrected promptly, Eyak or the State may institute suit to enjoin any breach of, or enforce compliance with, the Restrictive Covenant, and require that the Protected Property, or the affected portion thereof, be restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance. If the event or circumstance of non-compliance is not corrected promptly and the Protected Property, or portion thereof, is not restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance, then title to such Protected Property or portion thereof shall be conveyed automatically to Eyak. The Protected Property shall continue, in any event, to be subject to the Restrictive Covenant.

8. GENERAL PROVISIONS:

- a. The foregoing easements and Restrictive Covenants shall run with the land and shall be binding upon the State and its assigns or successors in interest.
- b. Nothing herein shall be deemed to cause a merger of the surface and subsurface estates, and nothing herein shall be deemed to affect or in any way limit the rights of the owner of the subsurface estate in accordance with applicable law.
- c. Eyak retains the rights, to the extent that it has the rights, granted in Section 14(f) of ANCSA, including the right to consent to exploration, development or removal of minerals from the subsurface estate in the lands within the boundaries of any Native village.
- d. The parties make no representations as to whether the lands that are described herein include avulsed lands, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.
- e. Eyak hereby covenants to and with the State, its successors and assigns, that Eyak is lawfully seized of the surface estate in fee simple of the Protected Property, has good and lawful right and power to sell and convey the same, that the same is free and clear of encumbrances, except as shown above, and that Eyak will forever warrant and defend the title thereto and the quiet possession thereof, limited to that portion of the chain of title from the moment of conveyance by the United States to Eyak pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 et. seq., to and including the moment at which such title is validly conveyed to the State, or its successors or assigns, against the lawful claims and demands of all persons.
- f. This conveyance is subject to the default provisions of paragraph 4 of the Agreement.

IN WITNESS WHEREOF, Eyak hereunto sets its hand and seal the day and year first above written.

THE EYAK CORPORATION

By: _____
Nancy C. Barnes, President

ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
_____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this ____ day of _____, 1998, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared Nancy C. Barnes, to me known and known to be the President of The Eyak Corporation, and the person who executed the above and foregoing STATE WARRANTY DEED on behalf of The Eyak Corporation, and who acknowledged to me that she signed the same as President of The Eyak Corporation, in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors and shareholders for the use and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first written above.

(SEAL)

Notary Public in and for Alaska
My commission expires: _____

ACCEPTANCE

Pursuant to § AS 41.21.020(a)(3), and the Agreement, the State hereby accepts this STATE WARRANTY DEED conveying to the State, its successors and assigns, the interests in the Protected Property described therein.

Dated this _____ day of _____, 1998.

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES

By: _____
Marty Rutherford
Deputy Commissioner

ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
_____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this _____ day of _____, 1998, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared Marty Rutherford, known to me and to me known to be the Deputy Commissioner, State of Alaska, Department of Natural Resources, and she acknowledged to me that she signed as accepting the foregoing STATE WARRANTY DEED conveying to the United States, those lands described therein, and she acknowledged to me that she executed the foregoing instrument freely and voluntarily.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first written above.

(SEAL)
LOCATION INDEX:

Notary Public in and for Alaska
My commission expires: _____

See attached Appendix A

**DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION PRIOR
TO CLOSING AS TO FORM AND SUBSTANCE BY U.S. DEPARTMENT OF JUSTICE
AND ALASKA DEPARTMENT OF LAW**

STATE BUSINESS - NO CHARGE

AFTER RECORDING RETURN TO:

State of Alaska

Department of Law

Environmental Section

1031 W. Fourth Avenue, Suite 200

Anchorage, AK 99501

EXHIBIT III

STATE WARRANTY DEED

Part Two

THIS STATE WARRANTY DEED (the "Deed") is made this ____ day of December, 1998, between **The Eyak Corporation** ("Eyak"), a Native Village Corporation organized pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 *et. seq.*, as amended ("ANCSA"), and the laws of the State of Alaska, whose address is P. O. Box 340, Cordova, Alaska 99574, as grantor, and the **State of Alaska, Department of Natural Resources** ("State"), and its assigns, whose address is 3601 C Street, Suite 960, Anchorage, Alaska 99503, as grantee, under the authority of AS § 41.21.020(a)(3), and the Agreement for the Sale and Purchase of Lands and Interests in Land Among The Eyak Corporation and the United States of America and the State of Alaska, dated December ____, 1998 (the "Agreement").

WITNESSETH, that Eyak, for and in consideration of the terms of the Agreement, which provides for conveyances of lands and interests in lands from Eyak to the State and to the United States, of which this is one, for a sum of Forty-Five Million and no/100 dollars, [\$45,000,000.00] to be paid in five payments, the first of which is Thirteen Million and no/100 Dollars, [\$13,000,000.00], to it in hand paid by the United States previously, the receipt of which has been acknowledged, conveys and warrants to the State and its assigns forever, the surface estate of all those lands lying and being in the Eastern Prince William Sound, State of Alaska (the "Protected Property"), more particularly described as follows:

See Attached Appendix M

Containing 1,435 acres, more or less, at Canoe Passage.

TOGETHER WITH all right, title, and interest in avulsed lands, if any, within the area above described, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.

TO HAVE AND TO HOLD THE SAME, together with all the hereditaments and appurtenances thereunto belonging or in any wise appertaining, to the State and its assigns, forever.

SUBJECT, however, to:

1. **PUBLIC ACCESS:**

The State shall manage the Protected Property so as to ensure public access, including access by the Shareholders of Eyak for purposes of Subsistence Use, sport fishing and hunting, personal use fishing, trapping, recreational uses, and commercial fishing in accordance with applicable laws and regulations and the objective of restoring and protecting natural resources.

2. **RESTRICTIVE COVENANTS:**

Eyak reserves unto itself the non-exclusive right to enforce the following Restrictive Covenants:

a. **Restricted Activities:**

The activities listed below are prohibited on the Protected Property except as determined to be necessary for conveying information to the public to protect public safety or natural resources, or for research or management of the Protected Property consistent with the goal of maintaining the Protected Property in perpetuity for conservation and wilderness purposes. Any buildings or mobile homes determined to be necessary for research or management of the Protected Property, to the extent reasonably possible, must be designed in a rustic manner so as to blend into the natural character of the area, must be constructed and managed in a manner that minimizes adverse effects on the land, and must be operated for use by research or land management personnel only. Determinations under the provisions of this section will be made by the owner of the fee simple surface estate if the owner is the State or the United States. If the owner of the fee simple estate is any other entity, determinations under this section shall be made subject to approval by the State and Eyak:

- (1) constructing or placing buildings, fixed or improved camping accommodations, or mobile homes, fences, billboards or signs other than those signs for boundary, trespass, direction or general information; provided that, notwithstanding the above limitations for use by research or management personnel

only, this provision shall not be construed to prohibit the State, if it is the owner of all or any applicable portion of the subject land, from having the right to construct public use cabins and occupancy support facilities on the Protected Property so long as Eyak has given written consent to the State's design of such structures, which consent may not be delayed or withheld unreasonably. Any such public use cabins must be designed in a rustic manner so as to blend into the natural character of the area and must be constructed and managed in a manner that minimizes adverse effects on the land;

- (2) changing the topography of the Protected Property in any manner;
- (3) removing or destroying plants except for subsistence uses or medicinal uses;
- (4) using biocides;
- (5) manipulating or altering natural water courses, shores, marshes or other water bodies or activities or uses detrimental to water purity on the Protected Property; and
- (6) operating motorized vehicles, provided that this provision shall not be construed to prohibit the use of float equipped aircraft on water bodies within the Protected Property.

b. Prohibited Activities:

The following listed activities by any person are prohibited:

- (1) removing or harvesting timber, including but not limited to, all standing and downed timber, logs, inventory, lumber, and any other goods or products obtained or derived from the forest, now or in the future, except for subsistence uses and for the purpose of implementing the activities identified in Subsection a. (Restricted Activities) above;
- (2) introducing fish, wildlife or plants not indigenous to Eastern Prince William Sound, including, but not limited to, the grazing of domestic animals or the introduction of reindeer, unless unanimously agreed upon by Eyak, the United States and the State; and
- (3) dumping or releasing trash, garbage, hazardous substances or other unsightly or offensive material.

3. **ENFORCEMENT:**

- a. Nothing contained in the Restrictive Covenants shall be construed to entitle Eyak to bring any action against the State for any injury to or change resulting from causes beyond the State's control, including, without limitation, naturally caused fire, flood, storm, and earth movement, or from any action resulting from a third party's negligence or prudent action taken by the State under emergency conditions to prevent, abate or mitigate significant injury resulting from such causes. Nothing contained herein shall be construed to limit the obligation under applicable state or federal laws of third parties for injury or damage to the above-described lands. Nothing contained herein shall be construed to create any third party rights.
- b. In the event Eyak becomes aware of an event or circumstance of non-compliance with the Restrictive Covenants, Eyak shall give written notice to the State, its successors or assigns, at its last known post office address, of such event or circumstance of non-compliance. If the event or circumstance of non-compliance is not corrected immediately, Eyak is entitled to institute suit to enjoin any breach or enforce any covenant and require that the Protected Property be restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance. Nothing in this section shall limit any other legal rights or remedies available to Eyak.

4. **ITEMS OF RECORD:**

Easements, rights and reservations of the United States, and third parties, if any, of record.

5. **CONSERVATION EASEMENT:**

Enforcement Rights of the United States as established by the Conservation Easement granted by Eyak to the United States and recorded immediately prior to this Deed, authorizing the United States, on a non-exclusive basis, to enforce the Restrictive Covenants set forth therein.

6. **REVERTER:**

If the State attempts to convey the Protected Property or any part thereof in fee simple or to convey the timber rights thereto to another entity, at the time of such conveyance, title to said portion of the Protected Property or said timber rights shall be conveyed automatically to the United States, provided that the United States agrees to accept it. If the United States does not accept fee title to the surface estate, or said timber rights, title to such estate or timber rights shall revert automatically to Eyak. If the United States accepts fee title to the surface estate or timber rights, in the event Eyak or the State becomes aware of an event or circum-

stance when the Protected Property or any portion thereof ceases to be in compliance with the terms of any applicable Restrictive Covenant, that party shall give notice to the United States of such event or circumstance of non-compliance, and make demand that it be enjoined, corrected and/or that the land be restored as is appropriate to the circumstances. If the event or circumstance of non-compliance is not ceased immediately and corrected promptly, Eyak or the State may institute suit to enjoin any breach of, or enforce compliance with, the Restrictive Covenant, and require that the Protected Property, or the affected portion thereof, be restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance. If the event or circumstance of non-compliance is not corrected promptly and the Protected Property, or portion thereof, is not restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance, then title to such Protected Property or portion thereof shall be conveyed automatically to Eyak. The Protected Property shall continue, in any event, to be subject to the Restrictive Covenant.

7. GENERAL PROVISIONS:

- a. The foregoing easements and Restrictive Covenants shall run with the land and shall be binding upon the State and its assigns or successors in interest.
- b. Nothing herein shall be deemed to cause a merger of the surface and subsurface estates, and nothing herein shall be deemed to affect or in any way limit the rights of the owner of the subsurface estate in accordance with applicable law.
- c. Eyak retains the rights, to the extent that it has the rights, granted in Section 14(f) of ANCSA, including the right to consent to exploration, development or removal of minerals from the subsurface estate in the lands within the boundaries of any Native village.
- d. The parties make no representations as to whether the lands that are described herein include avulsed lands, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.
- e. Eyak hereby covenants to and with the State, its successors and assigns, that Eyak is lawfully seized of the surface estate in fee simple of the Protected Property, has good and lawful right and power to sell and convey the same, that the same is free and clear of encumbrances, except as shown above, and that Eyak will forever warrant and defend the title thereto and the quiet possession thereof, limited to that portion of the chain of title from the moment of conveyance by the United States to Eyak pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 et. seq., to and including the moment at which such title is validly conveyed to the State, or its successors or assigns, against the lawful claims and demands of all persons.

f. This conveyance is subject to the default provisions of paragraph 4 of the Agreement.

IN WITNESS WHEREOF, Eyak hereunto sets its hand and seal the day and year first above written.

THE EYAK CORPORATION

By: _____
Nancy C. Barnes, President

ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
_____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this _____ day of _____, 1998, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared Nancy C. Barnes, to me known and known to be the President of The Eyak Corporation, and the person who executed the above and foregoing STATE WARRANTY DEED on behalf of The Eyak Corporation, and who acknowledged to me that she signed the same as President of The Eyak Corporation, in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors and shareholders for the use and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first written above.

(SEAL)

Notary Public in and for Alaska
My commission expires: _____

ACCEPTANCE

Pursuant to § AS 41.21.020(a)(3), and the Agreement, the State hereby accepts this STATE WARRANTY DEED conveying to the State, its successors and assigns, the interests in the Protected Property described therein.

Dated this _____ day of _____, 1998.

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES

By: _____
Marty Rutherford
Deputy Commissioner

ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
_____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this _____ day of _____, 1998, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared Marty Rutherford, known to me and to me known to be the Deputy Commissioner, State of Alaska, Department of Natural Resources, and she acknowledged to me that she signed as accepting the foregoing STATE WARRANTY DEED conveying to the United States, those lands described therein, and she acknowledged to me that she executed the foregoing instrument freely and voluntarily.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first written above.

(SEAL)

Notary Public in and for Alaska
My commission expires: _____

LOCATION INDEX:
See attached Appendix M

**DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION PRIOR
TO CLOSING AS TO FORM AND SUBSTANCE BY U.S. DEPARTMENT OF JUSTICE
AND ALASKA DEPARTMENT OF LAW**

STATE BUSINESS - NO CHARGE

AFTER RECORDING RETURN TO:

State of Alaska
Department of Law
Environmental Section
1031 W. Fourth Avenue, Suite 200
Anchorage, AK 99501

EXHIBIT III

STATE WARRANTY DEED

Part Two

THIS STATE WARRANTY DEED (the "Deed") is made this ____ day of December, 1998, between **The Eyak Corporation** ("Eyak"), a Native Village Corporation organized pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 *et. seq.*, as amended ("ANCSA"), and the laws of the State of Alaska, whose address is P. O. Box 340, Cordova, Alaska 99574, as grantor, and the **State of Alaska, Department of Natural Resources** ("State"), and its assigns, whose address is 3601 C Street, Suite 960, Anchorage, Alaska 99503, as grantee, under the authority of AS § 41.21.020(a)(3), and the Agreement for the Sale and Purchase of Lands and Interests in Land Among The Eyak Corporation and the United States of America and the State of Alaska, dated December ____, 1998 (the "Agreement").

WITNESSETH, that Eyak, for and in consideration of the terms of the Agreement, which provides for conveyances of lands and interests in lands from Eyak to the State and to the United States, of which this is one, for a sum of Forty-Five Million and no/100 dollars, [\$45,000,000.00] to be paid in five payments, the first of which is Thirteen Million and no/100 Dollars, [\$13,000,000.00], to it in hand paid by the United States previously, the receipt of which has been acknowledged, conveys and warrants to the State and its assigns forever, the surface estate of all those lands lying and being in the Eastern Prince William Sound, State of Alaska (the "Protected Property"), more particularly described as follows:

See Attached Appendix M

Containing 1,435 acres, more or less, at Canoe Passage.

TOGETHER WITH all right, title, and interest in avulsed lands, if any, within the area above described, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.

TO HAVE AND TO HOLD THE SAME, together with all the hereditaments and appurtenances thereunto belonging or in any wise appertaining, to the State and its assigns, forever.

SUBJECT, however, to:

1. **PUBLIC ACCESS:**

The State shall manage the Protected Property so as to ensure public access, including access by the Shareholders of Eyak for purposes of Subsistence Use, sport fishing and hunting, personal use fishing, trapping, recreational uses, and commercial fishing in accordance with applicable laws and regulations and the objective of restoring and protecting natural resources.

2. **RESTRICTIVE COVENANTS:**

Eyak reserves unto itself the non-exclusive right to enforce the following Restrictive Covenants:

a. **Restricted Activities:**

The activities listed below are prohibited on the Protected Property except as determined to be necessary for conveying information to the public to protect public safety or natural resources, or for research or management of the Protected Property consistent with the goal of maintaining the Protected Property in perpetuity for conservation and wilderness purposes. Any buildings or mobile homes determined to be necessary for research or management of the Protected Property, to the extent reasonably possible, must be designed in a rustic manner so as to blend into the natural character of the area, must be constructed and managed in a manner that minimizes adverse effects on the land, and must be operated for use by research or land management personnel only. Determinations under the provisions of this section will be made by the owner of the fee simple surface estate if the owner is the State or the United States. If the owner of the fee simple estate is any other entity, determinations under this section shall be made subject to approval by the State and Eyak:

- (1) constructing or placing buildings, fixed or improved camping accommodations, or mobile homes, fences, billboards or signs other than those signs for boundary, trespass, direction or general information; provided that, notwithstanding the above limitations for use by research or management personnel

only, this provision shall not be construed to prohibit the State, if it is the owner of all or any applicable portion of the subject land, from having the right to construct public use cabins and occupancy support facilities on the Protected Property so long as Eyak has given written consent to the State's design of such structures, which consent may not be delayed or withheld unreasonably. Any such public use cabins must be designed in a rustic manner so as to blend into the natural character of the area and must be constructed and managed in a manner that minimizes adverse effects on the land;

- (2) changing the topography of the Protected Property in any manner;
- (3) removing or destroying plants except for subsistence uses or medicinal uses;
- (4) using biocides;
- (5) manipulating or altering natural water courses, shores, marshes or other water bodies or activities or uses detrimental to water purity on the Protected Property; and
- (6) operating motorized vehicles, provided that this provision shall not be construed to prohibit the use of float equipped aircraft on water bodies within the Protected Property.

b. Prohibited Activities:

The following listed activities by any person are prohibited:

- (1) removing or harvesting timber, including but not limited to, all standing and downed timber, logs, inventory, lumber, and any other goods or products obtained or derived from the forest, now or in the future, except for subsistence uses and for the purpose of implementing the activities identified in Subsection a. (Restricted Activities) above;
- (2) introducing fish, wildlife or plants not indigenous to Eastern Prince William Sound, including, but not limited to, the grazing of domestic animals or the introduction of reindeer, unless unanimously agreed upon by Eyak, the United States and the State; and
- (3) dumping or releasing trash, garbage, hazardous substances or other unsightly or offensive material.

3. **ENFORCEMENT:**

- a. Nothing contained in the Restrictive Covenants shall be construed to entitle Eyak to bring any action against the State for any injury to or change resulting from causes beyond the State's control, including, without limitation, naturally caused fire, flood, storm, and earth movement, or from any action resulting from a third party's negligence or prudent action taken by the State under emergency conditions to prevent, abate or mitigate significant injury resulting from such causes. Nothing contained herein shall be construed to limit the obligation under applicable state or federal laws of third parties for injury or damage to the above-described lands. Nothing contained herein shall be construed to create any third party rights.
- b. In the event Eyak becomes aware of an event or circumstance of non-compliance with the Restrictive Covenants, Eyak shall give written notice to the State, its successors or assigns, at its last known post office address, of such event or circumstance of non-compliance. If the event or circumstance of non-compliance is not corrected immediately, Eyak is entitled to institute suit to enjoin any breach or enforce any covenant and require that the Protected Property be restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance. Nothing in this section shall limit any other legal rights or remedies available to Eyak.

4. **ITEMS OF RECORD:**

Easements, rights and reservations of the United States, and third parties, if any, of record.

5. **CONSERVATION EASEMENT:**

Enforcement Rights of the United States as established by the Conservation Easement granted by Eyak to the United States and recorded immediately prior to this Deed, authorizing the United States, on a non-exclusive basis, to enforce the Restrictive Covenants set forth therein.

6. **REVERTER:**

If the State attempts to convey the Protected Property or any part thereof in fee simple or to convey the timber rights thereto to another entity, at the time of such conveyance, title to said portion of the Protected Property or said timber rights shall be conveyed automatically to the United States, provided that the United States agrees to accept it. If the United States does not accept fee title to the surface estate, or said timber rights, title to such estate or timber rights shall revert automatically to Eyak. If the United States accepts fee title to the surface estate or timber rights, in the event Eyak or the State becomes aware of an event or circum-

stance when the Protected Property or any portion thereof ceases to be in compliance with the terms of any applicable Restrictive Covenant, that party shall give notice to the United States of such event or circumstance of non-compliance, and make demand that it be enjoined, corrected and/or that the land be restored as is appropriate to the circumstances. If the event or circumstance of non-compliance is not ceased immediately and corrected promptly, Eyak or the State may institute suit to enjoin any breach of, or enforce compliance with, the Restrictive Covenant, and require that the Protected Property, or the affected portion thereof, be restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance. If the event or circumstance of non-compliance is not corrected promptly and the Protected Property, or portion thereof, is not restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance, then title to such Protected Property or portion thereof shall be conveyed automatically to Eyak. The Protected Property shall continue, in any event, to be subject to the Restrictive Covenant.

7. **GENERAL PROVISIONS:**

- a. The foregoing easements and Restrictive Covenants shall run with the land and shall be binding upon the State and its assigns or successors in interest.
- b. Nothing herein shall be deemed to cause a merger of the surface and subsurface estates, and nothing herein shall be deemed to affect or in any way limit the rights of the owner of the subsurface estate in accordance with applicable law.
- c. Eyak retains the rights, to the extent that it has the rights, granted in Section 14(f) of ANCSA, including the right to consent to exploration, development or removal of minerals from the subsurface estate in the lands within the boundaries of any Native village.
- d. The parties make no representations as to whether the lands that are described herein include avulsed lands, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.
- e. Eyak hereby covenants to and with the State, its successors and assigns, that Eyak is lawfully seized of the surface estate in fee simple of the Protected Property, has good and lawful right and power to sell and convey the same, that the same is free and clear of encumbrances, except as shown above, and that Eyak will forever warrant and defend the title thereto and the quiet possession thereof, limited to that portion of the chain of title from the moment of conveyance by the United States to Eyak pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 et. seq., to and including the moment at which such title is validly conveyed to the State, or its successors or assigns, against the lawful claims and demands of all persons.

f. This conveyance is subject to the default provisions of paragraph 4 of the Agreement.

IN WITNESS WHEREOF, Eyak hereunto sets its hand and seal the day and year first above written.

THE EYAK CORPORATION

By: _____
Nancy C. Barnes, President

ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
_____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this _____ day of _____, 1998, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared Nancy C. Barnes, to me known and known to be the President of The Eyak Corporation, and the person who executed the above and foregoing STATE WARRANTY DEED on behalf of The Eyak Corporation, and who acknowledged to me that she signed the same as President of The Eyak Corporation, in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors and shareholders for the use and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first written above.

(SEAL)

Notary Public in and for Alaska
My commission expires: _____

ACCEPTANCE

Pursuant to § AS 41.21.020(a)(3), and the Agreement, the State hereby accepts this STATE WARRANTY DEED conveying to the State, its successors and assigns, the interests in the Protected Property described therein.

Dated this _____ day of _____, 1998.

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES**

By: _____
Marty Rutherford
Deputy Commissioner

ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
_____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this _____ day of _____, 1998, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared Marty Rutherford, known to me and to me known to be the Deputy Commissioner, State of Alaska, Department of Natural Resources, and she acknowledged to me that she signed as accepting the foregoing STATE WARRANTY DEED conveying to the United States, those lands described therein, and she acknowledged to me that she executed the foregoing instrument freely and voluntarily.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first written above.

(SEAL)

Notary Public in and for Alaska
My commission expires: _____

LOCATION INDEX:
See attached Appendix M

**DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION PRIOR
TO CLOSING AS TO FORM AND SUBSTANCE BY U.S. DEPARTMENT OF JUSTICE
AND ALASKA DEPARTMENT OF LAW**

STATE BUSINESS - NO CHARGE

AFTER RECORDING RETURN TO:

U.S. Department of Agriculture
Forest Service
P.O. Box 21628
Juneau, Alaska 99802-1628

EXHIBIT IV

EYAK CONSERVATION EASEMENT

THIS CONSERVATION EASEMENT (the "Easement") is made this ____ day of December, 1998, by **The Eyak Corporation** ("Eyak"), a Native Village Corporation organized pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 *et. seq.*, as amended ("ANCSA"), and the laws of the State of Alaska, whose address is P. O. Box 340, Cordova, Alaska 99574, as grantor, and the **United States of America** and its assigns ("United States"), under the authority of the Act of August 3, 1956, as amended, 7 U.S.C. § 428a, U.S. Department of Agriculture, Forest Service, whose address is P. O. Box 21628, Juneau, Alaska 99802-1628, and the **State of Alaska** and its assigns ("State"), under the authority of AS §38.05.035(a)(12), Department of Natural Resources, whose address is 3601 C Street, Suite 960, Anchorage, Alaska 99503, as grantees, and pursuant to the Agreement for the Sale and Purchase of Lands and Interests in Land Among The Eyak Corporation and the United States and the State of Alaska dated December __, 1998 (the "Agreement"). Eyak, the United States and the State are collectively referred to hereinafter as "Parties."

WHEREAS, Eyak is the owner in fee simple of the surface estate of certain real property located adjacent to the Chugach National Forest, Alaska, which is described below (the "Protected Property"); and

WHEREAS, the Protected Property contains natural, scenic, wooded, and other similar or related resources and values, including fish and wildlife and their habitats, as well as attributes and amenities important and valuable to the restoration of natural resources and services injured or reduced by the *Exxon Valdez* oil spill of March 24, 1989 ("EVOS"), including those described in the Final Restoration Plan adopted by the *Exxon Valdez* Oil Spill Trustee Council (the "Trustee Council") on November 2, 1994 ("Conservation Values"); and

WHEREAS, Eyak intends to convey to the United States the right to enter upon the Protected Property in order to restore natural resources and services injured by EVOS, and to preserve, protect, and manage the Conservation Values of the Protected Property in perpetuity as specified below; and

WHEREAS, Eyak intends to convey to the State the right to enforce the preservation and protection of the Conservation Values of the Protected Property in perpetuity as specified below; and

WHEREAS, subject to the rights to be granted to the United States and the State, Eyak reserves and retains all other rights and privileges as landowner, including certain rights that are specified herein; and

WHEREAS, the Parties intend that the public will be permitted access to a portion of the Protected Property as provided herein, for sport hunting, sport fishing, and other natural lands based recreational opportunities, and for other similar purposes, according to the provisions of this Easement, and in accordance with applicable laws, rules, regulations, and policies governing management of the Chugach National Forest; and

WHEREAS, the United States agrees by accepting this grant to honor the intentions of Eyak stated herein and to preserve and protect in perpetuity the Conservation Values of the Protected Property, consistent with Eyak's retained rights and privileges as landowner;

NOW, THEREFORE, pursuant to the laws of the State of Alaska and in particular AS § 34.17.010 - § 34.17.060, applicable federal law, and the Agreement, Eyak does hereby grant, transfer, and convey to the United States and the State, their successors and assigns, forever, with special warranties of title, subject to conditions, limitations and restrictions of record, an Easement in perpetuity over the Protected Property of the nature and character and to the extent hereinafter set forth as to the Protected Property more particularly described as follows:

See Attached Appendix D

Containing in sum 7,177 acres, more or less.

TOGETHER WITH the avulsed lands, if any, in which Eyak may hold title, within the area above described, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.

SUBJECT, however, to easements, rights and reservations of the United States, and third parties, if any, of record.

The acquiring federal agency is the U.S. Department of Agriculture, Forest Service.

1. **PURPOSE:**

The purpose of this Easement is to ensure that the Conservation Values of the Protected Property will be maintained in perpetuity and to prevent any use of the Protected Property that will materially impair or interfere with its Conservation Values. This includes the protection of environmentally important forested and non-forested areas and the promotion of forested and non-forested fish and wildlife habitat conservation and other conservation opportunities such as the protection of important scenic, cultural, fish, wildlife and recreational resources, riparian areas, and other ecological values. Consistent with the specific provisions of this Easement, the Parties intend that this Easement will confine use of the Protected Property to activities that are compatible with the preservation of the Conservation Values of the Protected Property.

The Parties further intend to ensure the reservation and enjoyment by Eyak, landowner of the Protected Property, of all legal rights and privileges that are not specifically granted to the United States and the State by and through this Easement.

2. **RIGHTS CONVEYED TO THE UNITED STATES:**

To accomplish the purpose of this Easement, the following rights are conveyed to the United States and the rights set forth below in Subsection d. are also conveyed to the State:

- a. To enter upon the Protected Property in order to achieve the purpose and enforce the terms of this Easement.
- b. To enter upon the Protected Property in order to restore natural resources and services injured or reduced by the EVOS. Nothing herein shall be construed to establish upon the United States an obligation to restore any particular natural resources or services.
- c. To prevent any activity on or use of the Protected Property that is inconsistent with the purpose of this Easement and, in the event the Protected Property is damaged by any inconsistent activity or use, to require the restoration of such areas or features of the Protected Property at the sole cost and expense of those responsible for the damage.
- d. Surveys, Weir and Sonar Sites: To plan, arrange for, and conduct: (1) fish, wildlife, and habitat surveys and research by all customary means and techniques, which include the use of aircraft, radio telemetry, and capture drugs; (2) the establishment of multi-year vegetation plots; and (3) at the discretion of the United States and the State and with the prior written consent of Eyak, which consent shall not be delayed or withheld unreasonably, the right to establish, construct and operate weir sites and

sonar sites and reasonably related facilities on the Protected Property to be operated by the United States or the State for the purposes of fish and wildlife management and general monitoring of ecosystem health. To the extent reasonably possible such sites shall be constructed, managed and operated in a manner that minimizes adverse effects on the Conservation Values of the Protected Property and shall be designed in a rustic manner so as to blend into the natural character of the area. Information on fish and wildlife collected through such activities and projects will be made available to Eyak upon its request to the extent authorized by law.

- e. Seasonal Camps: To establish temporary seasonal camps for research and management purposes, which camps may be in different locations each year. Such temporary camps may only consist of tent platforms and related facilities and equipment, which shall be removed when a season's work is completed, and shall be constructed, managed, and operated in a manner that minimizes adverse effects on the Conservation Values of the Protected Property. Such temporary camps shall involve only those facilities reasonably related to the research and management operations and shall be designed in such manner as to reasonably blend into the natural character of the area. The locations and use of such temporary camps and related facilities shall be determined by the United States, with the prior written consent of Eyak which consent shall not be delayed or withheld unreasonably.
- f. Monitor Use of Protected Property: To monitor, assess and police use (as provided for in Section 4.a. and 4.b. of this Easement) by Eyak and the public of the Protected Property. Eyak shall provide the United States and the State such information on the commercial and non-commercial use of the Protected Property as is necessary for the United States and the State to exercise their rights under this Easement.
- g. To take all reasonable steps to ensure that Eyak's rights and privileges as reserved herein are protected and preserved, including limiting or denying access to persons or parties who interfere with Eyak's rights and privileges under this Easement.
- h. To ensure the public is permitted access to the portion of the Protected Property as provided herein in a manner that is consistent with the provisions of this Easement.

3. PROHIBITED USES:

- a. Restricted Activities: The activities listed below by any person are prohibited on the Protected Property except the United States may undertake such activities if such activities are determined jointly by Eyak and the United States to be necessary for conveying information to the public to protect public safety or natural resources, or for research or management of the Protected Property consistent with the goal of maintaining the land in perpetuity for conservation and wilderness purposes. Any

buildings or mobile homes determined to be necessary for research or management of the Protected Property to the extent reasonably possible must be designed in a rustic manner so as to blend into the natural character of the area, must be constructed and managed in a manner that minimizes adverse effects on the land, and must be operated for use by research or land management personnel only.

- (1) constructing or placing buildings, fixed or improved camping accommodations, or mobile homes, fences, billboards or signs other than those signs for boundary, trespass, direction or general information;
- (2) changing the topography of the Protected Property in any manner;
- (3) removing or destroying plants except for subsistence uses or medicinal uses;
- (4) using biocides;
- (5) manipulating or altering natural water courses, shores, marshes or other water bodies or activities or uses detrimental to water quality on the Protected Property except as specifically provided for and reserved in this Easement for the referenced potential hydroelectric project, and Sections 4.i. and 4.j.; and
- (6) operating motorized vehicles, provided that this provision shall not be construed to prohibit the use of float equipped aircraft on water bodies within the Protected Property.

b. Prohibited Activities: The following listed activities by any person are prohibited:

- (1) removing or harvesting timber, including but not limited to, all standing and downed timber, logs, inventory, lumber, and any other goods or products obtained or derived from the forest, now or in the future, except (1) for Subsistence Uses; (2) for personal use as may be authorized under the terms of a land use permit issued pursuant to this Easement; and (3) for the purpose of implementing the activities identified in section 3.a. (Restricted Activities) above.
- (2) introducing fish, wildlife or plants not indigenous to Eastern Prince William Sound, including, but not limited to, the grazing of domestic animals or the introduction of reindeer, unless unanimously agreed upon by Eyak, the United States and the State; and
- (3) dumping or releasing trash, garbage, hazardous substances or other unsightly or offensive material.

4. **EYAK'S RETAINED RIGHTS AND PRIVILEGES AS LANDOWNER:**

Eyak reserves, retains and continues to have all legal rights and privileges as landowner that do not unreasonably interfere with or violate the rights and restrictions granted to the United States and the State by and through this Easement, including the rights and privileges set forth below:

- a. **Non-commercial Access:** Eyak retains the right, to the extent it has the right, to condition non-commercial public access to, and use of, the Protected Property upon the issuance of a land use permit. Eyak will issue the land use permits to the public and will have the right to charge an administrative fee for processing such land use permits. The administrative fees will be set at an amount to be determined by Eyak and the United States and shall not exceed the cost of administering such a permit system. The fees may be reasonably adjusted in the future in recognition of increased costs, inflation and other relevant information. Issuance or denial of land use permits from Eyak shall be made on the basis of standards and criteria determined jointly by Eyak and the United States to be compatible with the purpose of this Easement. The standards and criteria shall include provisions to control permitted public access and use in a manner that will ensure protection of the Conservation Values of the Protected Property and that will not interfere unreasonably with Eyak's commercial control and use of the Protected Property. The standards and criteria also shall include consideration of the amount, location, timing, and type of access to and use of the Protected Property. If the standards and criteria include confidential archaeological resources information, the United States and the State shall maintain the confidentiality of such information to the extent permitted by federal and State law, respectively. Eyak and the United States shall meet at least biannually to establish, review and revise, as appropriate, the standards and criteria. Eyak retains the right to administer the land use permit system itself, or may, with the United States' consent, implement another method of administration in conjunction with the United States.
- b. **Commercial Access:** Eyak retains the right, to the extent it has the right, to control all commercial access to and use of the Protected Property. This right includes the right to conduct, authorize, permit, license, charge use fees, regulate, limit or exclude all commercial operations on or utilizing the Protected Property. Eyak shall require commercial operators and users to comply with the terms of this Easement in any authorization or permit issued by Eyak. Commercial operations specifically include, by way of example and not limitation, tourism and commercial guiding for sport hunting, sport fishing, recreational and similar activities. An individual or group holding a land use permit issued by Eyak under the terms of this Easement and accessing the Protected Property under the terms and conditions of the land use permit ("Individual") shall not be considered a commercial user even though the

Individual gains access to the Protected Property by means of a commercial carrier. A commercial carrier, including an airplane or boat charter operator, while providing transportation to an Individual to or from the Protected Property or between sites on the Protected Property, but not guiding or providing any other commercial related services to the Individual, is not a commercial operation for purposes of this section, as long as the commercial carrier is in compliance with the terms and conditions of the land use permit held by the Individual. All commercial operations authorized or permitted by Eyak on the Protected Property must comply with applicable federal and State licensing requirements, statutes and regulations, although Eyak is not required to ensure such compliance.

- c. Emergency Closure: Eyak retains the right, to the extent it has the right, to invoke an emergency closure, not to exceed thirty (30) days in duration, of all or portions of the Protected Property in the event that the permitted access is incompatible with the purpose of this Easement. In the event Eyak closes all or a portion of the Protected Property, at the same time that it gives the permittees public notice of the closure, it shall give the United States written notice of the closure and the reasons for the closure. The United States shall have the authority to extend, modify or reverse the closure if, following consultation with Eyak, it determines such action is appropriate and warranted under the circumstances, provided the United States first gives Eyak a written statement setting forth the reasons for its decision.

- d. Subsistence Access: Eyak retains the right, to the extent it has the right to control access for Subsistence Uses of the Protected Property. "Subsistence Uses" as used in this Easement shall mean the customary and traditional uses of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption; for barter, or sharing for personal or family consumption; and for customary trade. The term --
 - (1) "family" means all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis; and
 - (2) "barter" means the exchange of fish and wildlife or their parts, taken for Subsistence Uses --
 - (a) for other fish or game or their parts; or
 - (b) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature.

Subsistence Uses do not include sport hunting and sport fishing.

- e. Cultural Conservation: Eyak retains ownership to the extent it holds ownership, of all Alaska Native human remains, cultural artifacts, and sacred objects currently located on the Protected Property. In addition, Eyak retains all rights that may be afforded as specified in the Native American Graves Protection and Repatriation Act, the Archaeological Resources Protection Act, the National Indian Forest Resources Management Act, the National Museum of the American Indian Act, the Indian Arts and Crafts Act, the Native American Language Acts, and related laws of the State of Alaska, including the Alaska Historic Preservation Act. Nothing in this Easement affects the ownership by Chugach Alaska Corporation to the extent it holds ownership of human remains, cultural and artifacts, and sacred objects currently located in the subsurface estate.
- f. Alaska Land Bank: Eyak retains the rights, to the extent it has the rights, specified in Section 907 of the Alaska National Interest Lands Conservation Act (ANILCA), 43 U.S.C. § 1636, regarding the Alaska Land Bank provisions. Neither by entering into this Easement nor by performing in accordance with its terms do the Parties intend to affect any protection that may be afforded to Eyak by Section 907 of ANILCA.
- g. Section 14(f): Eyak retains the rights, to the extent that it has the rights, granted in Section 14(f) of ANCSA, including the right to consent to exploration, development or removal of minerals from the subsurface estate in the lands within the boundaries of any Native village.
- h. Sand and Gravel: Eyak retains the right, to the extent it has the right, to acquire sand, gravel or rock from the owner of the subsurface estate of the Protected Property. Provided, however, Eyak may exercise such rights to facilitate the removal of sand, gravel, or rock, subject to the prior written consent of the United States which consent shall not be delayed or withheld unreasonably. The Parties intend to ensure that Eyak has a sufficient source of sand, gravel, and rock without purchasing such materials from a distant site in order to facilitate Eyak's economic development of the Development Lands, as defined in the Agreement and described in Appendix C of the Agreement. In determining whether to consent to the exercise of Eyak's rights, the United States shall consider the location and volume of sand, gravel, or rock to be removed, the reasonable availability of sand, gravel, or rock in the areas to be developed, and any significant adverse effects on the Conservation Values of the Protected Property resulting from the removal of such material. Eyak shall not sell, or otherwise provide in any manner, sand, gravel, or rock removed from the Protected Property to any third party except in conjunction with such development.

- i. Water Systems: Notwithstanding Section 3.a.(5), Eyak retains an easement for purposes of access across and entry upon any portion of the Protected Property adjoining the Development Lands described in the Development Lands Easement recorded simultaneously herewith, to transport fresh potable water that may be allocated to Eyak pursuant to federal or state law, necessary to support the development and use of the Development Lands, and to construct and maintain waterlines and water systems required for such purposes. Eyak's right to construct waterlines and water systems is subject to the prior written consent of the United States, which consent shall not be delayed or withheld unreasonably. In determining whether to consent to Eyak's access for water, the United States shall consider the location and volume of water to be used, the reasonable availability of water in the areas to be developed, the proposed means and route of transport and any significant adverse effects on the ecosystem resulting from the removal of such water. Eyak, the State, and the United States intend that Eyak shall have access to a sufficient source of water in order to facilitate Eyak's economic development and use of the Development Lands. At such time as any waterlines and water systems are constructed pursuant to this paragraph, Eyak shall provide an as-built survey, with descriptions, in recordable form, acceptable to the United States, to locate all improvements.
- j. Water Easement: Notwithstanding Section 3.a.(5), Eyak retains an easement for purposes of access across and entry upon the Protected Property to transport, through waterlines, fresh potable water that may be allocated to Eyak pursuant to federal or state law, necessary to support the use of the Homesite Easement Lands described in the Homesite Lands Easement recorded simultaneously herewith, and to construct and maintain waterlines for such purposes. Eyak's right to installation or to authorize installation by a homesite lessee of such waterlines is subject to the prior written consent of the United States, which consent shall not be delayed or withheld unreasonably. In determining whether to consent to Eyak's request for access for water, the United States shall consider the location and volume of water to be used, the reasonable availability of water on a homesite or in the vicinity of such homesite, the proposed means and route of transport and any significant adverse effects on the ecosystem resulting from the removal of such water. Eyak, the State, and the United States intend that Eyak shall have access to a sufficient source of water in order to facilitate Eyak's use of the Homesite Easement Lands as shareholder homesites or Bed and Breakfast Leases subject to the terms and conditions of Exhibits VIII and X of the Agreement. At such time as any waterlines are constructed pursuant to this paragraph, Eyak shall provide an as-built survey, with description(s), in recordable form, acceptable to the United States, to locate the waterlines.
- k. Mariculture Operations: Eyak retains the right to carry out itself, or to transfer by lease or other instrument, the right to a third party to conduct, onshore operations associated with two mariculture sites at Simpson Bay. Such right includes the right

to use up to one acre of uplands in connection with each of the two mariculture operation sites described in Appendix C.

1. Powerline: Eyak retains the right, to the extent it has the right, to grant an easement across lands in T15S-R2W Section 7 to provide reasonable access for use by Cordova Electric Cooperative (or its successors in interests) to lay a cable from the power generating site to Eyak Lake to transmit electricity from the proposed power generating facility at Power Creek to power users in the Cordova, Alaska area.

5. **PUBLIC ACCESS AND USE:**

The granting of this Easement does not convey to the public the right to enter the Protected Property for any purpose whatsoever. The Parties intend and agree, however, that the public will be permitted access to and use of the Protected Property, described in Section 4.a., for sport hunting, sport fishing, camping, hiking and other natural resources based recreation, and for other similar purposes, but not for Subsistence Uses. All permitted public access to or use of the Protected Property shall be in compliance with Eyak's retained landowner rights under the terms of this Easement, including its right to require valid land use permits for non-commercial public access and use, its rights with respect to commercial operations, and its rights to control access for Subsistence Uses. The Parties intend that the United States will utilize its available legal authorities for cooperative management agreements to provide law enforcement and trespass control and assistance to Eyak in connection with the permitted public access and use under this Easement, subject to the availability of appropriated funds and personnel for such purpose, and agency discretion.

This conveyance is subject to the right of the public to access pursuant to Section 17(b) of ANCSA, as reserved in conveyances from the United States to Eyak pursuant to the ANCSA, and nothing herein shall be deemed to pertain to, or otherwise affect, expand or limit said rights.

6. **ACTS BEYOND EYAK'S CONTROL:**

Nothing contained in this Easement shall be construed to entitle the United States or the State to bring any action against Eyak for any injury to or change in the Protected Property resulting from causes beyond Eyak's control, including, without limitation, natural caused fire, flood, storm, and earth movement, or from any injury to or change in the Protected Property resulting from a third party's intentional or negligent act or prudent action taken by Eyak under emergency conditions to prevent, abate or mitigate significant injury to the Protected Property resulting from such causes. Nothing contained in this Easement shall be construed to limit the obligation of third parties for injury or damage to the Protected Property under applicable federal or State laws.

7. **SUBSEQUENT TRANSFERS:**

Eyak agrees to incorporate the terms of this Easement in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Protected Property, including without limitations, a leasehold interest. The United States or the State may transfer, assign, or delegate any of its rights or responsibilities under this Easement to a third party, but only if the third party is required to and agrees to be bound by and to carry out the purpose of this Easement.

8. **RIGHTS OF THE STATE:**

To accomplish the purpose of this Easement, the right to enforce compliance by the United States and Eyak with the terms of the Prohibited Uses set forth in Section 3 of this Easement is granted and conveyed to the State by this Easement. Also granted to the State is the right to enter upon the Protected Property in order to monitor compliance with the Prohibited Uses and applicable State law. The State also is granted and conveyed the right to plan, arrange for and conduct fish, wildlife and habitat surveys and research pursuant to Section 2.d.

9. **ENFORCEMENT:**

- a. In the event Eyak or the United States becomes aware of an event or circumstance of non-compliance with the terms of this Easement, or in the event the State becomes aware of an event or circumstance of noncompliance with the terms of the Prohibited Uses set forth in Section 3 of this Easement, that party shall give notice to the other Parties, their successors or assigns, at their last known post office address, of such event or circumstance of noncompliance. If the event or circumstance of noncompliance is not corrected immediately, the party making such notification is entitled to institute suits to enjoin any breach or enforce any covenant and require that the Protected Property be restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance.
- b. Nothing in this Section shall limit any other legal rights or remedies available to the Parties.

10. **GENERAL PROVISIONS:**

- a. The Parties agree that this Easement is not intended, and shall not be construed, to create any third party beneficiary hereof and that nothing in this Easement shall be construed as creating any rights of enforcement by any other person or entity that is not a party to this Easement.

- b. This instrument shall be construed so as to effect the purpose for which it was granted to the United States and the State. Any ambiguities shall be resolved in a manner that best accomplishes the purpose of this Easement.
- c. The United States and the State shall have the right to make surveys, plats, take photographs and prepare such other documents as may be necessary or desirable to administer the provisions of this Easement so long as copies of any such surveys, plats, photographs and documents are made available to Eyak upon request. Any such map, plat or other suitable document may be recorded at the discretion of the United States or the State in the land records of the respective recording district wherein the Protected Property is located.
- d. The provisions of this Easement are enforceable in law or equity by Eyak, the United States and the State, their successors or assigns, consistent with Section 9 of this Easement.
- e. This Easement shall be interpreted under applicable provisions of federal and State law pertaining to real property.
- f. Eyak is not relieved from liability by this Easement for injuries occurring on, and resulting from, the condition of the Protected Property for which it would otherwise ordinarily be liable. The United States and the State each shall be responsible for losses, damages, or liabilities arising out of any act or omission of its employees, or its agents to the extent each otherwise would be responsible for such losses, damages, or liabilities under applicable federal or State law.
- g. Eyak is not relieved from liability by this Easement for the costs associated with the cleanup of hazardous substances under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and similar federal and State laws for which it would otherwise ordinarily be liable. Eyak shall be liable for and hold the United States and the State harmless from liability under said statutes, and pursuant to said statutes shall indemnify the United States and the State for all costs relating to cleanup, including attorneys fees, of hazardous substances that were released subsequent to the conveyance of the Protected Property to Eyak and prior to the effective date of this Easement, and for all releases caused by, or contributed to, by Eyak or its agents subsequent to the date of this Easement, but not for costs for cleanup of hazardous substances that are released by the United States in the course of engaging in activities that are authorized by this Easement. This clause may be enforced by Eyak or the United States or the State in a court of law. To the extent any of the lands were oiled as a result of the EVOS, the Parties stipulate and agree that no violation of this clause shall be deemed to occur as a result of the EVOS.

- h. The Parties agree that the covenants, terms, conditions, and restrictions of this Easement shall run with the land and shall be binding upon the Parties, their successors and assigns in perpetuity. The terms of this Easement may be waived or modified only by the unanimous written agreement of the Parties.
- i. Eyak hereby covenants to and with the United States, and its assigns, that Eyak is lawfully seized of the surface estate in fee of the Protected Property, free and clear of encumbrances, except as specified herein, that Eyak has a good and lawful right and power to encumber the same, and that Eyak will forever warrant and defend this Easement, limited to that portion of the chain of title from the moment of conveyance by the United States to Eyak pursuant to ANCSA, to and including the moment at which this Easement is conveyed to the United States and its assigns, against the lawful claims and demands of all persons.
- j. Nothing herein shall be deemed to affect or in any way limit the rights of the owner of the subsurface estate in accordance with applicable law. Nothing herein shall be deemed to authorize, create or recognize in Eyak rights to control or limit public access to the Protected Property that Eyak does not hold currently.
- k. If any material provision of this Easement or any application thereof shall be invalid or unenforceable, then the Parties will negotiate in good faith such reasonable modifications of this Easement as are necessary to protect the duties, rights and interests of the Parties under this Easement and to carry out the intent of this Easement.
- l. The parties make no representations as to whether the lands that are described herein include avulsed lands, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.
- m. This conveyance is subject to the default provisions of paragraph 4 of the Agreement.

TO HAVE AND TO HOLD unto the United States and the State, their successors and assigns, forever.

IN WITNESS WHEREOF, Eyak, the United States, and the State have set their hands on the day and year first above written.

THE EYAK CORPORATION

By: _____
Nancy C. Barnes, President

STATE OF ALASKA)
) ss:
_____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the ____ day of _____, 1998, before me, the undersigned, a Notary Public in and for the State of Alaska, commissioned and sworn, personally appeared Nancy C. Barnes, to me known to be the individual described and who executed the within and foregoing EYAK CONSERVATION EASEMENT as President of The Eyak Corporation, the Corporation that executed the within and foregoing instrument, and acknowledged to me that she signed the same as President of The Eyak Corporation in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors and shareholders for the use and purposes therein mentioned.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

Notary Public in and for Alaska
My commission expires: _____

ACCEPTANCE

Pursuant to 7 U.S.C. § 428a and the Agreement, the United States hereby accepts this Easement conveying to the United States and its assigns, the interests in lands described therein.

DATED this ____ day of December, 1998.

**USDA FOREST SERVICE
ALASKA REGION**

By: _____
James A. Caplan
Acting Regional Forester

STATE OF ALASKA)
) ss:
____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the ____ day of _____, 1998, at _____, Alaska, the foregoing instrument was acknowledged before me by James A. Caplan, Acting Regional Forester, Alaska Region of the Forest Service within the Department of Agriculture of the United States of America, on behalf of the United States of America.

GIVEN UNDER MY HAND and official seal the day and year last above written.

Notary Public in and for Alaska
My commission expires: _____

STATE OF ALASKA

Pursuant to AS § 38.05.035(a)12, I do hereby accept title to the above described interest in real property on behalf of the State of Alaska.

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES**

By: _____
Marty Rutherford
Deputy Commissioner

STATE OF ALASKA)
) ss:
_____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the _____ day of _____, 1998, at _____, Alaska, the foregoing instrument was acknowledged before me by MARTY RUTHERFORD, Deputy Commissioner of the Department of Natural Resources of the State of Alaska on behalf of the State of Alaska.

GIVEN UNDER MY HAND and official seal the day and year last above written.

Notary Public in and for Alaska
My commission expires: _____

LOCATION INDEX:
See attached Appendix D

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION PRIOR TO CLOSING AS TO FORM AND SUBSTANCE BY U.S. DEPARTMENT OF JUSTICE AND ALASKA DEPARTMENT OF LAW

STATE BUSINESS - NO CHARGE

AFTER RECORDING RETURN TO:

U.S. Department of Agriculture

Forest Service

P. O. Box 21628

Juneau, AK 99802-1628

EXHIBIT V

EYAK DEVELOPMENT LANDS EASEMENT

THIS EYAK DEVELOPMENT LANDS EASEMENT (the "Easement") is made this _____ day of December, 1998, by **The Eyak Corporation** ("Eyak"), a Native Village Corporation organized pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 et. seq., as amended ("ANCSA"), and the laws of the State of Alaska, whose address is P. O. Box 340, Cordova, Alaska 99574, as grantor, and the **United States of America** and its assigns ("United States"), under the authority of the Act of August 3, 1956, as amended, 7 U.S.C. 428a, whose address is U.S. Department of Agriculture, Forest Service, P. O. Box 21628, Juneau, Alaska 99802-1628, and the **State of Alaska** and its assigns ("State"), under the authority of AS § 38.05.035(a)(12), whose address is Department of Natural Resources, 3601 C Street, Suite 960, Anchorage, Alaska 99503, as grantees, and pursuant to the Agreement for the Sale and Purchase of Lands and Interests in Lands Among the Eyak Corporation and the United States and the State of Alaska dated December __, 1998 (the "Agreement"), and for good and valuable consideration. Eyak, the United States, and the State are collectively referred to hereinafter as "Parties."

WHEREAS, Eyak is the owner in fee simple of the surface estate of certain real property, more particularly described below (the "Development Lands") located adjacent to the Eyak Conveyance Lands and Eyak Conservation Easement Lands, as defined in the Agreement (collectively the "Adjacent Lands"); and

WHEREAS, the Adjacent Lands contain natural, scenic, wooded, and other similar or related resources and values, including fish and wildlife and their habitats, as well as attributes and

amenities important and valuable to the restoration of natural resources and services injured or reduced by the *Exxon Valdez* Oil Spill of March 24, 1989 ("EVOS"), including those described in the final Restoration Plan adopted by the *Exxon Valdez* Oil Spill Trustee Council ("Trustee Council") on November 2, 1994 ("Conservation Values"); and

WHEREAS, Eyak intends to use the Development Lands for commercial development purposes related to natural lands based activities and other activities as provided herein; and

WHEREAS, Eyak intends to construct structures and related facilities, such as cabins and occupancy support facilities on the Development Lands; and

WHEREAS, the Parties intend that such structures and related facilities shall be constructed, managed and operated in a manner that reasonably minimizes adverse effects on the Adjacent Lands, and shall be of a rustic design so as to blend into the natural character of the area; and

WHEREAS, Eyak intends to restrict the use of the Development Lands pursuant to the terms of this Easement; and

WHEREAS, Eyak intends to convey to the United States and the State the right to enforce the restrictions in perpetuity as specified below; and

WHEREAS, subject to the rights granted to the United States and the State, Eyak reserves and retains all other rights and privileges as landowner, including certain rights that are specified herein; and

WHEREAS, the United States and the State agree by accepting this grant to honor the intentions of Eyak stated herein and to preserve and protect in perpetuity the land use restrictions consistent with Eyak's development rights and privileges as landowner;

NOW, THEREFORE, pursuant to the laws of the State of Alaska and in particular AS § 34.17.010 - § 34.17.060, applicable federal law, and the Agreement, Eyak does hereby grant, transfer, and convey to the United States and the State, their successors and assigns, forever, with special warranties of title, subject to conditions, limitations and restrictions of record, an easement in perpetuity over the Development Lands of the nature and character and to the extent hereinafter set forth ("Easement") as to the real property more particularly described as follows:

See Attached Appendix C

1. Simpson Bay Development Site: Containing in sum five (5) acres, more or less, at one site.
2. Sheep Bay Development Site: Containing in sum five (5) acres, more or less, at one site.
3. Simpson Bay Mariculture Sites: Containing in sum of two (2) acres, more or less, in two separate sites.

TOGETHER WITH the avulsed lands, if any, in which Eyak may hold title, within the area above described, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.

The acquiring federal agency is the Forest Service within the U.S. Department of Agriculture, acting under the authority of the Act of August 3, 1956, as amended, 7 U.S.C. § 428a.

1. **PURPOSE:**

- a. The purpose of this Easement is to ensure that the Conservation Values of the Adjacent Lands will be maintained in perpetuity and to ensure that use of the Development Lands will minimize any adverse effects on the Conservation Values of the Adjacent Lands. This includes the protection of environmentally important forested and non-forested areas and the promotion of forested and non-forested fish and wildlife habitat conservation and other conservation opportunities such as the protection of important scenic, cultural, fish, wildlife and recreational resources, riparian areas, and other ecological values. Consistent with the specific provisions of this Easement, the Parties intend that this Easement will confine use of the Development Lands to such activities as are compatible with the preservation of the Conservation Values of the Adjacent Lands.
- b. The Parties further intend to ensure the reservation and enjoyment by Eyak, landowner of the Development Lands, of all legal rights and privileges that are not specifically granted to the United States and the State by and through this Easement.

2. USE OF DEVELOPMENT LANDS:

Eyak shall retain the right, to the extent it has the right, to develop and use the Development Lands only for commercial purposes related to ecotourism, fishing, hiking, hunting, kayaking, sightseeing and other similar outdoor based recreational activities by providing lodging, meals, rentals, transportation and related services, except in the case of the mariculture sites, where uses are restricted to mariculture purposes. Eyak shall retain the right, to the extent it has the right, to use or construct structures and related facilities on the Development Lands as specified below:

- a. Simpson Bay: Up to three (3) rustic cabins total (including the existing cabin) or tent platforms and occupancy support facilities on one five (5) acre site;
- b. Sheep Bay: Up to three (3) rustic cabins total (including the existing cabin) or tent platforms and occupancy support facilities on one five (5) acre site;
- c. Simpson Bay Mariculture Sites: Two one-acre upland sites to support and facilitate mariculture operations.

The nature, size and use of such structures and related facilities shall be consistent with the purpose of this Easement and the conservation objectives of the Agreement and the documents executed pursuant thereto. Such structures and related facilities shall be constructed, managed and operated in a manner that reasonably minimizes adverse effects on the Adjacent Lands. The structures and related facilities shall involve only those buildings reasonably related to the operations described above and shall be designed in a rustic manner so as to blend into the natural character of the area. The location, design and use of the structures and related facilities shall be determined by Eyak, but shall be subject to the written consent of the United States, which consent shall not be delayed or withheld unreasonably.

3. RIGHTS CONVEYED TO THE UNITED STATES AND THE STATE:

To accomplish the purpose of this Easement, the following rights are conveyed to the United States and the State:

- a. To enter upon the Development Lands after providing reasonable advance notice in writing to Eyak and after providing Eyak with a reasonable opportunity to have a

representative present upon such entry in order to achieve the purpose and enforce the terms of this Easement.

- b. To prevent any use of the Development Lands that is inconsistent with the terms of this Easement.

4. EYAK'S RETAINED RIGHTS AND PRIVILEGES AS LANDOWNER:

Eyak reserves, retains and continues to have all legal rights and privileges as landowner that do not unreasonably interfere with or violate the rights and restrictions granted by Eyak to the United States and the State by and through this Easement.

5. ACTS BEYOND EYAK'S CONTROL:

Nothing contained in this Easement shall be construed to entitle the United States or the State to bring any action against Eyak for any injury to or change in the Development Lands resulting from causes beyond Eyak's control, including, without limitation, naturally caused fire, flood, storm, and earth movement, or from any injury to or change in the lands resulting from a third party's intentional or negligent act or prudent action taken by Eyak under emergency conditions to prevent, abate or mitigate significant injury to the lands resulting from such causes. Nothing contained in this Easement shall be construed to limit the obligation of third parties for injury or damage to the lands under applicable federal or State laws.

6. SUBSEQUENT TRANSFERS:

Eyak agrees to incorporate the terms of this Easement in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Protected Property, including without limitation, a leasehold interest. The United States or the State may transfer, assign, or delegate any of its rights or responsibilities under this Easement to a third party, but only if the third party is required to and agrees to be bound by and to carry out the purpose of this Easement.

7. ENFORCEMENT:

- a. In the event any party becomes aware of an event or circumstance of non-compliance with the terms of this Easement, that party shall give notice to the other Parties, their successors or assigns, at their last known post office address, of such event or

circumstance of noncompliance. If the event or circumstance of noncompliance is not corrected immediately, the party making such notification is entitled to institute suits to enjoin any breach or enforce any covenant of this Easement.

- b. Nothing in this Section shall limit any other legal rights or remedies available to the Parties.

8. GENERAL PROVISIONS:

- a. The Parties agree that this Easement is not intended, and shall not be construed, to create any third party beneficiary hereof and that nothing in this Easement shall be construed as creating any rights of enforcement by any other person or entity that is not a party to this Easement.
- b. This instrument shall be construed so as to effect the purpose for which it was granted to the United States and the State. Any ambiguities shall be resolved in a manner that best accomplishes the purpose of this Easement.
- c. The United States and the State shall, to the extent permitted by law and consistent with the purpose of this Easement, administer their regulatory and permitting processes so as to accommodate Eyak's development objectives on the Development Lands.
- d. The provisions of this Easement are enforceable in law or equity by Eyak, the United States and the State, their successors or assigns, consistent with Section 7 of this Easement.
- e. This Easement shall be interpreted under general provisions of federal and State law pertaining to real property.
- f. Eyak is not relieved from liability by this Easement for injuries occurring on, and resulting from, the condition of the Development Lands for which it would otherwise ordinarily be liable. The United States and the State each shall be responsible for losses, damages, or liabilities arising out of any act or omission of its employees, or its agents to the extent each otherwise would be responsible for such losses, damages, or liabilities under applicable federal or State law.

- g. Eyak is not relieved from liability by this Easement for the costs associated with the cleanup of hazardous substances under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and similar federal and State laws for which it would otherwise ordinarily be liable. Eyak shall be liable for and hold the United States and the State harmless from liability under said statutes, and pursuant to said statutes shall indemnify the United States and the State for all costs relating to cleanup, including attorneys fees, of hazardous substances that were released subsequent to the conveyance of the property to Eyak and prior to the effective date of this Easement, and for all releases caused, or contributed to, by Eyak or its agents subsequent to the date of this Easement, but not for costs for cleanup of hazardous substances that are released by the United States or the State. This clause may be enforced by Eyak or the United States or the State in a court of law. To the extent any of the lands were oiled as a result of the EVOS, the Parties stipulate and agree that no violation of this clause shall be deemed to occur as a result of the EVOS.
- h. The Parties agree that the covenants, terms, conditions, and restrictions of this Easement shall run with the land and shall be binding upon the Parties, their successors and assigns in perpetuity. The terms of this Easement may be waived or modified only by the unanimous written agreement of the Parties.
- i. Eyak hereby covenants to and with the United States and the State, that Eyak is lawfully seized of the surface estate in fee of the above described real property, free and clear of encumbrances, except as specified herein, that Eyak has a good and lawful right and power to encumber the same, and that Eyak will forever warrant and defend this Easement, limited to that portion of the chain of title from the moment of conveyance by the United States to Eyak pursuant to ANCSA, to and including the moment at which this Easement is conveyed to the United States and the State, against the lawful claims and demands of all persons.
- j. Nothing herein shall be deemed to affect or in any way limit the rights of the owner of the subsurface estate in accordance with applicable law.
- k. Eyak retains the rights, to the extent that it has the rights, granted in Section 14(f) of ANCSA, including the right to consent to exploration, development or removal of minerals from the subsurface estate in the lands within the boundaries of any Native village.

- l. If any material provision of this Easement or any application thereof shall be invalid or unenforceable, then the Parties will negotiate, in good faith, such reasonable modifications of this Easement as are necessary to protect the duties, rights and interests of the Parties under this Easement and to carry out the intent of this Easement.
- m. The parties make no representations as to whether the lands that are described herein by survey include avulsed lands, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.
- n. This conveyance is subject to the default provisions of paragraph 4 of the Agreement.

TO HAVE AND TO HOLD unto the United States and the State, their successors, and assigns forever.

IN WITNESS WHEREOF, Eyak, the United States and the State have set their hands on the day and year first above written.

THE EYAK CORPORATION

By: _____
Nancy C. Barnes, President

STATE OF ALASKA)
) ss:
____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the ____ day of _____, 1998, before me, the undersigned, a Notary Public in and for the State of Alaska, commissioned and sworn, personally appeared Nancy C. Barnes, to me known to be the individual described and who executed the within and foregoing EYAK DEVELOPMENT LANDS EASEMENT as President of The Eyak Corporation, the Corporation that executed the within and foregoing instrument, and acknowledged to me that she signed the same as President of The Eyak Corporation in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors and shareholders for the use and purposes therein mentioned.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

Notary Public in and for Alaska
My commission expires: _____

ACCEPTANCE

Pursuant to 7 U.S.C. § 428a and the Agreement, the United States hereby accepts this Easement conveying to the United States and its assigns, the interests in lands described therein.

DATED this _____ day of _____, 1998.

**USDA FOREST SERVICE
ALASKA REGION**

By: _____
James A. Caplan
Acting Regional Forester

STATE OF ALASKA)
) ss.
____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the _____ day of _____, 1998, at _____, Alaska, the foregoing instrument was acknowledged before me by James A. Caplan, Acting Regional Forester, Alaska Region of the Forest Service within the Department of Agriculture of the United States of America, on behalf of the United States of America.

GIVEN UNDER MY HAND and official seal the day and year last above written.

Notary Public in and for Alaska
My commission expires: _____

Pursuant to AS § 38.05.035(a)12, I do hereby accept title to the above described interest in real property on behalf of the State of Alaska.

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES**

By: _____
Marty Rutherford
Deputy Commissioner

STATE OF ALASKA)
) ss.
____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the ____ day of _____, 1998, at _____, Alaska, the foregoing instrument was acknowledged before me by MARTY RUTHERFORD, Deputy Commissioner of the Department of Natural Resources of the State of Alaska on behalf of the State of Alaska.

GIVEN UNDER MY HAND and official seal the day and year last above written.

Notary Public in and for Alaska
My commission expires: _____

LOCATION INDEX:

See attached Appendix C

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION PRIOR TO CLOSING AS TO FORM AND SUBSTANCE BY U.S. DEPARTMENT OF JUSTICE AND ALASKA DEPARTMENT OF LAW

STATE BUSINESS - NO CHARGE

AFTER RECORDING RETURN TO:

U.S. Department of Agriculture
Forest Service
P.O. Box 21628
Juneau, Alaska 99802-1628

EXHIBIT VI

TIMBER CONSERVATION EASEMENT

THIS TIMBER CONSERVATION EASEMENT (the "Conservation Easement") is made this ____ day of December, 1998, by **The Eyak Corporation** ("Eyak"), a Native Village Corporation organized pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 et seq., as amended ("ANCSA"), and the laws of the State of Alaska, whose address is P. O. Box 340, Cordova, Alaska 99574, as grantor, and the **United States of America** and its assigns ("United States"), whose address is U.S. Department of Agriculture, Forest Service, P. O. Box 21628, Juneau, Alaska 99802-1628, and the **State of Alaska** and its assigns ("State"), whose address is Department of Natural Resources, 3601 C Street, Suite 960, Anchorage, Alaska 99503, under the authority of AS § 38.05.035(a)(12), as grantees, and pursuant to the Agreement for the Sale and Purchase of Lands and Interests in Lands Among The Eyak Corporation and the United States and the State of Alaska dated December __, 1998 (the "Agreement") and for good and valuable consideration. Eyak, the United States, and the State are collectively referred to hereinafter as "Parties."

WHEREAS, Eyak is the owner in fee simple of the surface estate of certain real property located adjacent to the Chugach National Forest, Alaska, which is more particularly described below (the "Protected Property") and which is adjacent or in proximity to the Eyak Conveyance Lands and Eyak Conservation Easement Lands, as defined in the Agreement (collectively the "Adjacent Lands"); and

WHEREAS, the Adjacent Lands contain natural, scenic, wooded, and other similar or related resources and values, including fish and wildlife and their habitats, as well as attributes and amenities important and valuable to the restoration of natural resources and services injured or reduced by the *Exxon Valdez* oil spill of March 24, 1989 ("EVOS"), including those described in the

- b. "Merchantable Timber" means timber that can be harvested and marketed by a prudent operator.

2. PURPOSE:

The purpose of this Timber Conservation Easement is to ensure that the Conservation Values of the timber on the Protected Property are maintained in perpetuity through the prohibition of commercial harvesting of merchantable timber on the Protected Property, which thereby assists to ensure that the Conservation Values of the Adjacent Lands also are maintained in perpetuity.

3. RIGHTS CONVEYED TO THE UNITED STATES:

To accomplish the purpose of this Timber Conservation Easement, the following rights are conveyed to the United States:

- a. To enter upon the Protected Property, after providing reasonable advance notice in writing to Eyak, and after providing Eyak with a reasonable opportunity to have a representative present upon such entry in order to achieve the purpose and enforce the terms of this Timber Conservation Easement;
- b. The right to receive any revenue in excess of removal costs resulting from the sale of Merchantable Timber cut and removed by any party incident to the exercise of Eyak's rights to commercial development of the Protected Property;
- c. To share equally with Eyak all rights and remedies available against persons who cut or remove Merchantable Timber with no lawful right to do so; and
- d. In cooperation with Eyak, the right, but not the obligation, to reforest in the event then-existing Merchantable Timber is destroyed by fire, wind, insects, disease, or other similar man-made or natural occurrence (excluding man-made occurrences resulting from the exercise by Eyak of its lawful rights to use the Protected Property).

4. PROHIBITED USE:

Eyak is prohibited from engaging in or allowing Commercial Timber Harvesting on the Protected Property now or in the future.

5. EYAK'S RETAINED RIGHTS AND PRIVILEGES AS LANDOWNER:

- 1. Eyak reserves, retains and continues to have all legal rights and privileges as landowner, other than the right to Commercial Timber Harvesting on the Protected Property.

2. Eyak retains the rights, to the extent that it has the rights, granted in Section 14(f) of ANCSA, including the right to consent to exploration, development or removal of minerals from the subsurface estate in the lands within the boundaries of any Native village.

6. **ACTS BEYOND EYAK'S CONTROL:**

Nothing contained in this Timber Conservation Easement shall be construed to entitle the United States or the State to bring any action against Eyak for any injury to or change in the Protected Property resulting from causes beyond Eyak's control, including, without limitation, naturally caused fire, flood, storm, and earth movement, or from any injury to or change in the Protected Property resulting from a third party's intentional or negligent act or prudent action taken by Eyak under emergency conditions to prevent, abate or mitigate significant injury to the Protected Property resulting from such causes. Nothing contained in this Timber Conservation Easement shall be construed to limit the obligation of third parties for injury or damage to the Protected Property under applicable federal or State laws.

7. **SUBSEQUENT TRANSFERS:**

Eyak agrees to incorporate the terms of this Timber Conservation Easement in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Protected Property, including without limitation a leasehold interest. The United States or the State may transfer, assign, or delegate any of its rights or responsibilities under this Timber Conservation Easement to a third party, but only if the third party is required to and agrees to be bound by and to carry out the purpose of this Timber Conservation Easement.

8. **ENFORCEMENT:**

1. In the event Eyak or the United States becomes aware of an event or circumstance of non-compliance with the terms of this Timber Conservation Easement, or in the event the State becomes aware of an event or circumstance of noncompliance with the terms of the Prohibited Use set forth in Section 4 of this Timber Conservation Easement, that party shall give notice to the other Parties, their successors or assigns, at their last known post office address, of such event or circumstance of noncompliance. If the event or circumstance of noncompliance is not corrected immediately, the party making such notification is entitled to institute suits to enjoin any breach or enforce any covenant and require that the Protected Property be restored promptly to the extent reasonably possible to the same condition that existed prior to the event or circumstance of non-compliance.
2. Nothing in this Section shall limit any other legal rights or remedies available to the Parties.

9. GENERAL PROVISIONS:

- a. The Parties agree that this Timber Conservation Easement is not intended, and shall not be construed, to create any third party beneficiary hereof and that nothing in this Timber Conservation Easement shall be construed as creating any rights of enforcement by any other person or entity that is not a party to this Timber Conservation Easement.
- b. This instrument shall be construed so as to effect the purpose for which it was granted to the United States and the State. Any ambiguities shall be resolved in a manner that best accomplishes the purpose of this Timber Conservation Easement.
- c. The United States and the State shall have the right to make surveys, and plats, take photographs and prepare such other documents as may be necessary or desirable to administer the provisions of this Timber Conservation Easement so long as copies of any such surveys, plats, photographs and documents are made available to Eyak upon request. Any such map, plat or other suitable document may be recorded at the discretion of the United States or the State in the land records of the respective recording district wherein the Protected Property is located.
- d. The provisions of this Timber Conservation Easement are enforceable in law or equity by Eyak, the United States and the State, their successors or assigns, consistent with Section 8 of this Timber Conservation Easement.
- e. This Timber Conservation Easement shall be interpreted under applicable provisions of federal and state law pertaining to real property.
- f. Eyak is not relieved from liability by this Timber Conservation Easement for injuries occurring on, and resulting from, the condition of the Protected Property for which it would otherwise ordinarily be liable. The United States and the State each shall be responsible for losses, damages, or liabilities arising out of any act or omission of its employees, or its agents to the extent each otherwise would be responsible for such losses, damages, or liabilities under applicable federal or State law.
- g. Eyak is not relieved from liability by this Timber Conservation Easement for the costs associated with the cleanup of hazardous substances under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and similar federal and State laws for which it would otherwise ordinarily be liable. Eyak shall be liable for and hold the United States and the State harmless from liability under said statutes, and pursuant to said statutes shall indemnify the United States and the State for all costs relating to cleanup, including attorneys fees, of hazardous substances that were released subsequent to the conveyance of the Protected Property

- EXHIBIT VI: Timber Conservation Easement**
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m. This conveyance is subject to the default provisions of paragraph 4 of the Agreement.

TO HAVE AND TO HOLD unto the United States and the State, their successors, and assigns forever.

IN WITNESS WHEREOF, Eyak, the United States, and the State have set their hands on the day and year first above written.

THE EYAK CORPORATION

By: _____
Nancy C. Barnes, President

STATE OF ALASKA)
) ss:
_____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the _____ day of _____, 1998, before me, the undersigned, a Notary Public in and for the State of Alaska, commissioned and sworn, personally appeared Nancy C. Barnes, to me known to be the individual who executed the within and foregoing TIMBER CONSERVATION EASEMENT as President of The Eyak Corporation and acknowledged to me that she signed the same as President of The Eyak Corporation in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors and shareholders for the use and purposes therein mentioned.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

(Seal)

Notary Public in and for Alaska
My commission expires: _____

STATE OF ALASKA

Pursuant to AS § 38.05.035(a)12, I do hereby accept title to the above described interest in real property on behalf of the State of Alaska.

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES**

By: _____
Marty Rutherford
Deputy Commissioner

STATE OF ALASKA)
) ss.
_____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the _____ day of _____, 1998, at _____, Alaska, the foregoing instrument was acknowledged before me by MARTY RUTHERFORD, Deputy Commissioner of the Department of Natural Resources of the State of Alaska on behalf of the State of Alaska.

GIVEN UNDER MY HAND and official seal the day and year last above written.

Notary Public in and for Alaska
My commission expires: _____

Attachment #1: Right of Way Easement

LOCATION INDEX:
See attached Appendix E

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION PRIOR TO CLOSING AS TO FORM AND SUBSTANCE BY U.S. DEPARTMENT OF JUSTICE AND ALASKA DEPARTMENT OF LAW

STATE BUSINESS - NO CHARGE

AFTER RECORDING RETURN TO:

U.S. Department of Agriculture
Forest Service
P.O. Box 21628
Juneau, Alaska 99802-1628

ATTACHMENT NO. 1

EXHIBIT VI

RIGHT OF WAY EASEMENT

THIS RIGHT OF WAY EASEMENT (the "Right of Way Easement") is made this ____ day of December, 1998, by **The Eyak Corporation** ("Eyak"), a Native Village Corporation organized pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 *et. seq.*, as amended ("ANCSA") and the laws of the State of Alaska, whose address is P. O. Box 340, Cordova, Alaska 99574, as grantor, and the **State of Alaska, Department of Transportation and Public Facilities**, ("State"), its successors and assigns, whose address is Department of Transportation and Public Facilities, 2301 Peger Road, MS 2553, Fairbanks, AK 99709-5399, as grantee, under authority of AS § 38.05.035(a)(12) and the Agreement for Sale and Purchase of Lands and Interests in Land Among The Eyak Corporation and the United States of America and the State of Alaska, dated December __, 1998 (the "Agreement").

WHEREAS, Eyak is the owner in fee simple of the surface estate of the Protected Property, which is described below; and

WHEREAS, the *Exxon Valdez* Oil Spill Trustee Council ("Trustee Council") has approved the use of joint settlement funds for acquisition by United States and the State of Alaska of certain lands and interests in lands including a Right of Way Easement to be acquired by the State of Alaska to construct a road to Shepard Point;

NOW THEREFORE, pursuant to the laws of Alaska and in particular Alaska Statute § 34.17.010 - § 34.17.060, and the Agreement, Eyak does hereby grant and convey to the State, its

successors and assigns, forever, with special warranties of title, subject to conditions, restrictions and limitations of record, a Right of Way Easement of two hundred feet in width, in perpetuity along, over, and across the surface estate of lands owned by Eyak and lying within Lot 14 of U.S. Survey No. 5103 (Supplemental) and Section 25 of Township 14 South, Range 3 West, Copper River Meridian, Third Judicial District, Cordova Recording District, State of Alaska, except that, (i) said right of way may be of greater width where necessary to accommodate extreme terrain, and (ii) the centerline of the right of way will be monumented as a part of the road construction with the as-built centerline monumentation along with the plan right of way offsets controlling and representing the amended right of way where it varies from the following description of the centerline of the Right of Way Easement whose route is generally depicted on the map attached to Appendix E of the Agreement.

COMMENCING at Corner No. 3 of Alaska State Land Survey No. 79-264 filed as Plat 82-10 on 10/5/82, Cordova Recording District;

THENCE N 53°10'49" W along line 3-2 of ASLS 79-264 a distance of 219.80 feet to the southeasterly right of way for Project No. 65928, Shepard Point Road and the **TRUE POINT OF BEGINNING**.

THENCE continuing N 53°10'49" W along line 3-2 a distance of 101.41 feet to centerline station 343+06.64, Point on Tangent;

THENCE continuing N 53°10'49" W along line 3-2 a distance of 101.41 feet to the northwesterly right of way line;

THENCE along said right of way line for Shepard Point Road the following courses:

N 46°24'03" E a distance of 292.44 feet to a point 100.00 feet left of centerline station 345+82.20, Point of Curvature;

Northeasterly along a curve having a central angle of 31°09'29", an arc length of 335.09 feet, a radius of 616.20 feet, a chord bearing of N 30°49'19" E and a chord distance of 330.98 feet to a point 100.00 feet left of centerline station 349+71.68, Point of Tangency;

N 15°14'34" E a distance of 715.78 feet to a point 100.00 feet left of centerline station 356+87.46, Point of Curvature;

Northeasterly along a curve having a central angle of 26°23'45", an arc length of 415.74 feet, a radius of 902.43 feet, a chord bearing of N 28°26'27" E and a chord distance of 412.08 feet to a point 100.00 feet left of centerline station 360+57.13, Point of Tangency;

N 41°38'19" E a distance of 653.81 feet to a point 100.00 feet left of centerline station 367+10.95, Point of Curvature;

Northeasterly along a curve having a central angle of 34°58'12", an arc length of 376.09 feet, a radius of 616.20 feet, a chord bearing of N 24°09'13" E and a chord distance of 370.28 feet to a point 100.00 feet left of centerline station 371+48.07, Point of Tangency;

N 6°40'07" E a distance of 745.71 feet to a point 100.00 feet left of centerline station 378+93.78, Point of Curvature;

Northeasterly along a curve having a central angle of 41°51'53", an arc length of 1119.68 feet, a radius of 1532.39 feet, a chord bearing of N 27°36'04" E and a chord distance of 1094.94 feet to a point 100.00 feet left of centerline station 389+40.40, Point of Tangency;

N 48°32'00" E a distance of 788.98 feet to a point 100.00 feet left of centerline station 397+29.37, Point of Curvature;

Northeasterly along a curve having a central angle of 44°53'58", an arc length of 482.88 feet, a radius of 616.20 feet, a chord bearing of N 26°05'01" E and a chord distance of 470.62 feet to a point 100.00 feet left of centerline station 402+90.61, Point of Tangency;

N 3°38'02" E a distance of 610.21 feet to a point 100.00 feet left of centerline station 409+00.82, Point of Curvature;

Northeasterly along a curve having a central angle of 14°05'30", an arc length of 305.51 feet, a radius of 1242.17 feet, a chord bearing of N 10°40'47" E and a chord distance of 304.74 feet to a point 100.00 feet left of centerline station 411+81.73, Point of Tangency;

N 17°43'32" E a distance of 412.02 feet to a point 100.00 feet left of centerline station 415+93.76, Point of Curvature;

Northeasterly along a curve having a central angle of 16°09'31", an arc length of 375.43 feet, a radius of 1331.20 feet, a chord bearing of N 9°38'47" E and a chord distance of 374.19 feet to a point 100.00 feet left of centerline station 419+97.39, Point of Tangency;

N 1°34'01" E a distance of 302.61 feet to a point 100.00 feet left of centerline station 423+00.00, Point on Tangent;

N 88°25'59" W a distance of 50.00 feet to a point 150.00 feet left of centerline station 423+00.00, Point on Tangent;

N 1°34'01" E a distance of 842.86 feet to a point 150.00 feet left of centerline station 431+42.87, Point of Curvature;

Northeasterly along a curve having a central angle of 9°18'23", an arc length of 421.56 feet, a radius of 2595.34 feet, a chord bearing of N 6°13'13" E and a chord distance of 421.10 feet to a point 150.00 feet left of centerline station 435+40.04 Point of Tangency;

N 10°52'24" E a distance of 1002.32 feet to a point 150.00 feet left of centerline station 445+42.37, Point of Curvature;

Northeasterly along a curve having a central angle of 20°17'30", an arc length of 306.77 feet, a radius of 866.20 feet, a chord bearing of N 21°01'09" E and a chord distance of 305.17 feet to a point 150.00 feet left of centerline station 447+96.02, Point of Tangency;

N 31°09'54" E a distance of 1203.98 feet to a point 150.00 feet left of centerline station 460+00.00, Point on Tangent;

S 58°50'06" E a distance of 50.00 feet to a point 100.00 feet left of centerline station 460+00.00, Point on Tangent;

N 31°09'54" E a distance of 514.82 feet to a point 100.00 feet left of centerline station 465+14.82, Point of Curvature;

Northeasterly along a curve having a central angle of 35°36'03", an arc length of 507.15 feet, a radius of 816.20 feet, a chord bearing of N 48°57'56" E and a chord distance of 499.03 feet to a point 100.00 feet left of centerline station 469+59.84, Point of Tangency;

N 66°46'00" E a distance of 377.25 feet to a point 100.00 feet left of centerline station 473+37.09, Point of Curvature;

Northeasterly along a curve having a central angle of 26°47'29", an arc length of 288.13 feet, a radius of 616.20 feet, a chord bearing of N 53°22'13" E and a chord distance of 285.52 feet to a point 100.00 feet left of centerline station 476+71.99, Point of Tangency;

N 39°58'28" E a distance of 489.93 feet to the intersection with the monumented line 55-54 as defined by the Record of Survey titled "Boundary Survey and Right of Way Easement for the Humpback Creek Hydroelectric Project", filed as Plat 94-2RS on 5/16/94 in the Cordova Recording District by LCMF, Ltd.

THENCE S 61°44'16" E along line 55-54 a distance of 33.43 feet to corner 54 of said survey;

THENCE N 28°09'36" E along line 54-53 a distance of 50.12 feet to corner 53 of said survey;

THENCE S 61°41'11" E along line 53-52 a distance of 104.53 feet to corner 52 of said survey;

THENCE S 49°09'29" E along line 52-51 a distance of 75.16 feet to the southeasterly right of way for Project No. 65928, Shepard Point Road;

THENCE along said right of way line for Shepard Point Road the following courses:

S 39°58'28" W along said right of way a distance of 565.76 feet to a point 100.00 feet right of centerline station 476+71.99, Point of Tangency;

Southwesterly along a curve having a central angle of 26°47'29", an arc length of 381.65 feet, a radius of 816.20 feet, a chord bearing of S 53°22'13" W and a chord distance of 378.19 feet to a point 100.00 feet right of centerline station 473+37.09, Point of Curvature;

S 66°46'00" W a distance of 377.25 feet to a point 100.00 feet right of centerline station 469+59.84 Point of Tangency;

Southwesterly along a curve having a central angle of 35°36'03", an arc length of 382.88 feet, a radius of 616.20 feet, a chord bearing of S 48°57'56" W and a chord distance of 376.75 feet to a point 100.00 feet right of centerline station 465+14.82, Point of Curvature;

S 31°09'54" W a distance of 1718.80 feet to a point 100.00 feet right of centerline station 447+96.02, Point of Tangency;

Southwesterly along a curve having a central angle of 20°17'30", an arc length of 218.23 feet, a radius of 616.20 feet, a chord bearing of S 21°01'09" W and a chord distance of 217.09 feet to a point 100.00 feet right of centerline station 445+42.37, Point of Curvature;

S 10°52'24" W a distance of 1002.32 feet to a point 100.00 feet right of centerline station 435+40.04, Point of Tangency;

Southwesterly along a curve having a central angle of 9°18'23", an arc length of 380.95 feet, a radius of 2345.34 feet, a chord bearing of S 6°13'13" W and a chord distance of 380.53 feet to a point 100.00 feet right of centerline station 431+42.87, Point of Curvature;

S 1°34'01" W a distance of 1145.47 feet to a point 100.00 feet right of centerline station 419+97.39, Point of Tangency;

Southwesterly along a curve having a central angle of $16^{\circ}09'31''$, an arc length of 431.83 feet, a radius of 1531.20 feet, a chord bearing of $S\ 9^{\circ}38'47''\ W$ and a chord distance of 430.40 feet to a point 100.00 feet right of centerline station 415+93.76, Point of Curvature;

$S\ 17^{\circ}43'32''\ W$ a distance of 412.02 feet to a point 100.00 feet right of centerline station 411+81.73, Point of Tangency;

Southwesterly along a curve having a central angle of $14^{\circ}05'30''$, an arc length of 256.32 feet, a radius of 1042.17 feet, a chord bearing of $S\ 10^{\circ}40'47''\ W$ and a chord distance of 255.67 feet to a point 100.00 feet right of centerline station 409+00.82, Point of Curvature;

$S\ 3^{\circ}38'02''\ W$ a distance of 610.21 feet to a point 100.00 feet right of centerline station 402+90.61, Point of Tangency;

Southwesterly along a curve having a central angle of $44^{\circ}53'58''$, an arc length of 639.61 feet, a radius of 816.20 feet, a chord bearing of $S\ 26^{\circ}05'01''\ W$ and a chord distance of 623.37 feet to a point 100.00 feet right of centerline station 397+29.37, Point of Curvature;

$S\ 48^{\circ}32'00''\ W$ a distance of 788.98 feet to a point 100.00 feet right of centerline station 389+40.40, Point of Tangency;

Southwesterly along a curve having a central angle of $41^{\circ}51'53''$, an arc length of 973.55 feet, a radius of 1332.39 feet, a chord bearing of $S\ 27^{\circ}36'04''\ W$ and a chord distance of 952.04 feet to a point 100.00 feet right of centerline station 378+93.78, Point of Curvature;

$S\ 6^{\circ}40'07''\ W$ a distance of 745.71 feet to a point 100.00 feet right of centerline station 371+48.07, Point of Tangency;

Southwesterly along a curve having a central angle of $34^{\circ}58'12''$, an arc length of 498.16 feet, a radius of 816.20 feet, a chord bearing of $S\ 24^{\circ}09'13''\ W$ and a chord distance of 490.46 feet to a point 100.00 feet right of centerline station 367+10.95, Point of Curvature;

$S\ 41^{\circ}38'19''\ W$ a distance of 653.81 feet to a point 100.00 feet right of centerline station 360+57.13, Point of Tangency;

Southwesterly along a curve having a central angle of $26^{\circ}23'45''$, an arc length of 323.61 feet, a radius of 702.43 feet, a chord bearing of $S\ 28^{\circ}26'27''\ W$ and a chord distance of 320.75 feet to a point 100.00 feet right of centerline station 356+87.46, Point of Curvature;

$S\ 15^{\circ}14'34''\ W$ a distance of 715.78 feet to a point 100.00 feet right of centerline station 349+71.68, Point of Tangency;

Southwesterly along a curve having a central angle of $31^{\circ}09'29''$, an arc length of 443.86 feet, a radius of 816.20 feet, a chord bearing of $S 30^{\circ}49'19'' W$ and a chord distance of 438.41 feet to a point 100.00 feet right of centerline station 345+82.20, Point of Curvature;

$S 46^{\circ}24'03'' W$ a distance of 258.68 feet to the intersection with line 3-2 of ASLS No. 79-264 and the **TRUE POINT OF BEGINNING**.

-AND-

COMMENCING at Corner No. 4 of the easement defined by the Record of Survey titled "Boundary Survey and Right of Way Easement for the Humpback Creek Hydroelectric Project", filed as Plat 94-2RS on 5/16/94 in the Cordova Recording District by LCMF, Ltd.

THENCE $S 61^{\circ}44'49'' E$ along line 4-5 of said survey a distance of 87.34 feet to the northwesterly right of way of Project No. 65928, Shepard Point Road and the **TRUE POINT OF BEGINNING**;

THENCE along said right of way line for Shepard Point Road the following courses:

Northeasterly along a curve having a central angle of $45^{\circ}07'35''$, an arc length of 673.35 feet, a radius of 854.93 feet, a chord bearing of $N 15^{\circ}57'17'' E$ and a chord distance of 656.08 feet to a point 100.00 feet left of centerline station 491+92.22, Point of Tangency;

$N 6^{\circ}36'30'' W$ a distance of 486.61 feet to a point 100.00 feet left of centerline station 496+78.83, Point of Curvature;

Northeasterly along a curve having a central angle of $16^{\circ}00'49''$, an arc length of 348.22 feet, a radius of 1245.92 feet, a chord bearing of $N 1^{\circ}23'54'' E$ and a chord distance of 347.09 feet to a point 100.00 feet left of centerline station 499+99.09, Point of Tangency;

$N 9^{\circ}24'18'' E$ a distance of 1001.70 feet to a point 100.00 feet left of centerline station 510+00.79, Point of Curvature;

Northeasterly along a curve having a central angle of $6^{\circ}52'03''$, an arc length of 317.21 feet, a radius of 2646.48 feet, a chord bearing of $N 12^{\circ}50'20'' E$ and a chord distance of 317.02 feet to a point 100.00 feet left of centerline station 513+06.03, Point of Tangency;

$N 16^{\circ}16'21'' E$ a distance of 789.38 feet to a point 100.00 left of centerline station 520+95.41, Point of Curvature;

Northeasterly along a curve having a central angle of $5^{\circ}44'25''$, an arc length of 317.99 feet, a radius of 3174.04 feet, a chord bearing of $N 13^{\circ}24'09'' E$ and a chord distance of 317.86 feet to a point 100.00 feet left of centerline station 524+23.41, Point of Tangency;

$N 10^{\circ}31'57'' E$ a distance of 631.87 feet to a point 100.00 feet left of centerline station 530+55.29, Point of Curvature;

Northeasterly along a curve having a central angle of $30^{\circ}17'19''$, an arc length of 389.40 feet, a radius of 736.62 feet, a chord bearing of $N 25^{\circ}40'36'' E$ and a chord distance of 384.88 feet to a point 100.00 feet left of centerline station 533+91.83, Point of Tangency;

$N 40^{\circ}49'16'' E$ a distance of 359.57 feet to a point 100.00 feet left of centerline station 537+51.40, Point of Curvature;

Northeasterly along a curve to having a central angle of $7^{\circ}13'47''$, an arc length of 710.35 feet, a radius of 5629.58 feet, a chord bearing of $N 37^{\circ}12'22'' E$ and a chord distance of 709.88 feet to a point 100.00 feet left of centerline station 544+74.37, Point of Tangency;

$N 33^{\circ}35'29'' E$ a distance of 521.72 feet to intersection with line 5-1 of Alaska Tideland Survey No. 225, filed as Plat 63-182 in the Cordova Recording District;

THENCE $S 51^{\circ}32'20'' E$ along said line 5-1 a distance of 100.36 feet to centerline station 549+87.56, Point on Tangent;

THENCE continuing $S 51^{\circ}32'20'' E$ along line 5-1 a distance of 28.07 feet to Meander Corner No. 1 according to ATS No. 225;

THENCE $N 17^{\circ}42'40'' E$ along the meanders of the Mean High Tide line according to ATS No. 225 a distance of 66.00 feet;

THENCE $N 37^{\circ}27'42'' E$ along said meanders a distance of 39.32 feet to the intersection with the End of Project centerline station 550+87.89;

THENCE $S 56^{\circ}24'31'' E$ along a line perpendicular to centerline a distance of 87.44 feet to a point on the southeasterly right of way for Project No. 65928, Shepard Point Road;

THENCE along said right of way line for Shepard Point Road the following courses:
 $S 33^{\circ}35'29'' W$ a distance of 613.52 feet to a point 100.00 feet right of centerline station 544+74.37, Point of Tangency;

Southwesterly along a curve having a central angle of $7^{\circ}13'47''$, an arc length of 735.59 feet, a radius of 5829.58 feet, a chord bearing of $S\ 37^{\circ}12'22''\ W$ and a chord distance of 735.10 feet to a point 100.00 feet right of centerline station 537+51.40, Point of Curvature;

$S\ 40^{\circ}49'16''\ W$ a distance of 359.57 feet to a point 100.00 feet right of centerline station 533+91.83, Point of Tangency;

Southwesterly along a curve having a central angle of $30^{\circ}17'19''$, an arc length of 283.68 feet, a radius of 536.62 feet, a chord bearing of $S\ 25^{\circ}40'36''\ W$ and a chord distance of 280.38 feet to a point 100.00 feet right of centerline station 530+55.29, Point of Curvature;

$S\ 10^{\circ}31'57''\ W$ a distance of 631.87 feet to a point 100.00 feet right of centerline station 524+23.41, Point of Tangency;

Southwesterly along a curve having a central angle of $5^{\circ}44'25''$, an arc length of 338.03 feet, a radius of 3374.04 feet, a chord bearing of $S\ 13^{\circ}24'09''\ W$ and a chord distance of 337.89 feet to a point 100.00 right of centerline station 520+95.41, Point of Curvature;

$S\ 16^{\circ}16'22''\ W$ a distance of 789.38 feet to a point 100.00 feet right of centerline station 513+06.03, Point of Tangency;

Southwesterly along a curve having a central angle of $6^{\circ}52'03''$, an arc length of 293.24 feet, a radius of 2446.48 feet, a chord bearing of $S\ 12^{\circ}50'20''\ W$ and a chord distance of 293.06 feet to a point 100.00 feet right of centerline station 510+00.79, Point of Curvature;

$S\ 9^{\circ}24'18''\ W$ a distance of 1001.70 feet to a point 100.00 feet right of centerline station 499+99.09, Point of Tangency;

Southwesterly along a curve having a central angle of $16^{\circ}00'49''$, an arc length of 292.32 feet, a radius of 1045.92 feet, a chord bearing of $S\ 1^{\circ}23'45''\ E$ and a chord distance of 291.37 feet to a point 100.00 feet right of centerline station 496+78.83, Point of Curvature;

$S\ 6^{\circ}36'30''\ E$ a distance of 486.61 feet to a point 100.00 feet right of centerline station 491+92.22, Point of Tangency;

Southwesterly along a curve having a central angle of $43^{\circ}09'54''$, an arc length of 794.75 feet, a radius of 1054.93 feet, a chord bearing of $S\ 14^{\circ}58'26''\ W$ and a chord distance of 776.09 feet to the point of intersection with line 4-5 of the easement defined by the Record of Survey titled "Boundary Survey and Right of Way Easement for the Humpback Creek Hydroelectric Project", filed as Plat 94-2RS on 5/16/94 in the Cordova Recording District by LCMF, Ltd.;

THENCE N 61°44'49" W along said line 4-5 a distance of 101.17 feet to centerline station 484+58.18, Point on Curve;

THENCE continuing N 61°44'49" W along line 4-5 a distance of 101.45 feet to the northwesterly right of way for Project No. 65928, Shepard Point Road and the **TRUE POINT OF BEGINNING**.

EXCEPTING THEREFROM the above described tracts, all lands lying below the line of mean high tide.

Said Tracts contain 49.507 acres more or less.

TOGETHER WITH the avulsed lands, if any, in which Eyak may hold title, within the area above described, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.

SUBJECT, however, to easements, rights and reservations of the United States, and third parties, if any, of record.

The Right of Way Easement is for the construction, operation and maintenance of the Shepard Point Road and highway related purposes and includes right to use and/or waste material during the construction of and for the maintenance of the road.

1. **VACATION:**

In the event that the State has not issued a request for proposals for construction of the road to Shepard Point within ten (10) years after the date of this conveyance, and Eyak requests in writing to the Commissioner of the Alaska Department of Transportation and Public Facilities, or its successor in administrative function, that the Right of Way Easement be vacated, the State shall vacate the Right of Way Easement without charge to Eyak.

2. **GENERAL PROVISIONS:**

- a. Nothing herein shall be deemed to affect or in any way limit the rights of the owner of the subsurface in accordance with applicable law.
- b. The parties make no representation as to whether the lands that are described herein include avulsed lands, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.
- c. Eyak hereby covenants to and with the State and its assigns, that Eyak is lawfully seized of the surface estate in fee simple of the Protected Property, has good and

lawful right and power to sell and convey the Right of Way Easement, that the same is free and clear of encumbrances, except as shown above, and that Eyak will forever warrant and defend this Right of Way Easement, limited to that portion of the chain of title from the moment of conveyance by the United States to Eyak pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 et. seq., to and including the moment at which this Right of Way Easement is validly conveyed to the State of Alaska, its successors and assigns, against the lawful claims and demands of all persons.

- d. Prior to undertaking construction activities pursuant to the rights conveyed by this Right of Way Easement the State shall satisfy the requirements of the Alaska Historic Preservation Act relating to the preservation of historic, prehistoric, and archeological resources as provided at AS 41.35.070.
- e. This conveyance is subject to the default provisions of paragraph 4 of the Agreement.

TO HAVE AND TO HOLD unto the State, its successors and assigns forever.

IN WITNESS WHEREOF Eyak and the State have set their hands on the day and year first above written.

THE EYAK CORPORATION

By: _____
Nancy C. Barnes, President

ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
 JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the _____ day of _____, 1998, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared Nancy C. Barnes, President of The Eyak Corporation, to me known and known to be the person who executed the above and foregoing RIGHT OF WAY EASEMENT on behalf of The Eyak Corporation, and who acknowledged to me that she signed the same as President of The Eyak Corporation, in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors and shareholders for the use and purposes therein mentioned.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

(SEAL)

Notary Public in and for Alaska
My commission expires: _____

CERTIFICATE OF ACCEPTANCE

THIS IS TO CERTIFY that the State of Alaska, Department of Transportation and Public Facilities, Right of Way Section, GRANTEE, herein, acting by and through its Commissioner, hereby accepts for public purposes the real property, or interest therein, described in this instrument and consents to the recordation thereof.

**STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION AND
PUBLIC FACILITIES**

By: _____
John Miller, Chief Right of Way Agent
For the Commissioner

ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
 _____ JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 1998, by JOHN MILLER, who is known to me to be the Chief Right of Way Agent, Department of Transportation and Public Facilities, State of Alaska.

(SEAL)

 Notary Public in and for Alaska
 My commission expires: _____

LOCATION INDEX:

Sections 1, 2, 8, 9, 11 of Township 15 South, Range 3 West and Section 25 of Township 14 South, Range 3 West, Copper River Meridian, Third Judicial District, Cordova Recording District

ACCEPTANCE

Pursuant to 7 U.S.C. § 428a and the Agreement, the United States hereby accepts this Timber Conservation Easement conveying to the United States and its assigns, the interests in lands described therein.

DATED this _____ day of _____, 1998.

**USDA FOREST SERVICE
ALASKA REGION**

By: _____
James A. Caplan
Acting Regional Forester

STATE OF ALASKA)
) ss.
_____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the _____ day of _____, 1998, at _____, Alaska, the foregoing instrument was acknowledged before me by James A. Caplan, Acting Regional Forester, Alaska Region of the Forest Service within the Department of Agriculture of the United States of America, on behalf of the United States of America.

GIVEN UNDER MY HAND and official seal the day and year last above written.

Notary Public in and for Alaska
My commission expires: _____

**DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION PRIOR
TO CLOSING AS TO FORM AND SUBSTANCE BY U.S. DEPARTMENT OF JUSTICE
AND ALASKA DEPARTMENT OF LAW**

STATE BUSINESS - NO CHARGE

AFTER RECORDING RETURN TO:

U.S. Department of Agriculture

Forest Service

P.O. Box 21628

Juneau, Alaska 99802-1628

EXHIBIT VII

UNITED STATES WARRANTY DEED

Part One

THIS DEED (the "Deed"), made this ____ day of December, 1998, between **The Eyak Corporation** ("Eyak"), a Native Village Corporation organized pursuant to the Alaska Native Claims Settlement Act, as amended, 43 U.S.C. § 1601 et. seq. ("ANCSA"), and the laws of the State of Alaska, whose address is P. O. Box 340, Cordova, Alaska 99574, as grantor, and the **United States of America** ("United States"), and its assigns whose address is U.S. Department of Agriculture, Forest Service, P. O. Box 21628, Juneau, Alaska 99802-1628, as grantee, under the authority of 7 U.S.C. § 428a, and the Agreement for Sale and Purchase of Lands and Interests in Land Among The Eyak Corporation and the United States of America and the State of Alaska, dated December __, 1998 ("Agreement").

WITNESSETH, that Eyak, for and in consideration of the terms of the Agreement, which provides for conveyances of lands and interests in lands from Eyak to the State and to the United States for a sum of Forty-Five Million and no/100 dollars, [\$45,000,000.00] to be paid in five payments, the first of which is Thirteen Million and no/100 Dollars, [\$13,000,000.00], to it in hand paid by the United States, the receipt of which is hereby acknowledged, conveys and warrants to the State and its assigns forever, the surface estate of all those lands lying and being in the Eastern Prince William Sound, State of Alaska (the "Protected Property"), containing approximately 49,457 acres, more or less; and more particularly described as follows:

See Attached Appendix B

TOGETHER WITH all right, title, and interest in avulsed lands, if any, within the area above described, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.

The herein described lands are acquired for administration by the Secretary of Agriculture ("Secretary") through the Forest Service.

TO HAVE AND TO HOLD THE SAME, together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining, to the United States and its assigns, forever.

SUBJECT, however to:

1. **EASEMENT FOR SUBSISTENCE ACCESS:**

Eyak reserves unto itself the right for the residents of the Cordova, Alaska area (i.e., those persons who maintain their primary, permanent abode in Cordova, Alaska or within fifteen (15) miles of the Cordova City limits) (hereinafter "residents") to enter upon and travel across the Protected Property for the purposes of engaging in lawful customary and traditional uses (hereinafter "uses" or "such uses") of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for making and selling of handicraft articles out of non-edible by-products of fish and wildlife resources taken for personal or family consumption; for barter, or sharing for personal or family consumption; and for customary trade. As used herein, the term:

- a. "family" means all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis; and
- b. "barter" means the exchange of fish or wildlife or their parts, taken for subsistence uses --
 - (1) for other fish or game or their parts; or
 - (2) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature.

In exercising the rights reserved herein, the residents may utilize such means of transportation as are permitted to the general public on adjacent federal lands and all means of transportation which were customarily utilized by the residents for engaging in such uses on the Protected Property as of January 1, 1998; provided however, that the Secretary or his delegate (hereinafter simply, Secretary) may impose such reasonable restrictions on such

means of transportation as may be necessary to protect the natural state of the Protected Property. Nothing herein shall be construed as (1) permitting the level of such uses of wild, renewable resources upon the Protected Property to be inconsistent with the conservation of healthy fish and wildlife populations, or (2) preventing the Secretary from temporarily closing the Protected Property to such uses of a wild, renewable resource if necessary for reasons of public safety, administration, or to assure the continued viability of such resources; provided, however, that the Secretary shall not limit nor preclude such uses of fish and wildlife on the Protected Property by the residents for purposes of public safety or administration unless the Secretary has taken all other reasonable actions necessary to remedy the conditions giving rise to the proposed limitations or preclusions, including, but not limited to, the termination of all other activities, consumptive or non-consumptive, on the Protected Property that contribute to such conditions. The Secretary shall, consistent with his or her other legal obligations, manage the above-granted lands in a good faith manner which acknowledges and seeks to preserve the rights described in this easement. Nothing herein shall be construed to create any fiduciary or trust obligation whatsoever on the part of the Secretary, his or her successors and assigns, or the United States and its assigns with respect to Eyak for the management of the Protected Property. Nothing herein shall be construed to affect the authority of the State to regulate or prohibit the taking of fish and wildlife upon the Protected Property. Nothing herein shall be construed to affect the authority of the United States under the provisions of any federal law governing the conservation or protection of fish and wildlife, including, but not limited to, the Alaska National Interest Lands Conservation Act, PL 96-487, 94 Stat. 2371, Fur Seal Act of 1966 (80 Stat. 1091; 16 U.S.C. § 1187), the Endangered Species Act of 1973, as amended (87 Stat. 884; 16 U.S.C. §§ 1531-1534), the Marine Mammal Protection Act of 1972 (86 Stat. 1027; 16 U.S.C. §§ 1361-1407), the Act entitled "An Act for the Protection of the Bald Eagle," approved June 8, 1940 (54 Stat. 250; 16 U.S.C. §§ 742a-754), the Migratory Bird Treaty Act, as amended (40 Stat. 755; 16 U.S.C. §§ 703-711), the Federal Aid in Wildlife Restoration Act (50 Stat. 917; 16 U.S.C. §§ 669-669i), the Fishery Conservation and Management Act of 1976 (90 Stat. 331; 16 U.S.C. §§ 1801-1882), the Federal Aid in Fish Restoration Act (64 Stat. 430; 16 U.S.C. §§ 777-777k), or any amendments, currently or in the future to any one or more of such acts.

2. RESTRICTIVE COVENANTS:

Eyak reserves unto itself the non-exclusive right to enforce the following Restrictive Covenants:

- a. Restricted Activities: The activities listed below are prohibited on the Protected Property except as determined to be necessary for conveying information to the public to protect public safety or natural resources, or for research or management of the Protected Property consistent with the goal of maintaining the land in

perpetuity for conservation and wilderness purposes. Any buildings or mobile homes determined to be necessary for research or management of the Protected Property must be designed to the extent reasonably possible in a rustic manner so as to blend into the natural character of the area, must be constructed and managed in a manner that minimizes adverse effects on the Protected Property, and must be operated for use by research or land management personnel only. Determinations under the provisions of this section will be made by the owner of the fee simple estate if the owner is the State or the United States. If the owner of the fee simple estate is any other entity, determinations under this section shall be made by the owner, subject to approval by the State and Eyak:

- (1) constructing or placing buildings, fixed or improved camping accommodations, or mobile homes, fences, billboards or signs other than those signs for boundary, trespass, direction or general information;
- (2) changing the topography of the Protected Property in any manner;
- (3) removing or destroying plants except for subsistence uses or medicinal uses;
- (4) using biocides;
- (5) manipulating or altering natural water courses, shores, marshes or other water bodies or activities or uses detrimental to water purity on the Protected Property; and
- (6) operating motorized vehicles, provided that this provision shall not be construed to prohibit the use of float equipped aircraft on waterbodies within the Protected Property.

b. Prohibited Activities: The following listed activities by any person are prohibited:

- (1) removing or harvesting timber, including but not limited to, all standing and downed timber, logs, inventory, lumber, and any other goods or products obtained or derived from the forest, now or in the future, except for subsistence uses and for the purpose of implementing the activities identified in section 1 (Restricted Activities) above;
- (2) introducing fish, wildlife or plants not indigenous to eastern Prince William Sound, including, but not limited to, the grazing of domestic animals or the introduction of reindeer, unless unanimously agreed upon by Eyak, the United States and the State; and

- (3) dumping or releasing trash, garbage, hazardous substances or other unsightly or offensive material

3. **ENFORCEMENT:**

- a. Nothing contained in the Restrictive Covenants shall be construed to entitle Eyak to bring any action against the United States for any injury to or change resulting from causes beyond the United States' control, including, without limitation, naturally caused fire, flood, storm, and earth movement, or from any action resulting from a third party's negligence or prudent action taken by the United States under emergency conditions to prevent, abate or mitigate significant injury resulting from such causes. Nothing contained herein shall be construed to limit the obligation under applicable state or federal laws of third parties for injury or damage to the above-described lands. Nothing contained herein shall be construed to create any third party rights.
- b. In the event Eyak becomes aware of an event or circumstance of non-compliance with the Restrictive Covenants set forth in the foregoing paragraphs, Eyak shall give written notice to the United States through the Regional Forester of the Alaska Region of the Forest Service, its successors or assigns, of such event or circumstance of non-compliance. If the event or circumstance of non-compliance is not corrected immediately, Eyak is entitled to institute suits to enjoin any breach or enforce any covenant and require that the Protected Property be restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance. Nothing in this section shall limit any other legal rights or remedies available to Eyak.

4. **WATER EASEMENT:**

- (a) Notwithstanding Section 2.a.(5), Eyak retains an easement for purposes of access across and entry upon any portion of the Protected Property adjoining the Development Lands described in the Eyak Development Lands Easement recorded simultaneously herewith, to transport fresh potable water that may be allocated to Eyak pursuant to federal or state law, necessary to support the development and use of the Development Lands, and to construct and maintain waterlines and water systems required for such purposes. Eyak's right to construct waterlines and water systems is subject to the prior written consent of the United States and the State, which consent shall not be delayed or withheld unreasonably. In determining whether to consent to Eyak's access for water, the United States and the State shall consider the location and volume of water to be used, the reasonable availability of water in the areas to be developed, the proposed means and route of transport and any

significant adverse effects on the ecosystem resulting from the removal of such water. Eyak, the State, and the United States intend that Eyak shall have access to a sufficient source of water in order to facilitate Eyak's economic development and use of the Development Lands. At such time as any waterlines and water systems are constructed pursuant to this section, Eyak shall provide an as-built survey, with descriptions, in recordable form, acceptable to the United States and the State, to locate all improvements.

- (b) Notwithstanding Section 2.a.(5), Eyak retains an easement for purposes of access across and entry upon the Protected Property to transport, through waterlines, fresh potable water that may be allocated to Eyak pursuant to federal or state law, necessary to support the use of the Homesite Easement Lands described in the Homesite Lands Easement recorded simultaneously herewith, and to construct and maintain waterlines for such purposes. Eyak's right to installation or to authorize installation by a homesite lessee of such waterlines is subject to the prior written consent of the United States and the State, which consent shall not be delayed or withheld unreasonably. In determining whether to consent to Eyak's request for access for water, the United States and the State shall consider the location and volume of water to be used, the reasonable availability of water on a homesite or in the vicinity of such homesite, the proposed means and route of transport and any significant adverse effects on the ecosystem resulting from the removal of such water. Eyak, the State, and the United States intend that Eyak shall have access to a sufficient source of water in order to facilitate Eyak's use of the Homesite Easement Lands as shareholder homesites or Bed and Breakfast Leases subject to the terms and conditions of Exhibits VIII and X of the Agreement. At such time as any waterlines are constructed pursuant to this paragraph, Eyak shall provide an as-built survey, with description(s), in recordable form, acceptable to the United States and the State, to locate the waterlines.

5. **BEAR VIEWING AREA:**

Eyak retains, subject to existing 17(b) easements, an exclusive easement, from June 1 through September 1 of each calendar year, for a bear viewing site in the approximate dimension of 150 feet x 2000 feet, and a platform, and a fifteen (15) foot wide trail for access. The location of the trail and bear viewing site easement shall be as generally shown on the sketch map at Appendix B. Eyak retains the right, subject to the consent of the United States, which consent shall not be unreasonably withheld, to clear vegetation necessary for construction of a bear viewing platform and trail to facilitate the bear viewing operation. In addition, Eyak retains the right to exclusive access for commercial bear viewing operations on those lands conveyed by this Deed in Sections 27 and 34 of Township 13 South, Range 4 West, Copper River Meridian, from June 1 through September 1 of each calendar year.

The term "commercial bear viewing operations" includes those commercial and non-profit operations for which a primary objective, based on the marketing of services and actual operations, is providing bear viewing. The term does not include commercial and non-profit operations for which bear viewing is secondary to the other aspects of such commercial operations, such as entities that provide kayaking and fishing trips where bear viewing is secondary to the services marketed and provided. Eyak shall give notice in writing to the Forest Service as follows: (1) not less than 30 days prior to commencement of construction of the bear viewing platform and/or trail identified above; (2) upon completion of construction of the bear viewing platform and/or trail; and (3) not less than 30 days prior to actual commencement of the bear viewing operation. Eyak's right of exclusive use of the bear viewing site and trail, and its right to exclusive access in Sections 27 and 34, shall not be effective until such time as Eyak notifies the Forest Service that Eyak has completed construction of the bear viewing platform and trail or the date Eyak commences a bear viewing operation at the site, whichever is later. In the event that Eyak does not undertake a bear viewing operation within fifteen (15) years from the date of this conveyance or Eyak does not maintain a bear viewing operation for a period of seven (7) consecutive years after Eyak undertakes the bear viewing operation, the aforesaid exclusive easement for bear viewing shall be terminated. The term "bear viewing operation" shall mean a commercial operation in which not less than twenty-five (25) customers per year pay to Eyak or its authorized agent the reasonable fair market value, including transportation costs, for the experience of bear viewing at the above site and visit the site for the purpose of bear viewing. For the purpose of verifying the bear viewing operation, Eyak shall maintain adequate records of its bear viewing operation, which records shall be made available to the Forest Service upon request.

6. **ITEMS OF RECORD:**

Easements, rights and reservations of the United States, and third parties, if any, of record.

7. **CONSERVATION EASEMENT:**

Enforcement Rights of the State as established by the Conservation Easement granted by Eyak to the State and recorded immediately prior to this deed, authorizing the State on a non-exclusive basis to enforce the Restrictive Covenants set forth therein.

8. **REVERTER:**

In the event Eyak or the State becomes aware of an event or circumstance when the Protected Property or any portion thereof, ceases to be in compliance with the terms of any applicable Restrictive Covenant, that party shall give notice to the United States of such event or circumstance of non-compliance, and make demand that it be enjoined, corrected and/or that

the lands be restored as is appropriate to the circumstances. If the event or circumstance of non-compliance is not ceased immediately and corrected promptly, Eyak or the State may institute suits to enjoin any breach of, or to enforce compliance with, the Restrictive Covenant, and to require that said lands, or the affected portion thereof, be restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance. If the event or circumstance of non-compliance is not corrected promptly and the subject lands, or portion thereof, are not restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance, then title to said lands or portion thereof shall be conveyed automatically to the State, provided that the State agrees to accept it. If the State does not accept fee title to the surface estate or timber rights, title to such estate or timber rights shall revert automatically to Eyak. If the State accepts fee title or said timber rights, in the event that the State subsequently attempts to convey said lands or any part thereof in fee simple or to convey the timber rights thereto to another entity, at the time of such conveyance, title to said lands or portion thereof or timber rights shall revert automatically to Eyak. The Protected Property shall continue in any event to be subject to the Restrictive Covenant. The Protected Property shall also continue to be subject to the Easement for Subsistence Access, except that Eyak agrees that if fee title to some or all of said lands is conveyed to the State, under this provision or otherwise, then the Easement for Subsistence Access shall terminate as to such lands, but the State will have the obligation referenced in paragraph 6(g) of the Agreement to manage the property so as to ensure public access.

9. **CULTURAL CONSERVATION:**

Eyak to the extent it holds ownership, reserves ownership of all Alaska Native human remains, cultural artifacts, and sacred objects currently located on the Protected Property to the extent consistent with the rights that it may be afforded as specified in the Native American Graves Protection and Repatriation Act, the Archaeological Resources Protection Act, the National Indian Forest Resources Management Act, the National Museum of the American Indian Act, the Indian Arts and Crafts Act, the Native American Language Acts, and related laws of the State, including the Alaska Historic Preservation Act.

10. **MISCELLANEOUS:**

- a. The foregoing easements and Restrictive Covenants shall run with the land and shall be binding upon the United States and its assigns, or successors in interests.
- b. Nothing herein shall be deemed to affect or in any way limit the rights of the owner of the subsurface estate in accordance with applicable law.

- c. Eyak retains the rights, to the extent that it has the rights, granted in Section 14(f) of ANCSA, including the right to consent to exploration, development or removal of minerals from the subsurface estate in the lands within the boundaries of any Native village.
- d. Eyak retains the right, to the extent it has the right, to access its two acre cemetery site, which adjoins the lands described as the "Eyak River Boat Ramp Parcel" in Appendix B, by use of the access road and parking lot located on the Eyak River Boat Ramp Parcel.
- e. Eyak retains the right, to the extent it has the right, to an easement across lands in T15S-R2W, CRM, Section 7 to provide reasonable access for use by Cordova Electric Cooperative (or its successors in interests) to lay a cable from the power generating site to Eyak Lake to transmit electricity from the proposed power generating facility at Power Creek to power users in the Cordova, Alaska area.
- f. The parties make no representations as to whether the lands that are described herein include avulsed lands, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.
- g. Eyak hereby covenants to and with the United States and its assigns, that Eyak is lawfully seized of the surface estate in fee simple of the Protected Property, has a good and lawful right and power to sell and convey the same, that the same is free and clear of encumbrances, except as shown above, and that Eyak will forever warrant and defend the title thereto and the quiet possession thereof, limited to that portion of the chain of title from the moment of conveyance by the United States to Eyak pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 et. seq., to and including the moment at which such title is validly reconveyed to the United States and its assigns, against the lawful claims and demands of all persons.
- f. This conveyance is subject to the default provisions of paragraph 4 of the Agreement.

IN WITNESS WHEREOF, Eyak hereunto sets its hand and seal the day and year first above written.

THE EYAK CORPORATION

By: _____
Nancy C. Barnes, President

ACKNOWLEDGMENT

STATE OF ALASKA)
) ss:
 _____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the ____ day of _____, 1998, before me, the undersigned, a Notary Public in and for the State of Alaska, commissioned and sworn, personally appeared Nancy C. Barnes, to me known to be the individual who executed the within and foregoing UNITED STATES WARRANTY DEED as President of The Eyak Corporation and acknowledged to me that she signed the same as President of The Eyak Corporation in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors and shareholders for the use and purposes therein mentioned.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

 Notary Public in and for Alaska
 My commission expires: _____

ACCEPTANCE

Pursuant to 7 U.S.C. § 428a, and the Agreement, the United States hereby accepts this WARRANTY DEED conveying to the United States and its assigns, those interests in lands described therein.

DATED this _____ day of _____, 1998.

**USDA FOREST SERVICE
ALASKA REGION**

By: _____
James A. Caplan
Acting Regional Forester

ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this _____ day of _____, 1998, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared _____, known to me and to me known to be the Acting Regional Forester, Alaska Region, USDA Forest Service, and he acknowledged to me that he signed as accepting the foregoing UNITED STATES WARRANTY DEED conveying to the United States, those lands described therein, and he acknowledged to me that he executed the foregoing instrument freely and voluntarily.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first written above.

(SEAL)

Notary Public in and for Alaska
My commission expires: _____

LOCATION INDEX:
See attached Appendix B

**DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION PRIOR
TO CLOSING AS TO FORM AND SUBSTANCE BY U.S. DEPARTMENT OF JUSTICE
AND ALASKA DEPARTMENT OF LAW**

STATE BUSINESS - NO CHARGE

AFTER RECORDING RETURN TO:

U.S. Department of Agriculture

Forest Service

P.O. Box 21628

Juneau, Alaska 99802-1628

EXHIBIT VII

UNITED STATES WARRANTY DEED

Part Two

THIS DEED (the "Deed"), made this ____ day of December, 1998, between **The Eyak Corporation** ("Eyak"), a Native Village Corporation organized pursuant to the Alaska Native Claims Settlement Act, as amended, 43 U.S.C. § 1601 *et. seq.* ("ANCSA"), and the laws of the State of Alaska, whose address is P. O. Box 340, Cordova, Alaska 99574, as grantor, and the **United States of America** ("United States"), and its assigns whose address is U.S. Department of Agriculture, Forest Service, P. O. Box 21628, Juneau, Alaska 99802-1628, as grantee, under the authority of 7 U.S.C. § 428a, and the Agreement for Sale and Purchase of Lands and Interests in Land Among The Eyak Corporation and the United States of America and the State of Alaska, dated December __, 1998 ("Agreement").

WITNESSETH, that Eyak, for and in consideration of the terms of the Agreement, which provides for conveyances of lands and interests in lands from Eyak to the State and to the United States for a sum of Forty-Five Million and no/100 dollars, [\$45,000,000.00] to be paid in five payments, the first of which is Thirteen Million and no/100 Dollars, [\$13,000,000.00], to it in hand paid by the United States previously at the closing on the Agreement, the receipt of which has been acknowledged, conveys and warrants to the State and its assigns forever, the surface estate of all those lands lying and being in the Eastern Prince William Sound, State of Alaska (the "Protected Property"), containing approximately 640 acres, more or less; and more particularly described as follows:

See Attached Appendix N

TOGETHER WITH all right, title, and interest in avulsed lands, if any, within the area above described, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.

The herein described lands are acquired for administration by the Secretary of Agriculture ("Secretary") through the Forest Service.

TO HAVE AND TO HOLD THE SAME, together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining, to the United States and its assigns, forever.

SUBJECT, however to:

1. **EASEMENT FOR SUBSISTENCE ACCESS:**

Eyak reserves unto itself the right for the residents of the Cordova, Alaska area (i.e., those persons who maintain their primary, permanent abode in Cordova, Alaska or within fifteen (15) miles of the Cordova City limits) (hereinafter "residents") to enter upon and travel across the Protected Property for the purposes of engaging in lawful customary and traditional uses (hereinafter "uses" or "such uses") of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for making and selling of handicraft articles out of non-edible by-products of fish and wildlife resources taken for personal or family consumption; for barter, or sharing for personal or family consumption; and for customary trade. As used herein, the term:

- a. "family" means all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis; and
- b. "barter" means the exchange of fish or wildlife or their parts, taken for subsistence uses --
 - (1) for other fish or game or their parts; or
 - (2) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature.

In exercising the rights reserved herein, the residents may utilize such means of transportation as are permitted to the general public on adjacent federal lands and all means of transportation which were customarily utilized by the residents for engaging in such uses on the Protected Property as of January 1, 1998; provided however, that the Secretary or his delegate (hereinafter simply, Secretary) may impose such reasonable restrictions on such

means of transportation as may be necessary to protect the natural state of the Protected Property. Nothing herein shall be construed as (1) permitting the level of such uses of wild, renewable resources upon the Protected Property to be inconsistent with the conservation of healthy fish and wildlife populations, or (2) preventing the Secretary from temporarily closing the Protected Property to such uses of a wild, renewable resource if necessary for reasons of public safety, administration, or to assure the continued viability of such resources; provided, however, that the Secretary shall not limit nor preclude such uses of fish and wildlife on the Protected Property by the residents for purposes of public safety or administration unless the Secretary has taken all other reasonable actions necessary to remedy the conditions giving rise to the proposed limitations or preclusions, including, but not limited to, the termination of all other activities, consumptive or non-consumptive, on the Protected Property that contribute to such conditions. The Secretary shall, consistent with his or her other legal obligations, manage the above-granted lands in a good faith manner which acknowledges and seeks to preserve the rights described in this easement. Nothing herein shall be construed to create any fiduciary or trust obligation whatsoever on the part of the Secretary, his or her successors and assigns, or the United States and its assigns with respect to Eyak for the management of the Protected Property. Nothing herein shall be construed to affect the authority of the State to regulate or prohibit the taking of fish and wildlife upon the Protected Property. Nothing herein shall be construed to affect the authority of the United States under the provisions of any federal law governing the conservation or protection of fish and wildlife, including, but not limited to, the Alaska National Interest Lands Conservation Act, PL 96-487, 94 Stat. 2371, Fur Seal Act of 1966 (80 Stat. 1091; 16 U.S.C. § 1187), the Endangered Species Act of 1973, as amended (87 Stat. 884; 16 U.S.C. §§ 1531-1534), the Marine Mammal Protection Act of 1972 (86 Stat. 1027; 16 U.S.C. §§ 1361-1407), the Act entitled "An Act for the Protection of the Bald Eagle," approved June 8, 1940 (54 Stat. 250; 16 U.S.C. §§ 742a-754), the Migratory Bird Treaty Act, as amended (40 Stat. 755; 16 U.S.C. §§ 703-711), the Federal Aid in Wildlife Restoration Act (50 Stat. 917; 16 U.S.C. §§ 669-669i), the Fishery Conservation and Management Act of 1976 (90 Stat. 331; 16 U.S.C. §§ 1801-1882), the Federal Aid in Fish Restoration Act (64 Stat. 430; 16 U.S.C. §§ 777-777k), or any amendments, currently or in the future to any one or more of such acts.

2. RESTRICTIVE COVENANTS:

Eyak reserves unto itself the non-exclusive right to enforce the following Restrictive Covenants:

- a. Restricted Activities: The activities listed below are prohibited on the Protected Property except as determined to be necessary for conveying information to the public to protect public safety or natural resources, or for research or management of the Protected Property consistent with the goal of maintaining the land in

perpetuity for conservation and wilderness purposes. Any buildings or mobile homes determined to be necessary for research or management of the Protected Property must be designed to the extent reasonably possible in a rustic manner so as to blend into the natural character of the area, must be constructed and managed in a manner that minimizes adverse effects on the Protected Property, and must be operated for use by research or land management personnel only. Determinations under the provisions of this section will be made by the owner of the fee simple estate if the owner is the State or the United States. If the owner of the fee simple estate is any other entity, determinations under this section shall be made by the owner, subject to approval by the State and Eyak:

- (1) constructing or placing buildings, fixed or improved camping accommodations, or mobile homes, fences, billboards or signs other than those signs for boundary, trespass, direction or general information;
- (2) changing the topography of the Protected Property in any manner;
- (3) removing or destroying plants except for subsistence uses or medicinal uses;
- (4) using biocides;
- (5) manipulating or altering natural water courses, shores, marshes or other water bodies or activities or uses detrimental to water purity on the Protected Property; and
- (6) operating motorized vehicles, provided that this provision shall not be construed to prohibit the use of float equipped aircraft on waterbodies within the Protected Property.

b. Prohibited Activities: The following listed activities by any person are prohibited:

- (1) removing or harvesting timber, including but not limited to, all standing and downed timber, logs, inventory, lumber, and any other goods or products obtained or derived from the forest, now or in the future, except for subsistence uses and for the purpose of implementing the activities identified in section 1 (Restricted Activities) above;
- (2) introducing fish, wildlife or plants not indigenous to eastern Prince William Sound, including, but not limited to, the grazing of domestic animals or the introduction of reindeer, unless unanimously agreed upon by Eyak, the United States and the State; and

- (3) dumping or releasing trash, garbage, hazardous substances or other unsightly or offensive material.

3. **BEAR VIEWING AREA:**

Eyak retains, subject to existing 17(b) easements, an exclusive easement, from June 1 through September 1 of each calendar year, for a bear viewing site in the approximate dimension of 150 feet x 2000 feet, and a platform, and a fifteen (15) foot wide trail for access. The location of the trail and bear viewing site easement shall be as generally shown on the sketch map at Appendix B. Eyak retains the right, subject to the consent of the United States, which consent shall not be unreasonably withheld, to clear vegetation necessary for construction of a bear viewing platform and trail to facilitate the bear viewing operation. In addition, Eyak retains the right to exclusive access for commercial bear viewing operations on those lands described in Appendix N from June 1 through September 1 of each calendar year. The term "commercial bear viewing operations" includes those commercial and non-profit operations for which a primary objective, based on the marketing of services and actual operations, is providing bear viewing. The term does not include commercial and non-profit operations for which bear viewing is secondary to the other aspects of such commercial operations, such as entities that provide kayaking and fishing trips where bear viewing is secondary to the services marketed and provided. Eyak shall give notice in writing to the Forest Service as follows: (1) not less than 30 days prior to commencement of construction of the bear viewing platform and/or trail identified above; (2) upon completion of construction of the bear viewing platform and/or trail; and (3) not less than 30 days prior to actual commencement of the bear viewing operation. Eyak's right of exclusive use of the bear viewing site and trail, and its right to exclusive access on those lands described in Appendix N, shall not be effective until such time as Eyak notifies the Forest Service that Eyak has completed construction of the bear viewing platform and trail or the date Eyak commences a bear viewing operation at the site, whichever is later. In the event that Eyak does not undertake a bear viewing operation within fifteen (15) years from the date of this conveyance or Eyak does not maintain a bear viewing operation for a period of seven (7) consecutive years after Eyak undertakes the bear viewing operation, the aforesaid exclusive easement for bear viewing shall be terminated. The term "bear viewing operation" shall mean a commercial operation in which not less than twenty-five (25) customers per year pay to Eyak or its authorized agent the reasonable fair market value, including transportation costs, for the experience of bear viewing at the above site and visit the site for the purpose of bear viewing. For the purpose of verifying the bear viewing operation, Eyak shall maintain adequate records of its bear viewing operation, which records shall be made available to the Forest Service upon request.

4. **ENFORCEMENT:**

- a. Nothing contained in the Restrictive Covenants shall be construed to entitle Eyak to bring any action against the United States for any injury to or change resulting from causes beyond the United States' control, including, without limitation, naturally caused fire, flood, storm, and earth movement, or from any action resulting from a third party's negligence or prudent action taken by the United States under emergency conditions to prevent, abate or mitigate significant injury resulting from such causes. Nothing contained herein shall be construed to limit the obligation under applicable state or federal laws of third parties for injury or damage to the above-described lands. Nothing contained herein shall be construed to create any third party rights.
- b. In the event Eyak becomes aware of an event or circumstance of non-compliance with the Restrictive Covenants set forth in the foregoing paragraphs, Eyak shall give written notice to the United States through the Regional Forester of the Alaska Region of the Forest Service, its successors or assigns, of such event or circumstance of non-compliance. If the event or circumstance of non-compliance is not corrected immediately, Eyak is entitled to institute suits to enjoin any breach or enforce any covenant and require that the Protected Property be restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance. Nothing in this section shall limit any other legal rights or remedies available to Eyak.

5. **ITEMS OF RECORD:**

Easements, rights and reservations of the United States, and third parties, if any, of record.

6. **CONSERVATION EASEMENT:**

Enforcement Rights of the State as established by the Conservation Easement granted by Eyak to the State and recorded immediately prior to this deed, authorizing the State on a non-exclusive basis to enforce the Restrictive Covenants set forth therein.

7. **REVERTER:**

In the event Eyak or the State becomes aware of an event or circumstance when the Protected Property or any portion thereof, ceases to be in compliance with the terms of any applicable Restrictive Covenant, that party shall give notice to the United States of such event or circumstance of non-compliance, and make demand that it be enjoined, corrected and/or that the lands be restored as is appropriate to the circumstances. If the event or circumstance of non-compliance is not ceased immediately and corrected promptly, Eyak or the State may institute suits to enjoin any breach of, or to enforce compliance with, the Restrictive

Covenant, and to require that said lands, or the affected portion thereof, be restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance. If the event or circumstance of non-compliance is not corrected promptly and the subject lands, or portion thereof, are not restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance, then title to said lands or portion thereof shall be conveyed automatically to the State, provided that the State agrees to accept it. If the State does not accept fee title to the surface estate or timber rights, title to such estate or timber rights shall revert automatically to Eyak. If the State accepts fee title or said timber rights, in the event that the State subsequently attempts to convey said lands or any part thereof in fee simple or to convey the timber rights thereto to another entity, at the time of such conveyance, title to said lands or portion thereof or timber rights shall revert automatically to Eyak. The Protected Property shall continue in any event to be subject to the Restrictive Covenant. The Protected Property shall also continue to be subject to the Easement for Subsistence Access, except that Eyak agrees that if fee title to some or all of said lands is conveyed to the State, under this provision or otherwise, then the Easement for Subsistence Access shall terminate as to such lands, but the State will have the obligation referenced in paragraph 6(g) of the Agreement to manage the property so as to ensure public access.

8. CULTURAL CONSERVATION:

Eyak to the extent it holds ownership, reserves ownership of all Alaska Native human remains, cultural artifacts, and sacred objects currently located on the Protected Property to the extent consistent with the rights that it may be afforded as specified in the Native American Graves Protection and Repatriation Act, the Archaeological Resources Protection Act, the National Indian Forest Resources Management Act, the National Museum of the American Indian Act, the Indian Arts and Crafts Act, the Native American Language Acts, and related laws of the State, including the Alaska Historic Preservation Act.

9. MISCELLANEOUS:

- a. The foregoing easements and Restrictive Covenants shall run with the land and shall be binding upon the United States and its assigns, or successors in interests.
- b. Nothing herein shall be deemed to affect or in any way limit the rights of the owner of the subsurface estate in accordance with applicable law.
- c. Eyak retains the rights, to the extent that it has the rights, granted in Section 14(f) of ANCSA, including the right to consent to exploration, development or removal of minerals from the subsurface estate in the lands within the boundaries of any Native village.

- d. The parties make no representations as to whether the lands that are described herein include avulsed lands, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.
- e. Eyak hereby covenants to and with the United States and its assigns, that Eyak is lawfully seized of the surface estate in fee simple of the Protected Property, has a good and lawful right and power to sell and convey the same, that the same is free and clear of encumbrances, except as shown above, and that Eyak will forever warrant and defend the title thereto and the quiet possession thereof, limited to that portion of the chain of title from the moment of conveyance by the United States to Eyak pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 et. seq., to and including the moment at which such title is validly reconveyed to the United States and its assigns, against the lawful claims and demands of all persons.
- f. This conveyance is subject to the default provisions of paragraph 4 of the Agreement.

IN WITNESS WHEREOF, Eyak hereunto sets its hand and seal the day and year first above written.

THE EYAK CORPORATION

By: _____
Nancy C. Barnes, President

ACKNOWLEDGMENT

STATE OF ALASKA)
) ss:
_____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the _____ day of _____, 1998, before me, the undersigned, a Notary Public in and for the State of Alaska, commissioned and sworn, personally appeared Nancy C. Barnes, to me known to be the individual who executed the within and foregoing UNITED STATES WARRANTY DEED as President of The Eyak Corporation and acknowledged to me that she signed the same as President of The Eyak Corporation in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors and shareholders for the use and purposes therein mentioned.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

Notary Public in and for Alaska
My commission expires: _____

ACCEPTANCE

Pursuant to 7 U.S.C. § 428a, and the Agreement, the United States hereby accepts this WARRANTY DEED conveying to the United States and its assigns, those interests in lands described therein.

DATED this _____ day of _____, 1998.

**USDA FOREST SERVICE
ALASKA REGION**

By: James A. Caplan
Acting Regional Forester

ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this _____ day of _____, 1998, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared James A. Caplan, known to me and to me known to be the Acting Regional Forester, Alaska Region, USDA Forest Service, and he acknowledged to me that he signed as accepting the foregoing UNITED STATES WARRANTY DEED conveying to the United States, those lands described therein, and he acknowledged to me that he executed the foregoing instrument freely and voluntarily.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first written above.

(SEAL)

Notary Public in and for Alaska
My commission expires: _____

LOCATION INDEX:
See attached Appendix N

**DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION PRIOR
TO CLOSING AS TO FORM AND SUBSTANCE BY U.S. DEPARTMENT OF JUSTICE
AND ALASKA DEPARTMENT OF LAW**

STATE BUSINESS - NO CHARGE

AFTER RECORDING RETURN TO:

U.S. Department of Agriculture

Forest Service

P.O. Box 21628

Juneau, Alaska 99802-1628

EXHIBIT VII

UNITED STATES WARRANTY DEED

Part Three

THIS DEED (the "Deed"), made this ____ day of December, 1998, between **The Eyak Corporation** ("Eyak"), a Native Village Corporation organized pursuant to the Alaska Native Claims Settlement Act, as amended, 43 U.S.C. § 1601 *et. seq.* ("ANCSA"), and the laws of the State of Alaska, whose address is P. O. Box 340, Cordova, Alaska 99574, as grantor, and the **United States of America** ("United States"), and its assigns whose address is U.S. Department of Agriculture, Forest Service, P. O. Box 21628, Juneau, Alaska 99802-1628, as grantee, under the authority of 7 U.S.C. § 428a, and the Agreement for Sale and Purchase of Lands and Interests in Land Among The Eyak Corporation and the United States of America and the State of Alaska, dated December __, 1998 ("Agreement").

WITNESSETH, that Eyak, for and in consideration of the terms of the Agreement, which provides for conveyances of lands and interests in lands from Eyak to the State and to the United States for a sum of Forty-Five Million and no/100 dollars, [\$45,000,000.00] to be paid in five payments, the first of which is Thirteen Million and no/100 Dollars, [\$13,000,000.00], to it in hand paid by the United States previously at the closing on the Agreement, the receipt of which has been acknowledged, conveys and warrants to the State and its assigns forever, the surface estate of all those lands lying and being in the Eastern Prince William Sound, State of Alaska (the "Protected Property"), containing approximately 793 acres, more or less; and more particularly described as follows:

See Attached Appendix O

TOGETHER WITH all right, title, and interest in avulsed lands, if any, within the area above described, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.

The herein described lands are acquired for administration by the Secretary of Agriculture ("Secretary") through the Forest Service.

TO HAVE AND TO HOLD THE SAME, together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining, to the United States and its assigns, forever.

SUBJECT, however to:

1. **EASEMENT FOR SUBSISTENCE ACCESS:**

Eyak reserves unto itself the right for the residents of the Cordova, Alaska area (i.e., those persons who maintain their primary, permanent abode in Cordova, Alaska or within fifteen (15) miles of the Cordova City limits) (hereinafter "residents") to enter upon and travel across the Protected Property for the purposes of engaging in lawful customary and traditional uses (hereinafter "uses" or "such uses") of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for making and selling of handicraft articles out of non-edible by-products of fish and wildlife resources taken for personal or family consumption; for barter, or sharing for personal or family consumption; and for customary trade. As used herein, the term:

- a. "family" means all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis; and
- b. "barter" means the exchange of fish or wildlife or their parts, taken for subsistence uses --
 - (1) for other fish or game or their parts; or
 - (2) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature.

In exercising the rights reserved herein, the residents may utilize such means of transportation as are permitted to the general public on adjacent federal lands and all means of transportation which were customarily utilized by the residents for engaging in such uses on the Protected Property as of January 1, 1998; provided however, that the Secretary or his delegate (hereinafter simply, Secretary) may impose such reasonable restrictions on such

means of transportation as may be necessary to protect the natural state of the Protected Property. Nothing herein shall be construed as (1) permitting the level of such uses of wild, renewable resources upon the Protected Property to be inconsistent with the conservation of healthy fish and wildlife populations, or (2) preventing the Secretary from temporarily closing the Protected Property to such uses of a wild, renewable resource if necessary for reasons of public safety, administration, or to assure the continued viability of such resources; provided, however, that the Secretary shall not limit nor preclude such uses of fish and wildlife on the Protected Property by the residents for purposes of public safety or administration unless the Secretary has taken all other reasonable actions necessary to remedy the conditions giving rise to the proposed limitations or preclusions, including, but not limited to, the termination of all other activities, consumptive or non-consumptive, on the Protected Property that contribute to such conditions. The Secretary shall, consistent with his or her other legal obligations, manage the above-granted lands in a good faith manner which acknowledges and seeks to preserve the rights described in this easement. Nothing herein shall be construed to create any fiduciary or trust obligation whatsoever on the part of the Secretary, his or her successors and assigns, or the United States and its assigns with respect to Eyak for the management of the Protected Property. Nothing herein shall be construed to affect the authority of the State to regulate or prohibit the taking of fish and wildlife upon the Protected Property. Nothing herein shall be construed to affect the authority of the United States under the provisions of any federal law governing the conservation or protection of fish and wildlife, including, but not limited to, the Alaska National Interest Lands Conservation Act, PL 96-487, 94 Stat. 2371, Fur Seal Act of 1966 (80 Stat. 1091; 16 U.S.C. § 1187), the Endangered Species Act of 1973, as amended (87 Stat. 884; 16 U.S.C. §§ 1531-1534), the Marine Mammal Protection Act of 1972 (86 Stat. 1027; 16 U.S.C. §§ 1361-1407), the Act entitled "An Act for the Protection of the Bald Eagle," approved June 8, 1940 (54 Stat. 250; 16 U.S.C. §§ 742a-754), the Migratory Bird Treaty Act, as amended (40 Stat. 755; 16 U.S.C. §§ 703-711), the Federal Aid in Wildlife Restoration Act (50 Stat. 917; 16 U.S.C. §§ 669-669i), the Fishery Conservation and Management Act of 1976 (90 Stat. 331; 16 U.S.C. §§ 1801-1882), the Federal Aid in Fish Restoration Act (64 Stat. 430; 16 U.S.C. §§ 777-777k), or any amendments, currently or in the future to any one or more of such acts.

2. RESTRICTIVE COVENANTS:

Eyak reserves unto itself the non-exclusive right to enforce the following Restrictive Covenants:

- a. Restricted Activities: The activities listed below are prohibited on the Protected Property except as determined to be necessary for conveying information to the public to protect public safety or natural resources, or for research or management of the Protected Property consistent with the goal of maintaining the land in

perpetuity for conservation and wilderness purposes. Any buildings or mobile homes determined to be necessary for research or management of the Protected Property must be designed to the extent reasonably possible in a rustic manner so as to blend into the natural character of the area, must be constructed and managed in a manner that minimizes adverse effects on the Protected Property, and must be operated for use by research or land management personnel only. Determinations under the provisions of this section will be made by the owner of the fee simple estate if the owner is the State or the United States. If the owner of the fee simple estate is any other entity, determinations under this section shall be made by the owner, subject to approval by the State and Eyak:

- (1) constructing or placing buildings, fixed or improved camping accommodations, or mobile homes, fences, billboards or signs other than those signs for boundary, trespass, direction or general information;
- (2) changing the topography of the Protected Property in any manner;
- (3) removing or destroying plants except for subsistence uses or medicinal uses;
- (4) using biocides;
- (5) manipulating or altering natural water courses, shores, marshes or other water bodies or activities or uses detrimental to water purity on the Protected Property; and
- (6) operating motorized vehicles, provided that this provision shall not be construed to prohibit the use of float equipped aircraft on waterbodies within the Protected Property.

b. Prohibited Activities: The following listed activities by any person are prohibited:

- (1) removing or harvesting timber, including but not limited to, all standing and downed timber, logs, inventory, lumber, and any other goods or products obtained or derived from the forest, now or in the future, except for subsistence uses and for the purpose of implementing the activities identified in section 1 (Restricted Activities) above;
- (2) introducing fish, wildlife or plants not indigenous to eastern Prince William Sound, including, but not limited to, the grazing of domestic animals or the introduction of reindeer, unless unanimously agreed upon by Eyak, the United States and the State; and

- (3) dumping or releasing trash, garbage, hazardous substances or other unsightly or offensive material

3. **ENFORCEMENT:**

- a. Nothing contained in the Restrictive Covenants shall be construed to entitle Eyak to bring any action against the United States for any injury to or change resulting from causes beyond the United States' control, including, without limitation, naturally caused fire, flood, storm, and earth movement, or from any action resulting from a third party's negligence or prudent action taken by the United States under emergency conditions to prevent, abate or mitigate significant injury resulting from such causes. Nothing contained herein shall be construed to limit the obligation under applicable state or federal laws of third parties for injury or damage to the above-described lands. Nothing contained herein shall be construed to create any third party rights.
- b. In the event Eyak becomes aware of an event or circumstance of non-compliance with the Restrictive Covenants set forth in the foregoing paragraphs, Eyak shall give written notice to the United States through the Regional Forester of the Alaska Region of the Forest Service, its successors or assigns, of such event or circumstance of non-compliance. If the event or circumstance of non-compliance is not corrected immediately, Eyak is entitled to institute suits to enjoin any breach or enforce any covenant and require that the Protected Property be restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance. Nothing in this section shall limit any other legal rights or remedies available to Eyak.

4. **ITEMS OF RECORD:**

Easements, rights and reservations of the United States, and third parties, if any, of record.

5. **CONSERVATION EASEMENT:**

Enforcement Rights of the State as established by the Conservation Easement granted by Eyak to the State and recorded immediately prior to this deed, authorizing the State on a non-exclusive basis to enforce the Restrictive Covenants set forth therein.

6. **REVERTER:**

In the event Eyak or the State becomes aware of an event or circumstance when the Protected Property or any portion thereof, ceases to be in compliance with the terms of any applicable

Restrictive Covenant, that party shall give notice to the United States of such event or circumstance of non-compliance, and make demand that it be enjoined, corrected and/or that the lands be restored as is appropriate to the circumstances. If the event or circumstance of non-compliance is not ceased immediately and corrected promptly, Eyak or the State may institute suits to enjoin any breach of, or to enforce compliance with, the Restrictive Covenant, and to require that said lands, or the affected portion thereof, be restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance. If the event or circumstance of non-compliance is not corrected promptly and the subject lands, or portion thereof, are not restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance, then title to said lands or portion thereof shall be conveyed automatically to the State, provided that the State agrees to accept it. If the State does not accept fee title to the surface estate or timber rights, title to such estate or timber rights shall revert automatically to Eyak. If the State accepts fee title or said timber rights, in the event that the State subsequently attempts to convey said lands or any part thereof in fee simple or to convey the timber rights thereto to another entity, at the time of such conveyance, title to said lands or portion thereof or timber rights shall revert automatically to Eyak. The Protected Property shall continue in any event to be subject to the Restrictive Covenant. The Protected Property shall also continue to be subject to the Easement for Subsistence Access, except that Eyak agrees that if fee title to some or all of said lands is conveyed to the State, under this provision or otherwise, then the Easement for Subsistence Access shall terminate as to such lands, but the State will have the obligation referenced in paragraph 6(g) of the Agreement to manage the property so as to ensure public access.

7. CULTURAL CONSERVATION:

Eyak to the extent it holds ownership, reserves ownership of all Alaska Native human remains, cultural artifacts, and sacred objects currently located on the Protected Property to the extent consistent with the rights that it may be afforded as specified in the Native American Graves Protection and Repatriation Act, the Archaeological Resources Protection Act, the National Indian Forest Resources Management Act, the National Museum of the American Indian Act, the Indian Arts and Crafts Act, the Native American Language Acts, and related laws of the State, including the Alaska Historic Preservation Act.

8. MISCELLANEOUS:

- a. The foregoing easements and Restrictive Covenants shall run with the land and shall be binding upon the United States and its assigns, or successors in interests.
- b. Nothing herein shall be deemed to affect or in any way limit the rights of the owner of the subsurface estate in accordance with applicable law.

- c. Eyak retains the rights, to the extent that it has the rights, granted in Section 14(f) of ANCSA, including the right to consent to exploration, development or removal of minerals from the subsurface estate in the lands within the boundaries of any Native village.
- d. The parties make no representations as to whether the lands that are described herein include avulsed lands, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.
- e. Eyak hereby covenants to and with the United States and its assigns, that Eyak is lawfully seized of the surface estate in fee simple of the Protected Property, has a good and lawful right and power to sell and convey the same, that the same is free and clear of encumbrances, except as shown above, and that Eyak will forever warrant and defend the title thereto and the quiet possession thereof, limited to that portion of the chain of title from the moment of conveyance by the United States to Eyak pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 et. seq., to and including the moment at which such title is validly reconveyed to the United States and its assigns, against the lawful claims and demands of all persons.
- f. This conveyance is subject to the default provisions of paragraph 4 of the Agreement.

IN WITNESS WHEREOF, Eyak hereunto sets its hand and seal the day and year first above written.

THE EYAK CORPORATION

By: _____
Nancy C. Barnes, President

ACKNOWLEDGMENT

STATE OF ALASKA)
) ss:
____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the ____ day of _____, 1998, before me, the undersigned, a Notary Public in and for the State of Alaska, commissioned and sworn, personally appeared Nancy C. Barnes, to me known to be the individual who executed the within and foregoing UNITED STATES WARRANTY DEED as President of The Eyak Corporation and acknowledged to me that she signed the same as President of The Eyak Corporation in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors and shareholders for the use and purposes therein mentioned.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

Notary Public in and for Alaska
My commission expires: _____

ACCEPTANCE

Pursuant to 7 U.S.C. § 428a, and the Agreement, the United States hereby accepts this WARRANTY DEED conveying to the United States and its assigns, those interests in lands described therein.

DATED this _____ day of _____, 1998.

**USDA FOREST SERVICE
ALASKA REGION**

By: _____
James A. Caplan
Acting Regional Forester

ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
_____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this _____ day of _____, 1998, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared James A. Caplan, known to me and to me known to be the Acting Regional Forester, Alaska Region, USDA Forest Service, and he acknowledged to me that he signed as accepting the foregoing UNITED STATES WARRANTY DEED conveying to the United States, those lands described therein, and he acknowledged to me that he executed the foregoing instrument freely and voluntarily.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first written above.

(SEAL)

Notary Public in and for Alaska
My commission expires: _____

LOCATION INDEX:
See attached Appendix O

**DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION PRIOR
TO CLOSING AS TO FORM AND SUBSTANCE BY U.S. DEPARTMENT OF JUSTICE
AND ALASKA DEPARTMENT OF LAW**

STATE BUSINESS - NO CHARGE

AFTER RECORDING, RETURN TO:
U.S. Department of Agriculture
Forest Service
P. O. Box 21628
Juneau, Alaska 99802-1628

EXHIBIT VIII

HOMESITE LANDS EASEMENT

THIS HOMESITE LANDS EASEMENT (this "Easement") is made this _____ day of December, 1998, by The Eyak Corporation ("Eyak" or the "Corporation"), a Native Village Corporation organized pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 et. seq., as amended ("ANCSA"), and the laws of the State of Alaska, whose address is P. O. Box 340, Cordova, Alaska 99574, as grantor, and the United States of America and its assigns ("United States"), under authority of the Act of August 3, 1956, as amended, 7 U.S.C. 428a, whose address is U.S. Department of Agriculture, Forest Service, P. O. Box 21628, Juneau, Alaska 99802-1628, and the State of Alaska and its assigns ("State"), under the authority of AS § 38.05.035(a)(12), whose address is Department of Natural Resources, 3601 C Street, Suite 960, Anchorage, Alaska 99503, as grantees, pursuant to the Agreement for the Sale and Purchase of Lands and Interests in Land Among the Eyak Corporation and the United States and the State of Alaska dated December ___, 1998 (the "Agreement"), and for good and valuable consideration. Eyak, the United States, and the State are collectively referred to hereinafter as "Parties."

WHEREAS, Eyak is the owner in fee simple of the surface estate of certain real property located adjacent to the Eyak Conveyance Lands and Eyak Conservation Easement Lands, as defined in the Agreement (collectively the "Adjacent Lands"); and

WHEREAS, Eyak has adopted a Shareholder Land Use Program pursuant to Section 21(j) of ANCSA and as part of that program a "Shareholder Homesite Program" (Exhibit X) applicable to the Homesite Lands as defined in the Agreement; and

WHEREAS, the Adjacent Lands contain natural, scenic, wooded, and other similar or related resources and values, including fish and wildlife and their habitats, as well as attributes and amenities important and valuable to the restoration of natural resources and services injured or reduced by the Exxon Valdez Oil Spill of March 24, 1989 ("EVOS"), including those described in

the final Restoration Plan adopted by the Exxon Valdez Oil Spill Trustee Council ("Trustee Council") on November 2, 1994 ("Conservation Values"); and

WHEREAS, the Homesite Lands have been or will be leased by shareholders of Eyak pursuant to the Shareholder Homesite Program; and

WHEREAS, Eyak intends to restrict the use of the Homesite Lands pursuant to the terms of this Easement; and

WHEREAS, Eyak has issued or had pending before it certain shareholder land use permits as of March 31, 1997, for homesites located in Sheep Bay and Simpson Bay that may be converted to commercial bed and breakfast leases pursuant to the Shareholder Homesite Program and the terms of this Easement; and

WHEREAS, Eyak intends to convey to the United States and the State the right to enforce the restrictions in perpetuity as specified below; and

WHEREAS, subject to the rights granted to the United States and the State, Eyak reserves and retains all other rights and privileges as landowner, including certain rights that are specified herein; and

WHEREAS, the United States and the State agree by accepting this grant to honor the intentions of Eyak stated herein and to preserve and protect in perpetuity the land use restrictions consistent with Eyak's retained rights and privileges as landowner;

NOW THEREFORE, pursuant to the laws of the State of Alaska and in particular AS § 34.17.010 - § 34.17.060, applicable federal law, and the Agreement, Eyak does hereby grant, transfer, and convey to the United States and the State, their successors and assigns, forever, with special warranties of title, subject to conditions, limitations and restrictions of record, an easement in perpetuity on the Homesite Lands of the nature and character and to the extent hereinafter set forth ("Homesite Lands Easement") as to the real property more particularly described as follows:

See attached Appendix G

Homesite Lands: Consisting of a total of ninety-five (95) lots.

Containing in sum 143.6 acres more or less.

TOGETHER WITH the avulsed lands, if any, in which Eyak may hold title, within the area above described, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.

The acquiring federal agency is the U.S. Department of Agriculture, Forest Service, acting under the authority of the Act of August 3, 1956, as amended, 7 U.S.C. §428a.

1. PURPOSE:

- a. The purpose of this Easement is to ensure that the Conservation Values of the Adjacent Lands will be maintained in perpetuity and to ensure that use of the Homesite Lands will minimize any adverse effects on the Conservation Values of the Adjacent Lands. This includes the protection of environmentally important forested and non-forested areas and the promotion of forested and non-forested fish and wildlife habitat conservation and other conservation opportunities, such as the protection of important scenic, cultural, fish, wildlife and recreational resources, riparian areas, and other ecological values.
- b. The Parties further intend to ensure the reservation and enjoyment by Eyak, landowner of the Homesite Lands, of all legal rights and privileges that are not specifically granted to the United States and the State by and through this Easement.

2. USE OF HOMESITE LANDS:

- a. Eyak has adopted a Shareholder Land Use Program pursuant to Section 21(j) of ANCSA, as amended, and, as a part of that program, adopted a Shareholder Homesite Program as set forth at Exhibit X.
- b. Eyak shall use the Homesite Lands solely for purposes of the Shareholder Homesite Program.
- c. Subject to Section 3, the Homesite Lands use shall be restricted to only single-family (including traditional extended family customs) residential occupancy and shall not be subdivided or used for commercial activities. Commercial activities means to engage in -- (i) manufacturing, selling or providing goods and services to the public; (ii) the establishment and operation of bed and breakfast facilities and lodges; (iii) activities of a business nature associated with a non-profit organization; (iv) the harvest or clear-cut of timber or vegetation on the Homesite Lands for commercial uses; or (v) any consumptive use of the Homesite Lands (except for clearing of the land reasonably necessary for the siting of a residence and related structures or personal use firewood) that will diminish the value of the residual estate in the Homesite Lands held by Eyak.
- d. Shareholders may apply for and be issued Shareholder Homesite Leases pursuant to the terms and conditions of the Shareholder Homesite Program at Exhibit X.

- e. Structures placed on Homesite Lands shall be constructed of such materials and colors as to blend into the natural character of the area.
- f. Amendments to the Eyak Shareholder Homesite Program that affect the Homesite Lands shall be subject to the prior written approval of the United States and the State, which approval shall not be delayed or withheld unreasonably.

3. LAND USE PERMITS CONVERSION TO BED AND BREAKFAST LEASE:

The holder of or applicant for a Shareholder Land Use Permit issued by or pending before Eyak as of March 31, 1997, on a homesite at Sheep Bay or Simpson Bay, shall have the option to convert such land use permit to a commercial bed and breakfast lease (BBL) to be issued by Eyak subject to the following terms and conditions:

- a. The conversion to a BBL must be made by the holder of such permit within six (6) months after the closing provided for in the Agreement, or the permit holder will be issued a homesite lease pursuant to Section 2 above, and will not thereafter have the right to convert such homesite lease to a BBL. At the end of the six months period, Eyak will identify to the United States and the State in writing which, if any, of the land use permits were converted to BBLs.
- b. The BBL shall provide as follows: i) a maximum of six (6) guests per night may be accommodated at the bed and breakfast facility; ii) the primary structure shall to be no larger than 1,600 square feet; iii) up to two separate cabins of a maximum of 600 square feet each may be placed on the site in addition to the primary structure; iv) the combined square footage of the primary structure and any cabins shall not exceed 2,800 square feet; v) provisions of Section 2 (e) and 2 (f) of this Easement shall apply to BBL sites; and vi) once having received a BBL and used the land for bed and breakfast commercial activities, the lessee assumes any and all liability for and must agree to pay all applicable state, local, or federal taxes which are due because of the changed status of the land subject to the BBL.

4. RIGHTS CONVEYED TO THE UNITED STATES AND THE STATE:

To accomplish the purpose of this Easement, the following rights are conveyed to the United States and the State:

- a. To enter upon the Homesite Lands and BBL sites after providing reasonable advance notice in writing to the lessee and to Eyak and after providing Eyak with a reasonable opportunity to have a representative present upon such entry in order to achieve the purpose and enforce the terms of this Easement.

- b. To prevent any use of the Homesite Lands that is inconsistent with the terms of this Easement.

5. **EYAK'S HOMESITE RIGHTS AND PRIVILEGES AS LANDOWNER:**

Eyak reserves, retains and continues to have all legal rights and privileges as landowner that do not unreasonably interfere with or violate the rights and restrictions granted to the United States and the State by and through this Easement.

6. **ACTS BEYOND EYAK'S CONTROL:**

Nothing contained in this Easement shall be construed to entitle the United States or the State to bring any action against Eyak for any injury to or change in the Homesite Lands resulting from causes beyond Eyak's control, including, without limitation, naturally caused fire, flood, storm, and earth movement, or from any injury to or change in such lands resulting from a third party's intentional or negligent act or prudent action taken by Eyak under emergency conditions to prevent, abate or mitigate significant injury to such lands resulting from such causes. Nothing contained in this Easement shall be construed to limit the obligation of third parties for injury or damage to such lands under applicable federal or State laws.

7. **SUBSEQUENT TRANSFERS:**

Eyak agrees to incorporate the terms of this Easement in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Homesite Lands, including without limitations, a leasehold interest. The United States or the State may transfer, assign, or delegate any of its rights or responsibilities under this Easement to a third party, but only if the third party is required to and agrees to be bound by and to carry out the purpose of this Easement.

8. **ENFORCEMENT:**

- a. In the event any party becomes aware of an event or circumstance of non-compliance with the terms of this Easement, that party shall give notice to the other Parties, their successors or assigns, at their last known post office address, of such event or circumstance of noncompliance. If the event or circumstance of noncompliance is not corrected immediately, the party making such notification is entitled to institute suits to enjoin any breach or enforce any covenant of this Easement.
- b. Nothing in this Section shall limit any other legal rights or remedies available to the Parties.
- c. Eyak agrees to enforce the terms of this Easement and where enforcement actions are not successful, to terminate Shareholder Homesite Leases or BBLs, as applicable.

9. **GENERAL PROVISIONS:**

- (a) The Parties agree that this Easement is not intended, and shall not be construed, to create any third party beneficiary hereof and that nothing in this Easement shall be construed as creating any rights of enforcement by any other person or entity that is not a party to this Easement.
- (b) This instrument shall be construed so as to effect the purpose for which it was granted to the United States and the State. Any ambiguities shall be resolved in a manner that best accomplishes the purpose of this Easement.
- (c) The provisions of this Easement are enforceable in law or equity by Eyak, the United States and the State, their successors or assigns, consistent with Section 8 of this Easement.
- (d) This Easement shall be interpreted under general provisions of federal and State law pertaining to real property.
- (e) Eyak is not relieved from liability by this Easement for injuries occurring on, and resulting from, the condition of the Homesite Lands for which it would otherwise ordinarily be liable. The United States and the State each shall be responsible for losses, damages, or liabilities arising out of any act or omission of its employees, or its agents to the extent each otherwise would be responsible for such losses, damages, or liabilities under applicable federal or State law.
- (f) The Parties agree that the covenants, terms, conditions, and restrictions of this Easement shall run with the land and shall be binding upon the Parties, their successors and assigns in perpetuity. The terms of this Easement may be waived or modified only by the unanimous written agreement of the Parties.
- (g) Eyak hereby covenants to and with the United States and the State, that Eyak is lawfully seized of the surface estate in fee of the above described real property, free and clear of encumbrances, except as specified herein, that Eyak has a good and lawful right and power to encumber the same, and that Eyak will forever warrant and defend this Easement, limited to that portion of the chain of title from the moment of conveyance by the United States to Eyak pursuant to ANCSA, to and including the moment at which this Easement is conveyed to the United States and the State, against the lawful claims and demands of all persons.
- (h) Nothing herein shall be deemed to affect or in any way limit the rights of the owner of the subsurface estate in accordance with applicable law.

- (i) Eyak retains the rights, to the extent that it has the rights, granted in Section 14(f) of ANCSA, including the right to consent to exploration, development or removal of minerals from the subsurface estate in the land within the boundaries of any Native village.
- (j) If any material provision of this Easement or any application thereof shall be invalid or unenforceable, then the Parties will negotiate, in good faith, such reasonable modifications of this Easement as are necessary to protect the duties, rights and interests of the Parties under this Easement and to carry out the intent of this Easement.
- (k) The parties make no representations as to whether the lands that are described herein by survey include avulsed lands, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.
- (l) This conveyance is subject to the default provisions of paragraph 4 of the Agreement.

TO HAVE AND TO HOLD unto the United States and the State, their successors, and assigns forever.

IN WITNESS WHEREOF, The Eyak Corporation, the United States of America, and the State of Alaska have set their hands on the day and year first above written.

THE EYAK CORPORATION

By: _____
Nancy C. Barnes, President

STATE OF ALASKA)
) ss:
_____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the _____ day of _____, 1998, before me, the undersigned, a Notary Public in and for the State of Alaska, commissioned and sworn, personally appeared NANCY C. BARNES to me known to be the individual described and who executed the within and foregoing HOMESITE LANDS EASEMENT as PRESIDENT of THE EYAK CORPORATION, the Corporation that executed the within and foregoing instrument, and acknowledged to me that she signed the same as President of The Eyak Corporation in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors and shareholders for the uses and purposes therein mentioned.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

SEAL

Notary Public in and for Alaska
My commission expires: _____

ACCEPTANCE

Pursuant to 7 U.S.C. § 428a and the Agreement, the United States hereby accepts this Easement conveying to the United States and its assigns, the interests in lands described therein.

DATED this _____ day of _____, 1998.

**USDA FOREST SERVICE
ALASKA REGION**

By: _____
James A. Caplan
Acting Regional Forester

STATE OF ALASKA)
) ss:
____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the _____ day of _____, 1998, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared James A. Caplan, known to me and to me known to be the Acting Regional Forester, Alaska Region, USDA Forest Service, and he acknowledged to me that he signed as accepting the foregoing HOMESITE LANDS EASEMENT conveying to the United States, those interests described therein, and he acknowledged to me that he executed the foregoing instrument freely and voluntarily.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first written above.

SEAL

 Notary Public in and for Alaska
 My commission expires: _____

Pursuant to AS § 38.05.035(a)12, I do hereby accept title to the above described interest in real property on behalf of the State of Alaska.

**STATE OF ALASKA
 DEPARTMENT OF NATURAL RESOURCES**

By: _____
 Marty Rutherford
 Deputy Commissioner

STATE OF ALASKA)
) ss:
 _____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the _____ day of _____, 1998, at _____, Alaska, the foregoing instrument was acknowledged before me by MARTY RUTHERFORD, DEPUTY COMMISSIONER of the DEPARTMENT OF NATURAL RESOURCES of the State of Alaska on behalf of the State of Alaska.

GIVEN UNDER MY HAND and official seal the day and year last above written.

 Notary Public in and for Alaska
 My commission expires: _____

LOCATION INDEX: APPENDIX G

**DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION PRIOR
TO CLOSING AS TO FORM AND SUBSTANCE BY U.S. DEPARTMENT OF JUSTICE
AND ALASKA DEPARTMENT OF LAW**

STATE BUSINESS - NO CHARGE

AFTER RECORDING RETURN TO:

U.S. Department of Agriculture
Forest Service
P.O. Box 21628
Juneau, Alaska 99802-1628

EXHIBIT IX

SPECIAL PUBLIC ACCESS EASEMENT

THIS SPECIAL PUBLIC ACCESS EASEMENT (the "Easement") is made this ____ day of December, 1998, by **The Eyak Corporation** ("Eyak"), a Native Village Corporation organized pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. §1601 *et. seq.*, as amended ("ANCSA"), and the laws of the State of Alaska, whose address is P. O. Box 340, Cordova, Alaska 99574, as grantor, and the **United States of America** and its assigns ("United States"), under the authority of the Act of August 3, 1956, as amended, 7 U.S.C. § 428a, U.S. Department of Agriculture, Forest Service, whose address is P.O. Box 21628, Juneau, Alaska 99802-1628, and the **State of Alaska** and its assigns ("State"), under the authority of AS §38.05.035(a)(12), Department of Natural Resources, whose address is 3601 C Street, Suite 960, Anchorage, Alaska 99503, as grantees, and pursuant to the Agreement for the Sale and Purchase of Lands and Interests in Land Among The Eyak Corporation and the United States and the State of Alaska dated December __, 1998 (the "Agreement"). Eyak, the United States and the State are collectively referred to hereinafter as "Parties."

WHEREAS, Eyak is the owner in fee simple of the surface estate of certain real property located adjacent to the Chugach National Forest, Alaska, which is described below (the "Protected Property");

WHEREAS, the Protected Property is currently subject to an Agreement by and Among the Eyak Corporation, Sherstone, Inc., and the United States of America, dated May 6, 1994 ("Sub-Parcel Agreement"), which conveyed the Commercial Timber Rights to the Protected Property to the United States, and reserved to Eyak all rights in and to the Orca Narrows Sub-Parcel, other than the Commercial Timber Rights, including those specifically listed in said Sub-Parcel Agreement;

WHEREAS, the Parties intend that the public will be permitted access to the Protected Property as provided herein, for sport hunting, sport fishing, camping, hiking, and other outdoor recreational opportunities, and for other similar purposes, according to the provisions of this Easement; and

NOW, THEREFORE, pursuant to the laws of the State of Alaska and in particular AS § 34.17.010 - §34.17.060, applicable federal law, and the Agreement, Eyak does hereby grant, transfer, and convey to the United States and the State, their successors and assigns, forever, with special warranties of title, subject to conditions, limitations and restrictions of record, a public access easement in perpetuity over the Protected Property of the nature and character and to the extent hereinafter set forth as to the Protected Property more particularly described as follows:

See Attached Appendix F

Containing in sum 1,018 acres, more or less.

TOGETHER WITH the avulsed lands, if any, in which Eyak may hold title, within the area above described, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.

SUBJECT, however, to easements, rights and reservations of the United States, and third parties, if any, of record.

The acquiring federal agency is the U.S. Department of Agriculture, Forest Service.

1. PURPOSE:

The purpose of this Easement is to provide permitted public access to the Protected Property for sport hunting, sport fishing, camping, hiking and other outdoor recreation activities while ensuring the reservation and enjoyment by Eyak, landowner of the Protected Property, of all legal rights and privileges that are not specifically granted to the United States and the State by and through this Easement.

2. RIGHTS CONVEYED TO THE UNITED STATES:

To accomplish the purpose of this Easement, the following rights are conveyed to the United States and the rights set forth below in Subsection d. are also conveyed to the State:

- a. To enter upon the Protected Property in order to achieve the purpose and enforce the terms of this Easement;

- b. To monitor, assess and police use (as provided for in Section 3.a. and 3.b. of this Easement) by the public of the Protected Property;
- c. To take all reasonable steps to ensure that Eyak's rights and privileges as reserved herein are protected and preserved, including limiting or denying access to persons or parties who interfere with Eyak's rights and privileges under this Easement; and
- d. To ensure the public is permitted access to and use of the Protected Property as provided herein in a manner that is consistent with the provisions of this Easement.

3. EYAK'S RETAINED RIGHTS AND PRIVILEGES AS LANDOWNER:

Eyak reserves, retains and continues to have all legal rights and privileges as landowner that are not specifically granted to the United States and the State by and through this Easement, including but not limited to, the rights and privileges set forth below:

- a. Non-commercial Access: Eyak retains the right, to the extent it has the right, to condition non-commercial public access to, and use of, the Protected Property upon the issuance of a land use permit. Eyak will issue the land use permits to the public and will have the right to charge an administrative fee for processing such land use permits. The administrative fees will be set at an amount to be determined by Eyak and the United States and shall not exceed the cost of administering such a permit system. The fees may be reasonably adjusted in the future in recognition of increased costs, inflation and other relevant information. Issuance or denial of land use permits from Eyak shall be made on the basis of standards and criteria determined jointly by Eyak and the United States to be compatible with the purpose of this Easement and Eyak's retained rights as a landowner. The standards and criteria shall include provisions to control permitted public access and use in a manner that does not interfere unreasonably with Eyak's use of the Protected Property, including consideration of any development of or improvements on the Protected Property and the duration, location, timing, and type of permitted access to and use of the Protected Property, including the limitation of permitted public access to and use of the developed areas of the Protected Property. If the standards and criteria include confidential archaeological resources information, the United States and the State shall maintain the confidentiality of such information to the extent permitted by federal and State law, respectively. Eyak and the United States shall meet at least biannually to establish, review and revise, as appropriate, the standards and criteria. Eyak retains the right to administer the land use permit system itself, or may, with the United States' consent, implement another method of administration in conjunction with the United States.

- b. Commercial Access: Eyak retains the right, to the extent it has the right, to control all commercial access to and use of the Protected Property. This right includes the right to conduct, authorize, permit, license, charge use fees, regulate, limit or exclude all commercial operations on or utilizing the Protected Property. Eyak shall require commercial operators and users to comply with the terms of this Easement in any authorization or permit issued by Eyak. Commercial operations specifically include, by way of example and not limitation, ecotourism and commercial guiding for sport hunting, sport fishing, recreational and similar activities. An individual or group holding a land use permit issued by Eyak under the terms of this Easement and accessing the Protected Property under the terms and conditions of the land use permit ("Individual") shall not be considered a commercial user even though the Individual gains access to the Protected Property by means of a commercial carrier. A commercial carrier, including an airplane or boat charter operator, while providing transportation to an Individual to or from the Protected Property or between sites on the Protected Property, but not guiding or providing any other commercial related services to the Individual, is not a commercial operation for purposes of this section, as long as the commercial carrier is in compliance with the terms and conditions of the land use permit held by the Individual. All commercial operations authorized or permitted by Eyak on the Protected Property must comply with applicable federal and State licensing requirements, statutes and regulations, although Eyak is not required to ensure such compliance.
- c. Emergency Closure: Eyak retains the right, to the extent it has the right, to invoke an emergency closure, not to exceed thirty (30) days in duration, of all or portions of the Protected Property in the event that the permitted access is incompatible with the purpose of this Easement. In the event Eyak closes all or a portion of the Protected Property, at the same time that it gives the permittees public notice of the closure, it shall give the United States written notice of the closure and the reasons for the closure. The United States shall have the authority to extend, modify or reverse the closure if, following consultation with Eyak, it determines such action is appropriate and warranted under the circumstances, provided the United States first gives Eyak a written statement setting forth the reasons for its decision.
- d. Subsistence Access: Eyak retains the right, to the extent it has the right, to control access for Subsistence Uses of the Protected Property. "Subsistence Uses" as used in this Easement shall mean the customary and traditional uses of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family

consumption; for barter, or sharing for personal or family consumption; and for customary trade. The term --

- (1) "family" means all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis; and
- (2) "barter" means the exchange of fish and wildlife or their parts, taken for Subsistence Uses --
 - (a) for other fish or game or their parts; or
 - (b) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature.

Subsistence Uses do not include sport hunting and sport fishing.

- e. Cultural Conservation: Eyak retains ownership to the extent it holds ownership, of all Alaska Native human remains, cultural artifacts, and sacred objects currently located on the Protected Property. In addition, Eyak retains all rights that may be afforded as specified in the Native American Graves Protection and Repatriation Act, the Archaeological Resources Protection Act, the National Indian Forest Resources.

1. PUBLIC ACCESS AND USE:

The granting of this Easement does not convey to the public the right to enter the Protected Property for any purpose whatsoever. The Parties intend and agree, however, that the public will be permitted access to and use of the Protected Property as provided in Section 3 of this Easement, for sport hunting, sport fishing, camping, hiking, and other outdoor recreation, and for other similar purposes, but not for Subsistence Uses, so long as such permitted use does not interfere unreasonably with Eyak's use of the Protected Property. All permitted public access to or use of the Protected Property shall be in compliance with Eyak's retained landowner rights under the terms of the Easement, including its right to require valid land use permits for non-commercial public access and use and its rights to control access for commercial uses and Subsistence Uses and Eyak's retained landowner rights under the terms of the Sub-Parcel Agreement. The Parties intend that the United States will utilize its available legal authorities for cooperative management agreements to provide law enforcement and trespass control and assistance to Eyak in connection with the permitted public access and use under this Easement, subject to the availability of appropriated funds and personnel for such purpose, and agency discretion.

5. **ACTS BEYOND EYAK'S CONTROL:**

Nothing contained in this Easement shall be construed to entitle the United States or the State to bring any action against Eyak for any injury to or change in the Protected Property resulting from causes beyond Eyak's control, including, without limitation, natural caused fire, flood, storm, and earth movement, or from any injury to or change in the Protected Property resulting from a third party's intentional or negligent act or prudent action taken by Eyak under emergency conditions to prevent, abate or mitigate significant injury to the Protected Property resulting from such causes. Nothing contained in this Easement shall be construed to limit the obligation of third parties for injury or damage to the Protected Property under applicable federal or State laws.

6. **SUBSEQUENT TRANSFERS:**

Eyak agrees to incorporate the terms of this Easement in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Protected Property, including without limitations, a leasehold interest. The United States or the State may transfer, assign, or delegate any of its rights or responsibilities under this Easement to a third party, but only if the third party is required to and agrees to be bound by and to carry out the purpose of this Easement.

7. **RIGHTS OF THE STATE:**

To accomplish the purpose of this Easement, the right to enforce compliance by the United States and Eyak with the terms this Easement is granted and conveyed to the State by this Easement.

8. **ENFORCEMENT:**

- a. In the event Eyak, the United States, or the State becomes aware of an event or circumstance of non-compliance with the terms of this Easement, that party shall give notice to the other Parties, their successors or assigns, at their last known post office address, of such event or circumstance of noncompliance. If the event or circumstance of noncompliance is not corrected immediately, the party making such notification is entitled to institute suits to enjoin any breach or enforce any covenant and require that remedial action be taken to correct the event or circumstance of non-compliance.
- b. Nothing in this Section shall limit any other legal rights or remedies available to the Parties.

9. **GENERAL PROVISIONS:**

- a. The Parties agree that this Easement is not intended, and shall not be construed, to create any third party beneficiary hereof and that nothing in this Easement shall be construed as creating any rights of enforcement by any other person or entity that is not a party to this Easement.
- b. This instrument shall be construed so as to effect the purpose for which it was granted to the United States and the State. Any ambiguities shall be resolved in a manner that best accomplishes the purpose of this Easement.
- c. The provisions of this Easement are enforceable in law or equity by Eyak, the United States and the State, their successors or assigns, consistent with Section 8 of this Easement.
- d. This Easement shall be interpreted under applicable provisions of federal and State law pertaining to real property.
- e. Eyak is not relieved from liability by this Easement for injuries occurring on, and resulting from, the condition of the Protected Property for which it would otherwise ordinarily be liable. The United States and the State each shall be responsible for losses, damages, or liabilities arising out of any act or omission of its employees, or its agents to the extent each otherwise would be responsible for such losses, damages, or liabilities under applicable federal or State law.
- f. The Parties agree that the covenants, terms, conditions, and restrictions of this Easement shall run with the land and shall be binding upon the Parties, their successors and assigns in perpetuity. The terms of this Easement may be waived or modified only by the unanimous written agreement of the Parties.
- g. Eyak hereby covenants to and with the United States, and its assigns, that Eyak is lawfully seized of the surface estate in fee of the Protected Property, free and clear of encumbrances, except as specified in this Easement, and in the Sub-Parcel Agreement, that Eyak has a good and lawful right and power to encumber the same, and that Eyak will forever warrant and defend this Easement, limited to that portion of the chain of title from the moment of conveyance by the United States to Eyak pursuant to ANCSA, to and including the moment at which this Easement is conveyed to the United States and its assigns, against the lawful claims and demands of all persons.

- h. Nothing herein shall be deemed to affect or in any way limit the rights of the owner of the subsurface estate in accordance with applicable law. Nothing herein shall be deemed to authorize, create or recognize in Eyak rights to control or limit public access to the Protected Property that Eyak does not hold currently.
- i. If any material provision of this Easement or any application thereof shall be invalid or unenforceable, then the Parties will negotiate in good faith such reasonable modifications of this Easement as are necessary to protect the duties, rights and interests of the Parties under this Easement and to carry out the intent of this Easement.
- j. The parties make no representations as to whether the lands that are described herein include avulsed lands, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.
- m. This conveyance is subject to the default provisions of paragraph 4 of the Agreement.

TO HAVE AND TO HOLD unto the United States and the State, their successors and assigns, forever.

IN WITNESS WHEREOF, Eyak, the United States, and the State have set their hands on the day and year first above written.

THE EYAK CORPORATION

By: _____
Nancy C. Barnes, President

STATE OF ALASKA)
) ss:
_____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the _____ day of _____, 1998, before me, the undersigned, a Notary Public in and for the State of Alaska, commissioned and sworn, personally appeared Nancy C. Barnes, to me known to be the individual described and who executed the within and foregoing EYAK SPECIAL ACCESS LANDS CONSERVATION EASEMENT as President of The Eyak Corporation, the Corporation that executed the within and foregoing instrument, and acknowledged to me that she signed the same as President of The Eyak Corporation in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors and shareholders for the use and purposes therein mentioned.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

Notary Public in and for Alaska
My commission expires: _____

ACCEPTANCE

Pursuant to 7 U.S.C. §428a and the Agreement, the United States hereby accepts this Easement conveying to the United States and its assigns, the interests in lands described therein.

DATED this ____ day of _____, 1998.

**USDA FOREST SERVICE
ALASKA REGION**

By: _____
James A. Caplan
Acting Regional Forester

STATE OF ALASKA)
) ss:
____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the ____ day of _____, 1998, at _____, Alaska, the foregoing instrument was acknowledged before me by James A. Caplan, Acting Regional Forester, Alaska Region of the Forest Service within the Department of Agriculture of the United States of America, on behalf of the United States of America.

GIVEN UNDER MY HAND and official seal the day and year last above written.

Notary Public in and for Alaska
My commission expires: _____

Pursuant to AS §38.05.035(a)12, I do hereby accept title to the above described interest in real property on behalf of the State of Alaska.

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES**

By: _____
Marty Rutherford
Deputy Commissioner

STATE OF ALASKA)

_____) ss: _____
_____) JUDICIAL DISTRICT _____

THIS IS TO CERTIFY that on the _____ day of _____, 1998, at _____, Alaska, the foregoing instrument was acknowledged before me by MARTY RUTHERFORD, Deputy Commissioner of the Department of Natural Resources of the State of Alaska on behalf of the State of Alaska.

GIVEN UNDER MY HAND and official seal the day and year last above written.

Notary Public in and for Alaska
My commission expires: _____

LOCATION INDEX:
See attached Appendix F

**DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION PRIOR
TO CLOSING AS TO FORM AND SUBSTANCE BY U.S. DEPARTMENT OF JUSTICE
AND ALASKA DEPARTMENT OF LAW**

STATE BUSINESS - NO CHARGE

AFTER RECORDING RETURN TO:

U.S. Department of Agriculture

Forest Service

P.O. Box 21628

Juneau, Alaska 99802-1628

EXHIBIT X

Shareholder Homesite Program

Applicable to Homesite locations designated in Appendix G

1. SHAREHOLDER HOMESITE PROGRAM:

- (a) Section 21(j) of the Alaska Native Claims Settlement Act ("ANCSA"), 43 U.S.C. § 1620(j), as amended, authorizes the establishment of Shareholder Homesite Programs and provides that parcels of land distributed by an Alaska Native Village Corporation to a shareholder under such a program would qualify for certain tax exemptions under Section 21 of ANCSA. The Eyak Corporation ("Eyak" or "the Corporation"), an Alaska Native Village Corporation within the meaning of ANCSA, has adopted a Shareholder Land Use Program, pursuant to Section 21(j) of ANCSA, as amended. As part of that program, Eyak has adopted this "Shareholder Homesite Program," applicable to the Homesite Lands as defined in the Agreement for Sale and Purchase Lands and Interests in Land Among The Eyak Corporation and the United States of America and the State of Alaska (the "Agreement") to which this Exhibit is attached. Homesites listed in Appendix G to the Agreement have been identified for availability under the Shareholder Homesite Program. The Shareholder Homesite Program's provisions are reflected generally in the leases The Eyak Corporation will use to convey homesites under this program [see Attachments (1) and (2)].
- (b) This Shareholder Homesite Program authorizes Eyak to lease homesites on specified lands that Eyak owns to qualified shareholders for residential, and in several limited cases, bed and breakfast uses. The program described in this document is limited to the homesite locations designated in Appendix G of the Agreement. Some of these lease

conveyances may entitle the shareholder to certain tax benefits (but Eyak cannot make any binding representations in this regard).

- (c) The Shareholder Homesite Program described in this document is applicable only to the 95 Shareholder Homesite lots that are surrounded by conservation easement or surface fee lands included in the Agreement and as identified below. With respect to land use permit applications that were issued by or pending before Eyak as of March 31, 1997, on a homesite at Sheep Bay or Simpson Bay, the holder or applicant shall have the option to convert the land use permit to a bed and breakfast lease ("BBL") if the terms and conditions for such BBL are satisfied as provided in Exhibit VIII, Section 5 herein, and in Attachment (2) to this Exhibit.

2. THE HOMESITE LANDS PROPERTY:

The Eyak Corporation owns in fee simple the surface estate of real property (95 lots, 143.6 acres) located at Sheep Bay Islands #2 & #3, West & East Simpson Bay, Salmo Point/Deep Bay, Canoe Passage, and Mud Bay ("Homesite Lands"). The Homesite Lands' locations and lots are shown below:

- (a) Sheep Bay Island #2: Consisting of 6 lots;
- (b) Sheep Bay Island #3: Consisting of 6 lots;
- (c) West & East Simpson Bay: Consisting of 41 lots;
- (d) Salmo Point/Deep Bay: Consisting of 7 lots;
- (e) Cedar Bay: Consisting of 18 lots;
- (f) Canoe Passage: Consisting of 8 lots;
- (g) Mud Bay: Consisting of 9 lots.

3. RESTRICTIONS ON HOMESITE PROPERTY (LOTS):

- (a) Eyak shall use the Homesite Lands solely for purposes of this Homesite Program.
- (b) This document and the leases (see Attachments (1) and (2)) shall govern uses of the Homesite Lands, including the following restrictions:
 - (1) Except for any homesites leased under Section 5 of this Exhibit, the Lessee's use of the Homesite Lands shall be restricted to only single-family (including traditional extended family customs) residential occupancy and shall not be subdivided or used for commercial activities. Commercial activities means to engage in -- (i) manufacturing, selling or providing goods and services to the public; (ii) the establishment and operation of bed and breakfast facilities and lodges; (iii) activities of a business nature associated with a non-profit organization; (iv) the harvest or clear-cut of timber or vegetation on the Homesite Lands for commercial uses; or (v) any consumptive use of the Homesite Lands (except for clearing of the land

reasonably necessary for the siting of a residence and related structures or personal use firewood) that will diminish the value of the residual estate in the Homesite Lands held by Eyak.

- (2) Lessees shall construct structures on Homesite Lands using such materials and colors as to blend into the natural character of the area.
- (3) The property is subject to restrictions and reservations of record. Eyak will also reserve in the lease the right to take or create such easements and rights-of-way as it determines is necessary.

4. SHAREHOLDER HOMESITES:

(a) Shareholder Homesite Program Policy:

- (1) The Board of Directors of The Eyak Corporation will make available leases of real property identified in Appendix G for shareholder homesite applications on a first come, first served basis to its Native shareholders who are 18 years of age or older.
- (2) Shareholder homesites will include up to, but not to exceed, 1.5 acres per shareholder homesite lot for each 100 shares of stock owned. Subject to the approval and sole discretion of the Corporation, shareholders may combine their shares to qualify for one homesite lot. Shareholders with more than 100 shares may not qualify for more than one homesite lot on lands identified in Appendix G.
- (3) Shares will be counted only once for purposes of this program, notwithstanding subsequent transfer of these shares (by inheritance or otherwise) to another shareholder, whether or not that shareholder has previously received a homesite.
- (4) The Lessee must pay all costs associated with the development of a homesite lease, including survey, water, sewer and permit fees and all costs associated with applicable governmental regulation (including costs of obtaining approval under ADEC) including, but not limited to soil percolation tests, wastewater disposal design, etc.
- (5) Eyak will grant or deny applications for leases of homesites under this Program in its sole discretion.
- (6) Eyak Corporation will grant leases under this program to shareholder/Lessees for a 99-year lease term. Eyak intends this leasehold to be a real property interest. The Corporation does not warrant title to any lease under this program.

(b) Shareholder Homesite Program Restrictions:

- (1) Except for any homesites leases granted under Section 5, no commercial uses are allowed on a shareholder homesite.
 - (2) The shareholder homesite will be issued pursuant to a lease that sets forth the occupancy restrictions and other requirements of the Corporation.
 - (3) The leased property and any improvements located on it cannot be transferred, assigned, mortgaged, bequeathed, subleased, sold or otherwise alienated, in whole or in part, without the written permission of Eyak. Permission will not be withheld if such assignment, transfer, etc. is: (i) to a qualified shareholder of Eyak who has not previously received a homesite (or any part of one) or a qualified family member of the lessee who has not previously received a homesite (or any part of one); or (ii) subject to the prior approval of Eyak, pursuant to a mortgage or other financing arrangement for loan purposes to secure financing (with a state or federally chartered financial institution doing business in Alaska) for construction of improvements only on the homesite property, and only where the loan or mortgage agreement grants to Eyak the right to redeem the lease and any improvements thereon in the event of a default by the Lessee.
 - (4) The shareholder/lessee will not block or hinder the Corporation's access to the homesite or any adjacent lands owned by the Corporation and will abide by other access provisions of the lease.
- (c) Applicant for Homesite lease:
- (1) Each applicant will first apply for a shareholder Land Use Permit (which shall apply pending all government approvals and payment of survey costs) and submit a \$100 fee.
 - (2) Upon payment by the shareholders for the survey costs and upon further receipt by the shareholder of all applicable government approvals, a lease may be issued by the Corporation in its discretion.
- (d) No Co-sign:
- (1) The Corporation will not co-sign nor otherwise collateralize or guarantee a note or other loan instrument for any shareholder homesite lease.
- (e) Amendments to Shareholder Homesite Program:

The Corporation reserves the right to amend this Shareholder Homesite Program with the consent of the United States and the State as provided in Exhibit VIII, Section 2(e), which consent shall not be delayed or withheld unreasonably.

5. SHAREHOLDER BED AND BREAKFAST LEASES:

(a) Shareholder Bed and Breakfast Lease Option:

Eyak may issue a BBL in the form at Attachment (2) to the holder of/applicant for a Shareholder Land Use Permit issued by or pending before Eyak as of March 31, 1997 on a homesite at Sheep Bay or Simpson Bay and identified in Appendix G. [NOTE: Such use will likely remove the conveyance of this real property interest from the tax exemptions of Section 21(j) of ANCSA, but Eyak cannot make any binding representations in this regard.] Eyak intends this leasehold to comprise a real property interest.

(b) BBL:

The Shareholder Bed and Breakfast Lease shall generally operate under the same provisions, policies and guidelines stated above at Sections 1-4 (except where this Section 5 was expressly exempted), subject to the bed and breakfast lease (Attachment (2)) and to the following:

- (1) Shareholder Bed and Breakfast Lease sites will include up to, but not exceed, 1.5 acres per 100 shares of stock owned by a shareholder.
- (2) The holder of/applicant for a Shareholder Land Use Permit issued by or pending before Eyak as of March 31, 1997 on a homesite at Sheep Bay or Simpson Bay, shall have the option to convert such permit to a commercial bed and breakfast lease (BBL) to be issued by Eyak subject to the following terms and conditions:
 - (A) The conversion to a BBL must be made by the holder of such permit within six (6) months after the closing provided for in the Agreement, or the permit holder will be issued a homesite lease pursuant to Section 2 above, and will not thereafter have the right to convert such homesite lease to a BBL. At the end of the six months period, Eyak will identify to the United States and the State in writing which, if any, of the land use permits were converted to BBLs.
 - (B) The BBL shall provide as follows: 1) a maximum of six (6) guests per night may be accommodated at the bed and breakfast facility; 2) the primary structure shall be no larger than 1,600 square feet; 3) up to two separate cabins of a maximum of 600 square feet each may be placed on the site in addition to the primary structure; 4) the combined square footage of the primary structure and any cabins shall not exceed 2,800 square feet; 5) provisions of Section 2 (e) and 2 (f) of Exhibit VIII of the Agreement shall apply to BBL sites; and 6) once having received a BBL and used the land for bed and breakfast commercial activities, the lessee assumes any and all liability for and must agree to pay all applicable state, local, or federal taxes which are due because of the changed status of the land subject to the BBL.

- (3) A BBL will be issued in the Form set forth in Attachment # 2 which, along with the Homesite Lands Easement (Exhibit VIII), sets forth the occupancy restrictions and requirements of the Corporation.

Attachments: (1) The Eyak Corp. Shareholder Homesite Residential Lease
(2) The Eyak Corp. Shareholder Bed and Breakfast Lease

**DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION PRIOR
TO CLOSING AS TO FORM AND SUBSTANCE BY U.S. DEPARTMENT OF JUSTICE
AND ALASKA DEPARTMENT OF LAW**

STATE BUSINESS - NO CHARGE

AFTER RECORDING RETURN TO:

U.S. Department of Agriculture

Forest Service

P.O. Box 21628

Juneau, Alaska 99802-1628

ATTACHMENT NO. 1

EXHIBIT X

**THE EYAK CORPORATION
SHAREHOLDER HOMESITE LEASE FORM**

This **Shareholder Homesite Lease** (this "LEASE") is entered into this _____ day of _____, 199____ between The Eyak Corporation, an Alaska Native Village Corporation organized pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C.A. & 1601, *et seq.* having its principal place of business at P.O. Box 340, Cordova, Alaska 99574 ("Eyak") and _____, a shareholder of The Eyak Corporation ("Lessee");

WITNESSETH

WHEREAS, Eyak is the owner of the surface estate of certain lands located in the Cordova Recording District, State of Alaska pursuant to the Alaska Native Claims Settlement Act, as amended, ("ANCSA"); and

WHEREAS, Eyak has adopted an Eyak Shareholder Land Use Program pursuant to § 21(j) of ANCSA and, as part of that program, adopted a "Shareholder Homesite Program," (Exhibit X) applicable to the Homesite Lands as defined in the Agreement for the Sale and Purchase of Lands and Interests in Land Among the Eyak Corporation and the United States and the State of Alaska dated _____, 1998 ("Agreement"); and

WHEREAS, § 21(j) states in part as follows:

A real property interest distributed by a Native Corporation to a shareholder of such Corporation pursuant to a program to provide homesites to its shareholders shall be deemed conveyed and received pursuant to this

Chapter: provided, That . . . the land received is restricted by a covenant for a period not less than ten years to single family (including traditional extended family customs) residential occupancy and by such other covenants and retained interests as the Village Corporation deems appropriate: provided further that the land conveyed does not exceed one-and-one-half acres . . .

and Eyak wishes to comply with the requirements of this statute; and

WHEREAS, the Shareholder Homesite Program is a program to make available to the shareholders of Eyak a one-time grant of a real property interest (in the form of a lease) in a homesite and, except where specifically provided otherwise, to restrict usage of the homesite by covenant to single family (including traditional extended family customs) residential occupancy and to limit the size of the homesite to one-and-one-half acres per 100 shares; and

WHEREAS, the Shareholder Homesite Program requires the recipient of a homesite to pay the cost of surveying the homesite and, further, to pay the costs of receiving any and all applicable government approvals and the cost of obtaining approval of the homesite for the installation of water and sewer/waste water systems; and

WHEREAS, the Shareholder Homesite Program provides that a lease shall not be issued until all of the foregoing work is completed and paid for, and all approvals have been obtained, at which point Eyak will issue a lease to the shareholder; and

WHEREAS, the Lessee has taken all necessary steps to qualify for this Lease.

NOW, THEREFORE in consideration of the mutual covenants and promises, the parties hereto agree and covenant as follows:

1. DEFINITIONS.

- a. "Lessee" means the persons whose name appears above, and shall include Lessee's invitees, contractors or guests on the Premises.
- b. "Commercial Activities" means to engage in -- (i) manufacturing, selling or providing goods and services to the public; (ii) the establishment and operation of bed and breakfast facilities and lodges; (iii) activities of a business nature associated with a non-profit organization; (iv) the harvest or clear-cut of timber or vegetation on the Premises for commercial uses; or (v) any consumptive use of the Premises (except for clearing of the land reasonably necessary for the siting of a residence and related structures or personal use firewood) that will diminish the value of the residual estate in the Premises held by Eyak.

- c. **"Shareholder Homesite Program"** means the part of the Eyak Shareholder Land Use Program adopted by The Eyak Corporation, through which The Eyak Corporation may: (1) distribute to its shareholders a real property interest in certain homesites [pursuant to Section 21(j) of ANCSA, this transfer may be tax-free to the shareholders if, among other requirements, it was made pursuant to a program to provide homesites to its shareholders and the land received is not greater than 1.5 acres and is restricted by covenant to single-family (including traditional extended family customs) residential occupancy]; or (2) issue a Bed and Breakfast Lease to a one and one-half acres tract in the Form at Attachment # 2 to the holder of/applicant for a Shareholder Land Use Permit issued by or pending before Eyak as of March 31, 1997, on a homesite at Sheep Bay or Simpson Bay. (See Exhibits VIII and X to the Agreement).
- d. **"Hazardous Material"** means any hazardous or toxic substance, material, or waste, which is or becomes regulated by any local governmental authority, the State of Alaska, or the United States government and any hazardous substance or material as those terms are defined in AS 46.03.826 and AS 46.08.900.
- e. **"Premises"** means the surface estate of that certain real property as described in Exhibit A, attached hereto and incorporated herein by reference.

2. **PROPERTY SUBJECT TO LEASE.**

Subject to the terms and conditions herein set forth, Eyak hereby leases to Lessee and Lessee hereby leases from Eyak the Premises.

3. **TERM.**

The term of this lease shall commence upon the _____ day of _____, 19____, and shall be for a period of ninety-nine (99) years, unless earlier terminated pursuant to the terms hereof.

4. **RENTAL.**

Lessee shall pay Eyak the sum of One Hundred Dollars (\$100.00) as rental for the entire term of this Lease.

5. **USE OF THE PREMISES.**

- a. Lessee covenants to use the Premises solely for the purposes of single family (and traditional extended family) residential occupancy, which is consistent with the

further terms of this Lease and the further terms of the Shareholder Homesite Program, as that policy may be amended from time to time. Lessee expressly acknowledges and accepts Eyak's right hereby reserved under this Lease to amend its Shareholder Homesite Program (subject to the consent of the United States and State of Alaska) and thus amend or prohibit land uses initially permitted by this Lease. No Commercial Activities on or use of the Premises is allowed. Lessee shall have the right to clear only such portions of the Premises and cut and remove only such live timber and clear such vegetation as may be reasonably necessary for the siting of a residence and related structures or for personal use firewood. However, Lessee shall not otherwise harvest or clear-cut the timber or vegetation on the Premises for commercial uses.

- b. Lessee's use of the Premises as authorized in subsection 5(a) shall be subject to the following terms and conditions:
- (i) Lessee shall not commit or suffer to be committed, any waste or nuisance on the Premises;
 - (ii) Lessee shall keep the Premises and any improvements located thereon in a neat and orderly condition and in good repair at all times;
 - (iii) The Lessee shall not cause or permit any hazardous materials, refuse or junk cars or machinery to be brought upon, kept, stored, disposed of, or used in or about the Premises by Lessee, its agents, employees, contractors, or invitees. Without limiting the scope of any indemnity hereunder, if the presence of any Hazardous Material on the Premises caused or permitted by Lessee results in any contamination of the Premises, Lessee shall promptly take all actions at its sole expense as are necessary to return the Premises to the condition existing prior to the introduction of any such hazardous materials to the Premises; provided that Eyak's approval of such action shall first be obtained. Lessee shall dispose of all refuse resulting from its use of the Premises, including garbage, junk machinery, junk cars, waste building materials, and debris of any kind, by carrying out all materials that are not consumed on the Premises. No storage of such items is authorized by this Lease;
 - (iv) Lessee shall maintain all corner stakes of the Premises and clear the boundaries of the Premises from stake to stake;
 - (v) Lessee shall not create nor suffer to be created any liens, mortgages or other encumbrances upon the Premises without the prior written consent of Eyak, which consent for mortgages for the construction of the

residential dwelling upon the Premises shall be subject to the further provisions of Paragraph 19 herein; and

- (vi) Lessee's use is subject also to the terms and conditions of the Eyak Homesite Lands Easement, Exhibit VIII and Exhibit X to the Agreement, which are incorporated herein by reference.

Any breach of this paragraph shall be considered to be a material breach of this Lease.

6. **PROHIBITED USES.**

This Lease grants Lessee exclusive use of the Premises only for the uses described in Paragraph 5 above and Lessee acknowledges that uses or activities, other than those specifically authorized in paragraph 5 above, including Commercial Activities, are strictly prohibited.

7. **UTILITIES, TAXES AND LICENSES.**

- a. Lessee acknowledges that it is familiar with the Premises and the existence of, or lack of, the provision of utilities to the Premises, and agrees that Eyak is not and shall not be obligated to provide or cause to be provided to the Premises, utility services. The provision of any and all utility services be the sole responsibility of Lessee.
- b. In addition to the rents herein reserved to Eyak, Lessee shall pay prior to their becoming delinquent, all lawful charges levied against the Premises, as well as all lawful charges levied against the Premises caused by or arising out of Lessee's occupancy of the Premises, including but not limited to all utility service charges, any and all real property taxes and assessments upon the Premises, and any and all personal property taxes on the leasehold created hereby and any improvements located upon the Premises.

8. **COSTS PAID BY LESSEE.**

The Lessee shall pay all costs associated with Lessee's uses of the Premises, including, without limitation, the costs of satisfying the requirements of the Shareholder Homesite Program (costs of survey; costs of testing soils for sewer and water purposes; all costs of subdivision, including costs of satisfying applicable subdivision regulations necessary to allow Eyak lawfully to convey an interest in the Premises to Lessee).

9. **EASEMENTS AND RIGHTS-OF-WAY.**

Eyak expressly reserves the right to take for its own use, or for the use of third parties, including the United States and State of Alaska, such easements, rights-of-way, and access to, on and across the Premises as may be reasonably necessary in the sole judgment of Eyak; provided however, should the use of any such subsequently reserved or granted easements, rights-of-way, or access result in the damage or destruction of any improvements located upon the Premises by Lessee in accordance with the provision of this Lease, then Eyak shall compensate Lessee for the cost of repairing such improvements, or in the event of their destruction, the fair market value of such destroyed improvements.

10. **ACCESS.**

- a. Lessee understands and agrees that Eyak provides through this Lease no right or guarantee of access to the Premises, and Eyak makes no representation or warranty that it will construct or maintain or retain as "open" any roads or any other improved or unimproved property utilized for access to the Premises, or that any access or adequate access to the Premises exists at the time of execution of this Lease or at any time in the future.
- b. Without limitation to the foregoing, Eyak expressly retains the right to close any road which may be used as access to the Premises and over which Eyak has control at any time, including, but not limited to, current or past logging roads, without incurring any liability whatsoever to Lessee. Eyak shall, to the extent it deems necessary, give reasonable notice to Lessee of such closing.
- c. Eyak hereby grants to Lessee a limited and temporary right of access over and across Lands to which Eyak holds title subject to the restrictions and covenants on such lands adjacent to the Premises to the extent reasonably necessary to obtain access to the Premises, which right of access may be canceled and terminated by Eyak at any time in its sole discretion. Lessee shall not create or improve any right-of-way, access road, trail or the like, or otherwise alter such lands, without the express written consent of Eyak, which consent may be withheld in the sole discretion of Eyak for any reasons.
- d. Lessee accepts the Premises "as-is," including the access thereto and accepts all risks associated therewith (including the loss of all access), and waives all claims of liability against Eyak in the event that access is not preserved by Eyak. Lessee agrees that it will not block or hinder Eyak's access to the Premises or any adjacent lands owned by Eyak.

11. COMPLIANCE WITH LAWS.

Lessee covenants and agrees that it will not permit nor suffer any person or persons to use, exercise, carry on, or follow in or upon the Premises any public nuisance whatsoever, or any business, profession, or undertaking that may hereafter be declared to be contrary to the laws of the United States of America, the State of Alaska, or any other public authority having jurisdiction over the premises or the activities conducted thereon. Lessee further covenants that at all times all activities engaged in upon the Premises will be in full compliance with all applicable laws, regulations and ordinances.

12. IMPROVEMENTS.

Lessee shall give written notice to Eyak of all improvements which Lessee intends to place upon the Premises. Such notice shall be given no later than thirty (30) days prior to the

commencement of construction of the improvements, and shall specify the location and nature of the improvements, together with a floor plan showing the size and generally the type of construction to be utilized. All improvements placed upon the Premises shall be the property of Lessee and upon the termination of this Lease, shall be removed by Lessee pursuant to the provisions of paragraph 17 herein, and shall be constructed of such materials and colors as to blend into the natural character of the area.

13. LIENS.

Lessee shall be solely responsible for paying for all labor performed upon or materials furnished to the Lands at the request of Lessee. Lessee shall keep the Lands free and clear of any and all mechanic's, mining, labor or materialmen's liens arising from the performance of labor upon or the furnishing of materials to the Lands. Lessee may contest the validity of any such lien that may be filed after providing reasonable security to Eyak. Lessee shall notify Eyak prior to initiating any construction on the Premises. Failure to notify Eyak shall be considered a material breach of this Lease. Lessee shall post notices of nonresponsibility pursuant to AS 34.35.065 and, if applicable, AS 34.35.150.

14. INSPECTION.

Eyak and its agents shall have the right at all reasonable times during the term of this Lease and any extension thereof, to enter the Premises for the purpose of inspecting the Premises and all improvements thereon. Additionally, as part of Section 4 a. of Exhibit VIII of the Agreement, the United States and the State have the right to enter upon the Homesite Lands after providing reasonable advance notice in writing to the lessee and to Eyak and after providing Eyak with a reasonable opportunity to have a representative present upon such entry in order to achieve the purpose and enforce the terms of the Easement at Exhibit VIII.

15. DEFAULT AND BREACH.

- a. The occurrence of any of the following events shall constitute a breach of this Lease:
 - (i) the failure of Lessee to make any payment required hereunder when due;
 - (ii) the failure of Lessee to fully observe all of the terms and conditions of this Lease including those incorporated by reference; or
 - (iii) the adjudication of Lessee for the benefit of creditors, or the judicial sale of the Lessee's interest in this Lease.
- b. Upon the occurrence of a breach as provided in subsection 15(a) hereof, Eyak shall have the option of terminating this lease upon thirty (30) days written notice to

Lessee, if during such thirty (30) day period Lessee fails to correct any such breach. Should Lessee fail to correct any such breach, then upon the expiration of such thirty (30) day period, Eyak may re-enter and take possession of the Premises. Such termination and re-entry shall not be a waiver of any other right or remedy of Eyak arising from Lessee's breach that may be granted Eyak by statute, common law or otherwise.

16. TERMINATION.

- a. Termination by Consent. This Lease may be terminated at any time upon the written consent of all parties hereto.
- b. Termination for Material Breach. The failure of Lessee to keep or perform any material obligation on its part to be kept or performed according to the terms and provisions of this Lease shall, at the election of Eyak, constitute a material breach of this Lease unless cured as hereinafter provided. In the event of any such material breach by Lessee and election by Eyak, Eyak shall first deliver to Lessee a written notice of its intention to declare a material breach of this Lease which specifies the particular material breach or breaches relied upon. Lessee shall then have 30 days after delivery of such notice in which to cure such specified breach or breaches. If a specified material breach is not cured within said 30 days, or if the material breach is of such a nature that it cannot be cured within said 30 days and Lessee has failed to commence to cure such material breach within said 30 days or has failed thereafter to proceed to cure such material breach with all possible diligence, Eyak may terminate this Lease by delivering written notice to that effect to Lessee.
- c. Effect of Termination. If this Lease is terminated for any reason whatsoever, the parties shall be relieved of all further rights, obligations and liabilities under this Lease, except for rights, obligations or liabilities accrued prior to the effective date of termination.

17. WATERLINE EASEMENT.

Eyak has retained an easement for purposes of access across and entry upon lands adjoining the Premises to transport, through waterlines, fresh potable water that may be allocated to Eyak pursuant to Federal or State law, and necessary to support the use of Homesite Easement Lands described in Exhibit VIII, the Homesite Lands Easement, to the Agreement. Eyak may convey such rights of access to the Lessee.

18. SURRENDER OF PREMISES.

- a. Upon the termination of the Lease, whether occasioned by the expiration of its term, termination by consent, or upon the default and breach by Lessee, Lessee shall quit and surrender the Premises in as good state and condition as it was at the commencement of the Lease, except where Eyak has authorized otherwise.
- b. All improvements constructed or placed upon the Premises during the term of this Lease shall be removed by Lessee within ninety (90) days following such termination; provided, however, Lessee shall be liable for compliance with all terms and conditions of this lease until such improvements are removed. Should any such improvements not be removed by Lessee as provided herein, Eyak, at its option, may either retain all or part of the remaining improvements or remove, sell or destroy the same, restoring the Premises to a condition which is reasonably neat and orderly at the sole cost of Lessee, less any amounts received by Eyak from the sale of such improvements, if they are sold.

19. NOTICES.

- a. All notices required to be given hereunder shall be in writing and shall be deemed to have been duly given if delivered personally to the party to which the notice is to be given, or upon receipt, if mailed to such party by certified mail, postage prepared, return receipt requested, as follows:

- (i) If to Eyak:

THE EYAK CORPORATION
P.O. Box 340
Cordova, Alaska 99574

- (ii) If to Lessee:

or to such other addresses as either party may from time to time designate by thirty days prior written notice to the other.

- b. In the event the interest of Lessee is held by more than one party, then all such parties having an interest in the Lease shall designate one of them as being their agent for the purposes of this Lease, and shall give written notice to Eyak of the identity and address of such party. Notice to such designated party and the agreement of such designated party shall be deemed binding upon all other persons having an interest as Lessee under this Lease. In the absence of such written notice to Eyak, notices to

the last party designated in writing as Lessee shall be binding upon all persons having an interest on Lessee.

20. TRANSFER.

- a. This Lease and any improvements located thereon shall not be transferred, assigned, mortgaged, bequeathed, subleased, sold, or otherwise alienated, in whole or in part, without the written permission of Eyak.
- b. Permission will not be withheld if such assignment, transfer, etc. is:
 - (i) to a qualified shareholder of The Eyak Corporation or a family member of the Lessee who has not previously received a homesite or non-residential site lease (or any part of either one); or
 - (ii) subject to the prior approval of Eyak, pursuant to a mortgage or other financing arrangement for loan purposes to secure financing with a state or federally chartered financial institution doing business in Alaska for construction of improvements only on the Lease, and only where the loan or mortgage agreement grants to Eyak the right to redeem the Lease and any improvements thereon in the event of a default by the Lessee.

21. ATTORNEY FEES.

If any action at law or in equity shall be brought by Eyak to recover any amount due under the Lease, or for or on account of any breach of, or to enforce any of the provisions of this Lease, Eyak shall be entitled to recovery from Lessee, its actual attorney fees as part of the judgment of decree entered.

22. ABANDONMENT.

If any time during the term of the Lease, Lessee abandons the Premises, Eyak may, at its option enter upon the Premises without becoming liable to Lessee in any way, and may at its discretion enter into a new Lease for the Premises with a third party. Abandonment shall be defined as Lessee allowing the Premises to become dilapidated or in disrepair through neglect or lack of occupancy, or having officially notified management in writing that Lessee has abandoned the property. Abandonment shall not relieve Lessee of the obligation to leave the Premises in as good state and condition as it was at the commencement of this Lease and Lessee is liable for any costs incurred by Eyak to bring Premises to that condition after abandonment. Improvements on abandoned Premises remain subject to the provisions of paragraph 18(b) herein.

23. **RESTORATION AND REMOVAL.**

Prior to expiration or termination of this Lease, Lessee shall vacate the Premises and remove any improvements placed thereon, and restore the Premises to a safe and stable condition. In the event of failure of Lessee to vacate and restore the Subject Lands, Eyak may have any improvement removed at Lessee's expense and the land restored and collect damages for trespass from Lessee.

24. **SEWAGE/WASTE WATER AND WATER FACILITIES.**

All on-site sewage/waste water and water systems shall conform to the statutes and regulations of the State of Alaska or of any other governmental agency. Non-water disposal or nondischarge sewage systems are not allowed without written approval from Eyak and unless all applicable requirements and standards pursuant to state statutes and regulations are met.

25. **FOREST FIRES.**

Lessee shall take all reasonable precautions to prevent wildland fires. If a wildland fire is started, Lessee shall make every reasonable and diligent effort to immediately suppress and report it to the appropriate officials of the United States Forest Service, the State of Alaska, and Eyak.

26. **DAMAGES.**

Lessee shall exercise due diligence in protecting the Premises owned by Eyak from damages caused by activities under this Lease.

27. **CONDITIONS OF PREMISES NOT WARRANTED.**

Eyak does not warrant or represent that the premises are safe, healthful, or suitable for the purposes for which they are permitted to be used under the terms of this Lease.

28. **INDEMNIFICATION.**

- a. **General Indemnity.** The Lessee will at all times fully protect, defend, indemnify and save Eyak, its assigns or successors in interest, harmless from and against all actions, claims, losses, expenses, including attorney's fees, suits, liabilities, property damage, or personal injury of any kind resulting from or arising out of or incident to or in connection with any act arising out of omission by the Lessee, its agents, or employees resulting from or arising out of or incident to or *connected* in any way with the Lessee's use or occupancy for the Premises, or the exercise of any of the

privileges herein granted.

- b. Environmental Indemnity. In addition to the general indemnity stated in subparagraph 28(a) above, if Lessee breaches any of its obligations relating to Hazardous Material, or if contamination of the Premises by Hazardous Materials otherwise occurs as a result of Lessee's actions or for which Lessee is legally liable to Eyak for damage resulting therefrom, then Lessee specifically agrees that it shall indemnify, defend, and hold Eyak harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses which arise during or after the term of this Lease as a result of such contamination. This indemnification of Eyak by Lessee includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial removal, or restoration work whether or not required by any federal, state, or local government agency or political subdivision due to the presence of Hazardous Material on the Premises.

29. INSURANCE.

Eyak reserves the right to require Lessee to acquire and maintain appropriate insurance if the need arises.

30. TITLE REPRESENTATIONS AND WARRANTIES.

Eyak hereby expressly disclaims any express or implied representations or warranties of title to the Premises.

31. RELATIONSHIP OF PARTIES.

Nothing contained in this Lease shall be deemed to make Eyak an agent, a partner, or a joint venturer with Lessee. Lessee shall have no authority to act for Eyak in any manner or to create any liability or obligation binding Eyak.

32. MAINTENANCE.

The Lessee agrees to maintain the Premises in a safe and sanitary condition, and remove all improvements and associated materials to the satisfaction of Eyak at the termination of this Lease.

33. WAIVER.

The failure of any party to insist upon the strict performance of any provisions of this Lease,

or to exercise any right, power, or remedy consequent upon a breach thereof, shall not constitute a waiver by said party of any such provision, breach or subsequent breach of the same or any other provision.

34. ENTIRETY OF AGREEMENT.

This Lease is the entirety of the agreement between the parties with respect to the subject matter herein, and any modification of this Lease must be in writing and signed by Lessee and Eyak to be effective.

35. GOVERNING LAWS.

This Lease and the rights of the parties hereunder shall be governed by the laws of the State of Alaska, and the parties agree that venue for any suit regarding this Lease of the parties rights hereunder shall be in the Superior Court for the Third Judicial District, State of Alaska.

36. SEVERABILITY.

If any provision of this Lease or any application thereof shall be invalid or unenforceable, the remainder of this Lease and any other application of such provision shall not be affected thereby.

37. ARTIFACTS.

Lessee shall not tamper with, interfere with, or remove any relics or historical artifacts which might be discovered during the course of Lessee's activities on or related to the Premises or access to the Premises. Any discovery of artifacts shall be immediately reported to Eyak. Upon discovery, all activities under this Lease that might affect the artifacts shall immediately cease until the site is investigated and mitigation measures are approved by Eyak.

38. REAL PROPERTY TAXES.

Lessee shall pay any and all applicable real property taxes and assessments relating to the Premises or other areas subject to this Lease levied by the State of Alaska, any municipality or any other governmental entity and resulting in any way from this Lease or its activities or operations hereunder. Eyak shall promptly deliver to Lessee copies of any and all notices which Eyak may receive relating to any such taxes or assessments.

39. CONFLICT RESOLUTION.

If the Lessee disagrees with a decision of Eyak made with respect to this Lease, then Lessee may within thirty (30) days of such decision notify Eyak of Lessee's disagreement. This time period may be extended at Eyak's discretion in extenuating circumstances. Upon receipt of such a timely notice, and if it deems it appropriate, the Board of Directors of Eyak may refer the matter to the Land Committee of the Eyak Corporation Board of Directors, or to an oversight committee consisting three (3) members of the Board of Directors of Eyak, and three (3) shareholders who are not members of the Board of Directors of Eyak. The committee shall investigate the concerns of the Lessee and make any recommendations it sees fit to the Board of Directors or to the management of Eyak.

IN WITNESS WHEREOF the parties have executed this Lease on the dates herein set forth.

THE EYAK CORPORATION

DATE: _____

By: _____

Its: _____

LESSEE

DATE: _____

By: _____

EXHIBIT A

The legal description of your lot is:

**DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION PRIOR
TO CLOSING AS TO FORM AND SUBSTANCE BY U.S. DEPARTMENT OF JUSTICE
AND ALASKA DEPARTMENT OF LAW**

STATE BUSINESS - NO CHARGE

AFTER RECORDING RETURN TO:

U.S. Department of Agriculture

Forest Service

P.O. Box 21628

Juneau, Alaska 99802-1628

ATTACHMENT NO. 2

EXHIBIT X

**THE EYAK CORPORATION SHAREHOLDER
BED AND BREAKFAST LEASE (BBL) FORM**

This **Shareholder Bed and Breakfast Lease** (this "Lease" or "BBL") is entered into this ____ day of _____, 199__ between The Eyak Corporation, a Village Corporation organized pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C.A. Section 1601, *et seq.* ("ANCSA"), having its principal place of business at P.O. Box 340, Cordova, Alaska 99574 ("Eyak") and _____, a shareholder of The Eyak Corporation ("Lessee");

WITNESSETH

WHEREAS, Eyak is the owner of the surface estate of certain lands located in the Cordova Recording District, State of Alaska pursuant to the Alaska Native Claims Settlement Act, as amended ("ANCSA"); and

WHEREAS, Eyak has adopted the Eyak Shareholder Land Use Program pursuant to § 21(j) of ANCSA and, as part of that program, adopted a "Shareholder Homesite Program" applicable to the Homesite Lands as defined in the Agreement for the Sale and Purchase of Lands and Interests in Land Among The Eyak Corporation and the United States and the State of Alaska dated _____, 1998 ("Agreement"); and

WHEREAS, § 21(j) states in part as follows:

A real property interest distributed by a Native Corporation to a shareholder of such Corporation pursuant to a program to provide homesites to its shareholders shall be deemed conveyed and received pursuant to this Chapter: provided, That . . . the land received is restricted by a covenant for a period not less than ten years to single family (including traditional extended family customs) residential occupancy and by such other covenants

and retained interests as the Village Corporation deems appropriate: provided further that the land conveyed does not exceed one-and-one-half acres . . .

and Eyak wishes to comply with the requirements of this statute; and

WHEREAS, the Shareholder Homesite Program is a program to make available to the shareholders of Eyak a one-time grant of a real property interest (in the form of a lease) in a homesite and, except where specifically provided otherwise, to restrict usage of the homesite by covenant to single family (including traditional extended family customs) residential occupancy and to limit the size of the homesite to one-and-one-half acres per 100 shares of settlement common stock; and

WHEREAS, the Shareholder Homesite Program requires the recipient of a bed and breakfast Lease to pay the cost of surveying the Bed and Breakfast Lease ("BBL") site and, further, to pay the costs of receiving any and all applicable government approvals and the cost of obtaining approval of the bed and breakfast site for the installation of water and waste water/sewer systems; and

WHEREAS, the Shareholder Homesite Program provides that only a land use permit shall be issued until all of the foregoing work is completed and paid for, and all approvals have been obtained, at which point Eyak will issue a BBL to the shareholder; and

WHEREAS, Lessee has taken all necessary steps to qualify for this Lease.

NOW, THEREFORE, in consideration of the mutual covenants and promises, the parties hereto agree and covenant as follows:

1. **DEFINITIONS.**

- (a) "**Lessee**" means the person whose name appears above, and shall include Lessee's invitees, contractors or guests on the Premises.
- (b) "**Limited Commercial Activities**" means to engage in the business of establishing and operating a bed and breakfast lodging facility open to the general public for hire for no more than six (6) guests per night under the terms and conditions of this Lease and does not, include any other "Commercial Activities."
- (c) "**Commercial Activities**" means to engage in -- (i) manufacturing, selling or providing goods and services to the public; (ii) the establishment and operation of bed and breakfast facilities open to the general public for hire for more than six (6) guests per night, or lodges; (iii) activities of a business nature associated with a non-profit organization; (iv) the harvest or clear-cut of timber or vegetation on the Premises for commercial uses; or (v) any consumptive use of the Premises (except for clearing of the land reasonably necessary for the siting of a bed and breakfast facility, residence, and related structures or personal use firewood) that will diminish the value of the residual estate in the Premises held by Eyak.

- (d) **"Shareholder Homesite Program"** means the part of the Eyak Shareholder Land Use Program adopted by The Eyak Corporation, through which The Eyak Corporation may: (1) distribute to its shareholders a real property interest in certain homesites [pursuant to Section 21(j) of ANCSA, this transfer may be tax-free to the shareholders if, among other requirements, it was made pursuant to a program to provide homesites to its shareholders and the land received is not greater than 1.5 acres and is restricted by covenant to single-family (including traditional extended family customs) residential occupancy]; or (2) issue a Bed and Breakfast Lease to a one and one-half acres tract in the Form at Attachment # 2 to the holder of/applicant for a Shareholder Land Use Permit issued by or pending before Eyak as of March 31, 1997, on a homesite at Sheep Bay or Simpson Bay. (See Exhibits VIII and X to the Agreement).
- (e) **"Hazardous Material"** means any hazardous or toxic substance, material, or waste, which is or becomes regulated by any local governmental authority, the State of Alaska, or the United States government and any hazardous substance or hazardous material as those terms are defined in AS 46.03.826 and AS 46.08.900.
- (f) **"Premises"** means the surface estate of that certain real property as described in Exhibit A, attached hereto and incorporated herein by reference.

2. **PROPERTY SUBJECT TO LEASE.**

Subject to the terms and conditions herein set forth, Eyak hereby leases to Lessee and Lessee hereby leases from Eyak the Premises.

3. **TERM.**

The term of this lease shall commence upon the ____ day of _____, 19__, and shall be for a period of ninety-nine (99) years, unless earlier terminated pursuant to the terms hereof.

4. **RENTAL.**

Lessee shall pay Eyak the sum of One Hundred Dollars (\$100.00) as rental for the entire term of this Lease.

5. **USE OF THE PREMISES.**

- (a) Lessee may use the Premises for Limited Commercial Activities (as defined above), which are consistent with the further terms of this Lease and the terms of the Shareholder Homesite Program. Lessee expressly acknowledges and accepts Eyak's right hereby reserved under this Lease to amend its Shareholder Homesite Program (subject to the consent of the United States and the State of Alaska) and thus amend or prohibit land uses initially permitted by this Lease. Lessee shall have the right to clear only such portions of the Premises and cut and remove only such live timber

and clear such vegetation as may be reasonably necessary for the siting of a bed and breakfast facility, residence, and related structures or for personal use firewood. However, Lessee shall not otherwise harvest or clear-cut the timber or vegetation on the Premises for commercial uses.

- (b) Lessee's use of the Premises as authorized in subsection 5(a) shall be subject to the following terms and conditions:
- (i) The bed and breakfast lodging facility (1) may be used for a maximum of six (6) guests per night; and (2) may include a primary structure no larger than 1,600 square feet and up to two separate cabins of a maximum of 600 square feet each.
 - (ii) Lessee shall not commit or suffer to be committed, any waste or nuisance on the Premises;
 - (iii) Lessee shall keep and maintain the Premises and any improvements located thereon in a neat, orderly, safe and sanitary condition and in good repair at all times;
 - (iv) The Lessee shall not cause or permit any Hazardous Materials, refuse, debris, garbage or junk, or junk cars or machinery to be brought upon, kept, stored, disposed of, or used in or about the Premises by Lessee, its agents, employees, contractors, or invitees. Without limiting the scope of any indemnity hereunder, if the presence of any Hazardous Material on the Premises caused or permitted by Lessee results in any contamination of the Premises, Lessee shall promptly take all actions at its sole expense as are necessary to return the Premises to the condition existing prior to the introduction of any such Hazardous Materials to the Premises; provided that Eyak's approval of such action shall first be obtained. Lessee shall dispose of all refuse resulting from its use of the Premises, including garbage, junk machinery, junk cars, waste building materials, and debris of any kind, by carrying out or transporting away from the Premises all materials that are not consumed on the Premises. No storage of such items is authorized by this Lease;
 - (v) The Lessee shall not engage in any commercial activities as that is defined in this lease.
 - (vi) Lessee shall maintain all corner stakes of the Premises and clear the boundaries of the Premises from stake to stake; and
 - (vi) Lessee shall not create nor suffer to be created any liens, mortgages or other encumbrances upon the Premises without the prior written consent of Eyak, which consent for mortgages for the construction of the improvements upon the Premises shall be subject to the further provisions of Paragraph 19 herein.

- (viii) Lessee's use is subject also to the terms and conditions of the Exhibit VIII and Exhibit X to the Agreement, applicable to BBLs that are incorporated herein by reference.

Any breach of this paragraph shall be considered to be a material breach of this Lease.

6. **PROHIBITED USES.**

This Lease grants Lessee exclusive use of the Premises only for the uses described in Paragraph 5 above and Lessee acknowledges that uses or activities, other than those specifically authorized in paragraph 5 above, including Commercial Activities, are strictly prohibited.

7. **UTILITIES, TAXES AND LICENSES.**

- (a) Lessee acknowledges that it is familiar with the Premises and the existence of, or lack of, the provision of utilities to the Premises, and agrees that Eyak is not and shall not be obligated to provide or cause to be provided to the Premises, utility services. The provision and maintenance of service of any and all utility services shall be the sole responsibility of Lessee.
- (b) In addition to the rents herein reserved to Eyak, Lessee shall pay prior to their becoming delinquent, all lawful charges levied against the Premises, as well as all lawful charges levied against the Premises caused by or arising out of Lessee's occupancy of the Premises, including but not limited to all utility service charges, any and all real property taxes and assessments upon the Premises, and any and all personal property taxes on the leasehold created hereby and any improvements located upon the Premises.
- (c) Once having received a BBL and used the Premises for Limited Commercial Activities, the lessee assumes any and all liability for and must agree to pay all applicable state, local, or federal taxes which are due because of the changed status of the Premises.

8. **COSTS PAID BY LESSEE.**

The Lessee shall pay all costs associated with Lessee's uses of the Premises, including, without limitation, the costs of satisfying the requirements of the Shareholder Homesite Program (costs of survey; costs of testing soils for sewer and water purposes; all costs of subdivision, including costs of satisfying applicable ADEC subdivision regulations necessary to allow Eyak lawfully to convey an interest in the Premises to Lessee).

9. **EASEMENTS AND RIGHTS-OF-WAY.**

Eyak expressly reserves the right to take for its own use, or for the use of third parties,

including the United States and State of Alaska, such easements, rights-of-way, and access to, on and across the Premises as may be reasonably necessary in the sole judgment of Eyak; provided however, should the use of any such subsequently reserved or granted easements, rights-of-way, or access result in the damage or destruction of any improvements located upon the Premises by Lessee in accordance with the provision of this Lease, then Eyak shall compensate Lessee for the cost of repairing such improvements, or in the event of their destruction, the fair market value of such destroyed improvements.

10. WATERLINE EASEMENT.

Eyak has retained an easement for purposes of access across and entry upon lands adjoining the Premises to transport, through waterlines, fresh potable water that may be allocated to Eyak pursuant to Federal or State law, and necessary to support the use of Homesite Easement Lands described in Exhibit VIII, the Homesite Lands Easement, to the Agreement. Eyak may convey such rights of access to the Lessee.

11. ACCESS.

- (a) Lessee understands and agrees that Eyak provides through this Lease no right or guarantee of access to the Premises, and Eyak makes no representation or warranty that it will construct or maintain or retain as "open" any roads or any other improved or unimproved property utilized for access to the Premises, or that any access or adequate access to the Premises exists at the time of execution of this Lease or at any time in the future.
- (b) Without limitation to the foregoing, Eyak expressly retains the right to close any road which may be used as access to the Premises and over which Eyak has control at any time, including, but not limited to, current or past logging roads, without incurring any liability whatsoever to Lessee. Eyak shall, to the extent it deems necessary, give reasonable notice to Lessee of such closing.
- (c) Eyak hereby grants to Lessee a limited and temporary right of access over and across Lands to which Eyak hold title subject to the restrictions and covenants on such lands adjacent to the Premises to the extent reasonably necessary to obtain access to the Premises, which right of access may be canceled and terminated by Eyak at any time in its sole discretion. Lessee shall not create or improve any right-of-way, access road, trail or the like, or otherwise alter such lands, without the express written consent of Eyak, which consent may be withheld in the sole discretion of Eyak for any reasons.
- (d) Lessee accepts the Premises "as-is," including the access thereto and accepts all risks associated therewith (including the loss of all access), and waives all claims of liability against Eyak in the event that access is not preserved by Eyak. Lessee agrees that it will not block or hinder Eyak's access to the Premises or any adjacent lands owned by Eyak.

12. **COMPLIANCE WITH LAWS.**

Lessee covenants and agrees that it will not permit nor suffer any person or persons to use, exercise, carry on, or follow in or upon the Premises any public nuisance whatsoever, or any business, profession, or undertaking that may hereafter be declared to be contrary to the laws of the United States of America, the State of Alaska, or any other public authority having jurisdiction over the premises or the activities conducted thereon. Lessee further covenants that at all times all activities engaged in upon the Premises will be in full compliance with all applicable laws, regulations and ordinances.

13. **IMPROVEMENTS.**

Lessee shall give written notice to Eyak of all improvements which Lessee intends to place upon the Premises. Such notice shall be given no later than thirty (30) days prior to the commencement of construction of the improvements, and shall specify the location and nature of the improvements, together with a floor plan showing the size and generally the type of construction to be utilized. All improvements placed upon the Premises shall be the property of Lessee shall be constructed of such materials and of such colors as to blend into the natural character of the area, and upon the termination of this Lease, shall be removed by Lessee pursuant to the provisions of paragraph 17 herein.

14. **LIENS.**

Lessee shall be solely responsible for paying for all labor performed upon or materials furnished to the Lands at the request of Lessee. Lessee shall keep the Lands free and clear of any and all mechanic's, mining, labor or materialmen's liens arising from the performance of labor upon or the furnishing of materials to the Lands. Lessee may contest the validity of any such lien that may be filed after providing reasonable security to Eyak. Lessee shall notify Eyak prior to initiating any construction on the Premises. Failure to notify Eyak shall be considered a material breach of this Lease. Lessee shall post notices of noresponsibility pursuant to AS 3.35.065 and, if applicable, AS 34.35.150.

15. **INSPECTION.**

Eyak and its agents shall have the right at all reasonable times during the term of this Lease and any extension thereof, to enter the Premises for the purpose of inspecting the Premises and all improvements thereon. Additionally, as part of Section 4 a. of the Agreement, the United States and the State have the rights to enter upon the Bed and Breakfast Lease Site after providing reasonable advance notice in writing to the lessee and to Eyak and after providing Eyak with a reasonable opportunity to have a representative present upon such entry in order to achieve the purpose and enforce the terms of this Easement.

16. **DEFAULT AND BREACH.**

- (a) The occurrence of any of the following events shall constitute a breach of this Lease:
 - (i) the failure of Lessee to make any payment required hereunder when due;
 - (ii) the failure of Lessee to fully observe all of the terms and conditions of this Lease including those incorporated by reference; or
 - (iii) the adjudication of Lessee as bankrupt or insolvent, the assignment by Lessee for the benefit of creditors, or the judicial sale of the Lessee's interest in this Lease.

17. TERMINATION.

- (a) Termination by Consent. This Lease may be terminated at any time upon the written consent of all parties hereto.
- (b) Termination for Material Breach. The failure of Lessee to keep or perform any material obligation on its part to be kept or performed according to the terms and provisions of this Lease shall, at the election of Eyak, constitute a material breach of this Lease unless cured as hereinafter provided. In the event of any such material breach by Lessee and election by Eyak, Eyak shall first deliver to Lessee a written notice of its intention to declare a material breach of this Lease which specifies the particular material breach or breaches relied upon. Lessee shall then have 30 days after delivery of such notice in which to cure such specified breach or breaches. If a specified material breach is not cured within said 30 days, or if the material breach is of such a nature that it cannot be cured within said 30 days and Lessee has failed to commence to cure such material breach within said 30 days or has failed thereafter to proceed to cure such material breach with all possible diligence, Eyak may terminate this Lease by delivering written notice to that effect to Lessee.
- (c) Effect of Termination. If this Lease is terminated for any reason whatsoever, the parties shall be relieved of all further rights, obligations and liabilities under this Lease, except for rights, obligations or liabilities accrued prior to the effective date of termination. Eyak may re-enter and take possession of the Premises. Such termination and re-entry shall not be a waiver of any other right or remedy of Eyak arising from Lessee's breach that may be granted Eyak by statute, common law or otherwise.

18. SURRENDER OF PREMISES.

- (a) Upon the termination of the Lease, whether occasioned by the expiration of its term, termination by consent, or upon the default and breach by Lessee, Lessee shall quit and surrender the Premises in as good state and condition as it was at the commencement of the Lease, except where Eyak has authorized otherwise.

- (b) All improvements constructed or placed upon the Premises during the term of this Lease shall be removed by Lessee within ninety (90) days following such termination; provided, however, Lessee shall be liable for compliance with all terms and conditions of this lease until such improvements are removed. Should any such improvements not be removed by Lessee as provided herein, Eyak, at its option, may either retain all or part of the remaining improvements or remove, sell or destroy the same, restoring the Premises to a condition that is reasonably neat and orderly at the sole cost of Lessee, less any amounts received by Eyak from the sale of such improvements, if they are sold.

19. NOTICES.

- (a) All notices required to be given hereunder shall be in writing and shall be deemed to have been duly given if delivered personally to the party to which the notice is to be given, or upon receipt, if mailed to such party by certified mail, postage prepared, return receipt requested, as follows:

- (i) If to Eyak:

THE EYAK CORPORATION
P.O. Box 340
Cordova, Alaska 99574

- (ii) If to Lessee:

or to such other addresses as either party may from time to time designate by thirty days prior written notice to the other.

- (b) In the event the interest of Lessee is held by more than one party, then all such parties having an interest in the Lease shall designate one of them as being their agent for the purposes of this Lease, and shall give written notice to Eyak of the identity and address of such party. Notice to such designated party and the agreement of such designated party shall be deemed binding upon all other persons having an interest as Lessee under this Lease. In the absence of such written notice to Eyak, notices to the last party designated in writing as Lessee shall be binding upon all persons having an interest on Lessee.

20. TRANSFER.

- (a) This Lease and any improvements located thereon shall not be transferred, assigned, mortgaged, bequeathed, subleased, sold, or otherwise alienated, in whole or in part, without the written permission of Eyak.
- (b) Permission will not be withheld if such assignment, transfer, etc. is:

- (i) to a qualified shareholder of The Eyak Corporation who has not previously received a homesite or non-residential site lease (or any part of either one) or a family member of the Lessee who has not previously received a homesite or non-residential site lease (or any part of either one); or
- (ii) subject to the prior approval of Eyak, pursuant to a mortgage or other financing arrangement for loan purposes to secure financing with a state or federally chartered financial institution doing business in Alaska for construction of improvements only on the Lease, and only where the loan or mortgage agreement grants to Eyak the right to redeem the Lease and any improvements thereon in the event of a default by the Lessee.

21. ATTORNEY FEES.

If any action at law or in equity shall be brought by Eyak to recover any amount due under the Lease, or for or on account of any breach of, or to enforce any of the provisions of this Lease, Eyak shall be entitled to recover its actual attorney fees from Lessee as part of the judgment of decree entered.

22. ABANDONMENT.

If any time during the term of the Lease, Lessee abandons the Premises, Eyak may, at its option enter upon the Premises without becoming liable to Lessee in any way, and may at its discretion enter into a new Lease for the Premises with a third party. Abandonment shall be defined as Lessee allowing the Premises to become dilapidated or in disrepair through neglect or lack of occupancy, or having officially notified management in writing that Lessee has abandoned the property. Abandonment shall not relieve Lessee of the obligation to leave the Premises in as good state and condition as it was at the commencement of this Lease and Lessee is liable for any costs incurred by Eyak to bring Premises to that condition after abandonment. Improvements on abandoned Premises remain subject to the provisions of paragraph 18(b) herein.

23. RESTORATION AND REMOVAL.

Prior to expiration or termination of this Lease, Lessee shall vacate the Premises and remove any improvements placed thereon, and restore the Premises to a safe and stable condition. In the event of failure of Lessee to vacate and restore the Premises, Eyak may have any improvement removed at Lessee's expense and the land restored and collect damages for trespass from Lessee.

24. SEWAGE/WASTE WATER AND WATER FACILITIES.

All on-site sewage/waste water and water systems shall conform to the statutes and regulations of the State of Alaska or of any other governmental agency. Non-water disposal or nondischarge sewage systems are not allowed without written approval from Eyak and

unless all applicable requirements and standards pursuant to state statutes and regulations are met.

25. **FOREST FIRES.**

Lessee shall take all reasonable precautions to prevent wildland fires. If a wildland fire is started, Lessee shall make every reasonable and diligent effort to immediately suppress and report it to the appropriate officials of the United States Forest Service, the State of Alaska, and Eyak.

26. **DAMAGES.**

Lessee shall exercise due diligence in protecting the Premises owned by Eyak from damages caused by activities under this Lease.

27. **CONDITIONS OF PREMISES NOT WARRANTED.**

Eyak does not warrant or represent that the premises are safe, healthful, or suitable for the purposes for which they are permitted to be used under the terms of this Lease.

28. **INDEMNIFICATION.**

- (a) **General Indemnity.** The Lessee will at all times fully protect, defend, indemnify and save Eyak, its assigns or successors in interest, harmless from and against all actions, claims, losses, expenses, including attorney's fees, suits, liabilities, property damage, or personal injury of any kind resulting from or arising out of or incident to or in connection with any act arising out of omission by the Lessee, its agents, or employees resulting from or arising out of or incident to or connected in any way with the Lessee's use or occupancy for the Premises, or the exercise of any of the privileges herein granted.
- (b) **Environmental Indemnity.** In addition to the general indemnity stated in subparagraph 28(a) above, if Lessee breaches any of its obligations relating to Hazardous Material, or if contamination of the Premises by Hazardous Materials otherwise occurs as a result of Lessee's actions or for which Lessee is legally liable to Eyak for damage resulting therefrom, then Lessee specifically agrees that it shall indemnify, defend, and hold Eyak harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses which arise during or after the term of this Lease as a result of such contamination. This indemnification of Eyak by Lessee includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial removal, or restoration work whether or not required by any federal, state, or local government agency or political subdivision due to the presence of Hazardous Material on the Premises.

29. **INSURANCE.**

In the event Lessee conducts activities of any kind including Limited Commercial Activities on the Premises and as a result thereof the public is or may be present on the Premises, Lessee shall maintain, at its sole expense, insurance with respect to the Premises (and access routes outside the Premises) of the following types and in the following amounts and shall furnish Eyak a certificate therefor naming Eyak as an additional insured (but not exempting property damage to Eyak property from coverage): (a) adequate comprehensive general liability insurance with limits of at least \$500,000 combined single limit per accident or occurrence for injury to persons or property; and (b) insurance for all liability of Lessee under the Alaska Workmen's Compensation Act (and all other such acts now or hereafter in effect).

30. **TITLE REPRESENTATIONS AND WARRANTIES.**

Eyak hereby expressly disclaims any express or implied representations or warranties of title to the Premises.

31. **RELATIONSHIP OF PARTIES.**

Nothing contained in this Lease shall be deemed to make Eyak an agent, a partner, or a joint venturer with Lessee. Lessee shall have no authority to act for Eyak in any manner or to create any liability or obligation binding Eyak.

32. **MAINTENANCE.**

The Lessee agrees to maintain the Premises in a safe and sanitary condition, and remove all improvements and associated materials to the satisfaction of Eyak at the termination of this Lease.

33. **WAIVER.**

The failure of any party to insist upon the strict performance of any provisions of this Lease, or to exercise any right, power, or remedy consequent upon a breach thereof, shall not constitute a waiver by said party of any such provision, breach or subsequent breach of the same or any other provision.

34. **ENTIRETY OF AGREEMENT.**

This Lease is the entirety of the agreement between the parties with respect to the subject matter herein, and any modification of this Lease must be in writing and signed by Lessee and Eyak to be effective.

35. **GOVERNING LAWS.**

This Lease and the rights of the parties hereunder shall be governed by the laws of the State of Alaska, and the parties agree that venue for any suit regarding this Lease of the parties rights hereunder shall be in the Superior Court for the Third Judicial District, State of Alaska.

36. **SEVERABILITY.**

If any provision of this Lease or any application thereof shall be invalid or unenforceable, the remainder of this Lease and any other application of such provision shall not be affected thereby.

37. **ARTIFACTS.**

Lessee shall not tamper with, interfere with, or remove any relics or historical artifacts which might be discovered during the course of Lessee's activities, including Limited Commercial Activities on or related to the Premises or access to the Premises. Any discovery of artifacts shall be immediately reported to Eyak. Upon discovery, all activities under this Lease that might affect the artifacts shall immediately cease until the site is investigated and mitigation measures are approved by Eyak.

38. **REAL PROPERTY TAXES.**

Lessee shall pay any and all applicable real property taxes and assessments relating to the Premises or other areas subject to this Lease levied by the State of Alaska, any municipality or any other governmental entity and resulting in any way from this Lease or its activities or operations hereunder. Eyak shall promptly deliver to Lessee copies of any and all notices which Eyak may receive relating to any such taxes or assessments.

39. **CONFLICT RESOLUTION.**

If the Lessee disagrees with a decision of Eyak made with respect to this Lease, then Lessee may within thirty (30) days of such decision notify Eyak of Lessee's disagreement. This time period may be extended at Eyak's discretion in extenuating circumstances. Upon receipt of such a timely notice, and if it deems it appropriate, the Board of Directors of Eyak may refer the matter to the Land Committee of the Eyak Corporation Board of Directors, or to an oversight committee consisting one-half of members of the Board of Directors of Eyak, and one-half of the other half comprised of shareholders of Eyak who are not members of the Board of Directors of Eyak. The committee shall investigate the concerns of the Lessee and make any recommendations it sees fit to the Board of Directors or to the management of Eyak.

40. ACKNOWLEDGEMENT OF POSSIBLE TAX EFFECTS.

Lessee acknowledges and accepts that Lessee may not receive or may lose the tax exemption and/or other advantages under this SHAREHOLDER BED AND BREAKFAST SITE LEASE which Lessee may receive under the Eyak Shareholder Homesite Lease.

IN WITNESS WHEREOF the parties have executed this Lease on the dates herein set forth.

THE EYAK CORPORATION

DATE: _____

By: _____

Its: _____

LESSEE

DATE: _____

By: _____

EXHIBIT A. LEGAL DESCRIPTION OF PREMISES

STATE OF ALASKA)
) ss.
____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this ____ day of _____ 199__, before me, the undersigned, a Notary Public in and for Alaska, personally appeared _____ to me known and known to me to be the _____ of **The Eyak Corporation**, the corporation named in the foregoing instrument, and _____ acknowledged to me that _____ had in _____ official capacity aforesaid executed the foregoing instrument as the free act and deed for the uses and purposes therein stated.

WITNESS my hand and notary seal on the date and year last above written.

Notary Public in and for Alaska
My commission expires _____

STATE OF ALASKA)
) ss.

____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this ____ day of _____, 199__, before me, the undersigned, a Notary Public in and for Alaska, duly commissioned and sworn, personally appeared _____, to me known and known to me to be the identical individual described in and who executed the within and foregoing instrument, and acknowledged to me that _____ had executed the same freely and voluntarily for the uses and purposes therein mentioned.

WITNESS my hand and notary seal on the date and year last above written.

Notary Public in and for Alaska
My commission expires _____

EXHIBIT A

This property legal description is:

B 0075PG238

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U. S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

APPENDIX A

State Conveyance Lands at Canoe Passage Part 1

Lands to be acquired in Fee Simple by the State of Alaska, within the Cordova Recording District, Third Judicial District, State of Alaska:

COPPER RIVER MERIDIAN ALASKA

Surveyed Township 15 South, Range 5 West

Sec. 35, Entire

Sec. 36, Entire

according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted October 24, 1991, containing 1,280.0 acres, more or less.

Surveyed Township 16 South, Range 4 West

Sec. 6, Lot 1, NE1/4NW1/4, N1/2NE1/4

according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted October 24, 1991, containing 157.49 acres, more or less.

Partially Surveyed Township 16 South, Range 5 West

Sec. 3, NE1/4NE1/4, Lot 1, Excluding Canoe Passage Subdivision Plat Number 98-

Sec. 4, S1/2

Sec. 10, W1/2, SE1/4, S1/2NE1/4

Sec. 11, S1/2, S1/2N1/2

Sec. 12, S1/2

according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted October 24, 1991, containing 1,561.56 acres, more or less.

Containing, in aggregate, 2,999.05 acres, more or less.

B1 0075PG239

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

APPENDIX B - Part 1

Federal Conveyance Lands at Port Gravina, Sheep Bay, Simpson Bay, Hawkins Island, Rude River, Observation Island, Power Creek, Eyak Lake, Eyak River and Scott River.

The surface estate of lands to be conveyed to the United States in fee simple, within the Cordova Recording District, Third Judicial District State of Alaska:

COPPER RIVER MERIDIAN, ALASKA

Partially Surveyed Township 13 South, Range 1 West

Sec. 19, Entire

according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted February 13, 1995, containing 467.00 acres, more or less.

Partially Surveyed Township 13 South, Range 2 West

Sec. 23, Entire,

Sec. 24, Entire,

Sec. 25, Entire,

Sec. 26, Entire,

Sec. 27, Entire,

according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted December 12, 1997, containing 2,668.00 acres, more or less.

Partially Surveyed Township 13 South, Range 4 West

Sec. 27, Entire

Sec. 32, Entire

Sec. 33, Lot 1 and 2

Sec. 34, Lots 1, 2, 3 & 4

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 22, 1987 and October 24, 1991, containing 1,854.05 acres, more or less.

B1 0075PG240

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

The surface estate of lands to be conveyed to the United States in fee simple, within the Valdez Recording District, Third Judicial District State of Alaska:

COPPER RIVER MERIDIAN, ALASKA

Partially Surveyed Township 13 South, Range 5 West

- Sec. 3, Lots 1 and 2
- Sec. 9, Entire
- Sec. 10, Entire
- Sec. 16, Entire
- Sec. 17, Lots 1 and 2
- Sec. 18, Entire
- Sec. 19, Lots 1-15
- Sec. 20, Lots 1-7
- Sec. 21, Lots 2 and 3

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted September 14, 1995, June 22, 1987 and October 24, 1991, containing 2,826.04 acres, more or less.

The surface estate of lands to be conveyed to the United States in fee simple, within the Cordova Recording District, Third Judicial District State of Alaska:

COPPER RIVER MERIDIAN, ALASKA

Partially Surveyed Township 13 South, Range 5 West

- Sec. 11, Lots A, 1 and 2
- Sec. 14, Entire
- Sec. 15, Entire
- Sec. 22, Entire
- Sec. 26, Entire
- Sec. 27, Entire
- Sec. 28, Lots 1-5
- Sec. 29, Lots 1 and 2
- Sec. 31, Entire
- Sec. 32, Entire
- Sec. 36, Entire

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted September 14, 1995, June 22, 1987 and October 24, 1991 containing

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DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

3,747.20 acres, more or less.

Surveyed Township 14 South, Range 3 West

Sec. 32, SE1/4

Sec. 33, Entire

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 22, 1987 and October 24, 1991, containing 240.15 acres, more or less.

Surveyed Township 14 South, Range 4 West

Sec. 1, Lots 1,2,3 & 4

Sec. 2, Entire

Sec. 3, Entire

Sec. 4, Lots 1,2,4-9

Sec. 5, Lot 1

Sec. 6, Lot 1

Sec. 7, Lots 3 and 5

Sec. 8, Lots 1 and 3-6

Sec. 9, Entire

Sec. 10, Excluding West Simpson Bay Subdivision Plat Number 98-____ filed for

Sec. 11, Lots 1,2,3 & 4

Sec. 15, Lots 1,2,3,5,6,

Sec. 16, Entire

Sec. 17, Entire

Sec. 18, Lots 1 and 2

Sec. 19, Lots 1 and 2

Sec. 20, Entire

Sec. 21, Entire

Sec. 22, Entire

Sec. 25, East Simpson Bay Public Access Subdivision Plat Number 98-____ filed for

Sec. 30, Lots 1 and 2

Sec. 31, Entire

according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted June 22, 1987, containing 6,772.26 acres, more or less.

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

Surveyed Township 14 South, Range 5 West

Sec. 1, Entire
 Sec. 2, Entire
 Sec. 5, Entire
 Sec. 6, Entire
 Sec. 7, Entire
 Sec. 8, Entire
 Sec. 9, Entire
 Sec. 10, Entire
 Sec. 11, Entire
 Sec. 12, Entire
 Sec. 14, Entire
 Sec. 15, Entire
 Sec. 16, Entire
 Sec. 17, Entire
 Sec. 18, Entire
 Sec. 19, Entire
 Sec. 20, Entire
 Sec. 21, Entire
 Sec. 29, Entire
 Sec. 30, Entire

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 22, 1987 and October 24, 1991 containing 9,857.20 acres, more or less.

Partially Surveyed Township 15 South, Range 2 West

Sec. 3, Entire
 Sec. 4, Excluding Power Creek Hydroelectric Project FERC Project No. 11243-001,
 Sec. 5, Excluding North Eyak Lake Subdivision Plat Number 98-____ filed for record
 Sec. 6, Excluding Power Creek Delta Subdivision Plat Number 98-____ filed for
 Sec. 7, Excluding Power Creek Delta Subdivision Plat Number 98-____ filed for
 Sec. 8, Excluding Power Creek Hydroelectric Project FERC Project No. 11243-001,
 Sec. 9, Entire Excluding Power Creek Hydroelectric Project FERC Project No. 11243

Sec. 18, Entire
 Sec. 19, Lots 1 and 2, excluding Lot 3
 Sec. 29, Entire
 Sec. 30, Lots 1 and 2, Excluding South Eyak Lake Material Site Plat Number 98-____
 Sec. 31, Lots 1 through 4, including the Eyak River Boat Ramp Subdivision Plat
 Sec. 32, Excluding the Currin Slough-6 mile Subdivision Plat Number 98-____ filed

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

Sec. 33, Entire
according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted October 24, 1991 and June 22, 1987, containing 8,074.94 acres, more or less.

Surveyed Township 15 South, Range 3 West

Sec. 3, Lot 1
Sec. 4, Lots 1, 2, & 3
Sec. 5, Lots 1 and 2, Excluding Deep Bay Subdivision Plat Number 98-_____ filed
Sec. 6, Lot 1
Sec. 7, Entire
Sec. 8, Lot 3, Excluding Deep Bay Subdivision Plat Number 98-_____ filed for record
Sec. 9, Lot 1
Sec. 12, Located within and outside of USS 5103
Sec. 13, Located within and outside of USS 5103, Lots 1 and 4, Excluding West Eyak
Sec. 18, Lot 2
Sec. 19, Lots 2 & 3, Excluding Mud Bay Subdivision Plat Number 98-_____ filed for
Sec. 24, Lots 1 and 2, and that portion located within USS 5103.
Sec. 25, Lot 2, and that portion located within USS 5103, Excluding South Eyak Lake
Sec. 35, Lot 2
Sec. 36, Lot 1

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 22, 1987, December 22, 1995, and March 18, 1996, containing 3,622.96 acres, more or less.

Surveyed Township 15 South, Range 4 West

Sec. 8, Entire
Sec. 9, Entire
Sec. 10, Entire
Sec. 11, Entire
Sec. 12, Entire
Sec. 16, Entire
Sec. 17, Entire
Sec. 18, Excluding North Cedar Bay Subdivision Plat Number 98-_____ filed for
Sec. 19, Excluding North Cedar Bay Subdivision Plat Number 98-_____ filed for
Sec. 20, Entire
Sec. 21, Entire
Sec. 22, Entire

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

Sec. 24, Lots 1 & 2, Excluding Mud Bay Subdivision Plat Number 98-_____ filed for according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted October 24, 1991, containing 5,852.65 acres, more or less.

Surveyed Township 15 South, Range 5 West

Sec. 23, Entire

Sec. 24, Excluding Cedar Bay Subdivision Plat Number 98-_____ filed for record on according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 22, 1987 and October 24, 1991, containing 271.97 acres, more or less.

Partially Surveyed Township 16 South, Range 2 West

Sec. 1, Entire

Sec. 2, Lots 1 through 10, Excluding Scott River Subdivision Plat Number 98-_____

Sec. 3, Entire

Sec. 4, Entire

Sec. 6, Lot 1, Excluding West Eyak River Subdivision Plat Number 98-_____ filed according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 22, 1987 and October 24, 1991, containing 2,289.93 acres, more or less.

Partially Surveyed Township 16 South, Range 3 West

Sec. 1, Portion North and West of a diagonal line from NE Section Corner to the SW

Sec. 11, Portion North and West of a diagonal line from NE Section Corner to the

Sec. 15, Portion North and West of a diagonal line from NE Section Corner to the

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted October 24, 1991, June 22, 1987, and March 18, 1996, containing 960.0 acres, more or less.

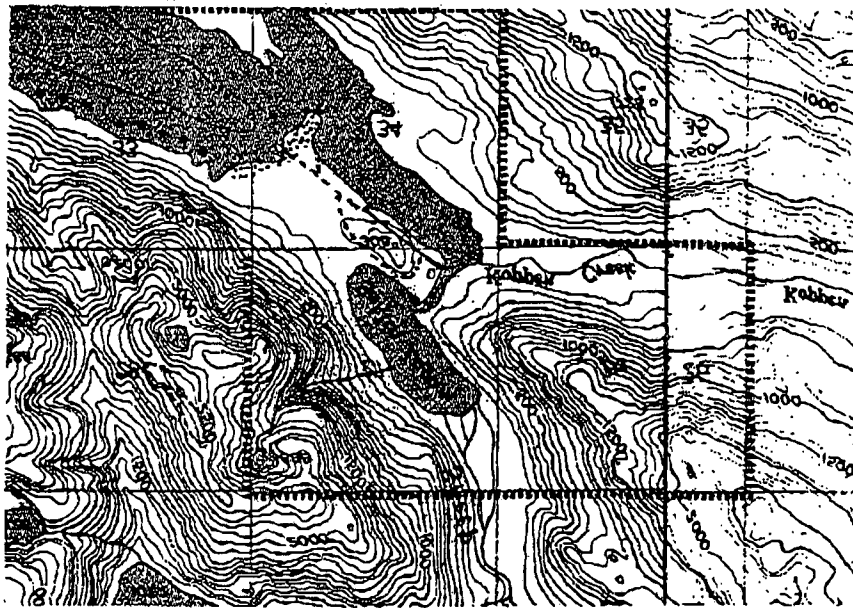
Aggregating 49,454.37 acres, more or less.

BY 0075PG245

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO
FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA
DEPARTMENT OF LAW.

CONCEPTUAL DRAWING OF BEAR VIEWING EASEMENT AREA IN Sections 26, 27
and 34 of Township 13 South, Range 4 West, Copper River

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.



Meridian.

Bear

Viewing area 150' wide by 2,000' long, with 15' wide trails to three access points.

B: 0075PG247

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

APPENDIX C

Eyak Development Lands
At Sheep Bay and Simpson Bay

Lands to be retained in Fee by The Eyak Corporation, within the Cordova Recording District, Third Judicial District, State of Alaska:

COPPER RIVER MERIDIAN ALASKA

Township 14 South, Range 4 West

Sec. 7, Tract A Sheep Bay Island Number 3 Subdivision Plat Number 98-____

Township 14 South, Range 3 West

Sec. 19, East Simpson Bay #4 Subdivision Plat Number 98-____ filed for

Township 14 South, Range 4 West

Sec. 14, Lot 2, Block 1, East Simpson Bay #1 Subdivision Plat Number 98-____

Township 14 South, Range 4 West

Sec. 23, Lot 1, Block 2, East Simpson Bay #3 Subdivision Plat Number 98-____

Aggregating 12.0 acres, more or less.

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

APPENDIX D

Eyak Conservation Easement Lands At Sheep Bay Islands, East Simpson Bay, Power Creek, and Eyak River

Lands to be acquired by Conservation Easements with Public Access, by the United States, within the Cordova Recording District, Third Judicial District, State of Alaska:

COPPER RIVER MERIDIAN, ALASKA

Surveyed Township 14 South, Range 3 West,

- Sec. 6, Entire
- Sec. 7, Entire
- Sec. 8, Entire
- Sec. 17, Entire
- Sec. 18, Entire
- Sec. 19, Excluding East Simpson Bay #4 Subdivision Plat Number 98-___ filed
- Sec. 20, Entire

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 27, 1987 and October 24, 1991 containing 3,878.44 acres, more or less.

Surveyed Township 14 South, Range 4 West,

- Sec. 1, Lot 5
- Sec. 4, Lot 3
- Sec. 5, Lots 2,3,4,5 & 6 Excluding Sheep Bay Island #2 Subdivision Plat Number
- Sec. 6, Lots 2 & 3
- Sec. 7, Lots 1,2 & 4 Excluding Sheep Bay Island #3 Subdivision Plat Number
- Sec. 8, Lot 2
- Sec. 10, Lot 2 Excluding West Simpson Bay Subdivision Plat Number
- Sec. 11, Lots 5,6,7,8 & 9,
- Sec. 12, Excluding East Simpson Bay #1 Subdivision Plat Number
- Sec. 13, Entire
- Sec. 14, Excluding East Simpson Bay #2 Subdivision Plat Number
- Sec. 15, Lot 4
- Sec. 23, Excluding East Simpson Bay #2 Subdivision Plat Number
- Sec. 24, Excluding East Simpson Bay #5 Subdivision Plat Number
- Sec. 26, Lots 1-7, Excluding East Simpson Bay #3 Subdivision Plat Number 98-

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

Sec. 27, Entire
according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted June 22, 1987 containing 2,522.96 acres, more or less.

Township 15 South, Range 2 West,

Sec. 5, Power Creek Delta Plat Number 98-____ filed for record on _____
Sec. 6, Power Creek Delta Plat Number 98-____ filed for record on _____
Sec. 7, Power Creek Delta Plat Number 98-____ filed for record on _____
Sec. 8, Power Creek Delta Plat Number 98-____ filed for record on _____

Partially Surveyed Township 16 South, Range 2 West,

Sec. 6, Lot 2, Excluding the West Eyak River Subdivision Plat Number 98-____
according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 22, 1997, October 24, 1991 and April 18, 1996 containing 53.41 acres, more or less.

Partially Surveyed Township 16 South, Range 3 West,

Sec. 1, That portion of Lot 1 lying East of the diagonal line between the North
Sec. 11, Lots 2, 3 and that portion of Lot 1 lying East of the diagonal line between
Sec. 12, Lot 1, That portion lying East of the diagonal line between the North East
Sec. 14, Lot 1

Sec. 15, That portion of Lot 1 lying East of the diagonal line between the North
according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 22, 1997, October 24, 1991 and April 18, 1996 containing 472.25 acres, more or less.

Aggregating 7,177.06 acres, more or less.

B: 00075PG250

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

APPENDIX E

Eyak Timber Conservation Easement Lands

Lands to be retained in fee, subject to a timber conservation easement, by The Eyak Corporation within the Cordova Recording District, Third Judicial District, State of Alaska:

COPPER RIVER MERIDIAN, ALASKA

Partially Surveyed Township 13 South, Range 2 West

Sec. 33, excluding USS No. 440

Sec. 34, excluding USS No. 440

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted December 12, 1997, containing 1,121.76 acres, more or less.

Partially Surveyed Township 14 South, Range 2 West

Sec. 4, excluding USS No. 440

Sec. 5, excluding USS No. 440

Sec. 6, Entire

Sec. 7, excluding USS No. 440

Sec. 8, excluding USS No. 440

Sec. 17, excluding USS No. 440

Sec. 19, (fractional), all;

Sec. 20, (fractional), all.

Sec. 31, Entire

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 22, 1987 and October 24, 1991, containing 3,319.30 acres, more or less.

Surveyed Township 14 South, Range 3 West

Sec. 12, Entire

Sec. 13, Entire

Sec. 14, Entire

Sec. 15, Entire

Sec. 16, Entire

Sec. 21, Entire

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

Sec. 22, Entire

Sec. 23, Entire

Sec. 24, Entire

Sec. 25, Entire

Sec. 28, Lot 1 and 2, Excluding sortyard

Sec. 35, Included in USS 5103 Lot 2

Sec. 36, Portions located within and outside of USS 5103 Lot 2, Excluding according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 22, 1987 and October 24, 1991, containing 5,047.67 acres, more or less.

Surveyed Township 14 South, Range 4 West

Sec. 28, Lots 1-3, Excluding Alice Cove Residence Group

Sec. 29, Lots 1-8, Excluding Alice Cove Residence Group

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 22, 1987, containing 660.15 acres, more or less.

Surveyed Township 15 South, Range 3 West

Sec. 1, Portions located within and outside of USS 5103 Lot 2

Sec. 2, Located within USS 5103 Lot 2

Sec. 8, Lot 1

Sec. 9, Lot 3

Sec. 11, Located within USS 5103 Lot 2, Excluding Crater Lake Watershed Plan of

Sec. 14, Located within USS 5103 Lot 2, Excluding Crater Lake Watershed Plan of

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 22, 1987, December 22, 1995, and March 18, 1996 containing 1,146.20 acres, more or less.

Surveyed Township 15 South, Range 5 West

Sec. 27, Entire

Sec. 28, Lots 1, 2, & 3.

BY 00075PG252

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

Sec. 33, Lots 1, 2, Excluding Canoe Passage Retreats Subdivision Plat
Sec. 34, Excluding Canoe Passage Retreats Subdivision Excluding Canoe Passage
according to the official United States of America, Department of the Interior, Bureau of Land
Management plats accepted June 22, 1987, and October 24, 1991, containing 1,305.03 acres, more
or less.

Aggregating 12,600.11 acres, more or less.

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

APPENDIX F

Eyak Special Access Easement Lands

Lands to be retained in fee, subject to a special access easement, by The Eyak Corporation within the Cordova Recording District, Third Judicial District, State of Alaska:

Surveyed Township 14 South, Range 3 West

Sec. 29, Lot 1, Excluding SE1/4NE1/4 (Sortyard Area)

Sec. 30, Lot 2,

Sec. 31, All.

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 22, 1987 and October 24, 1991, containing 1,017.77 acres, more or less.

Aggregating 1,017.77 acres, more or less.

COPPER RIVER MERIDIAN, ALASKA

B: 0075PG254

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

APPENDIX G

Eyak Homesite Lands

Lands to be retained in Fee Simple subject to a Homesite Easement, by The Eyak Corporation, within the Cordova Recording District, Third Judicial District, State of Alaska.

COPPER RIVER MERIDIAN ALASKA

Township 14 South, Range 3 West,

Sec. 19, East Simpson Bay #5 Subdivision Plat Number 98-___ filed for

Township 14 South, Range 4 West,

Sec. 5, Sheep Bay Island #2 Subdivision Plat Number 98-___ filed for record on

Sec. 7, Sheep Bay Island #3 Subdivision Plat Number 98-___ filed for record on

Sec. 10, West Simpson Bay Subdivision Plat Number 98-___ filed for

Sec. 11, West Simpson Bay Subdivision Plat Number 98-___ filed for record on

Sec. 12, East Simpson Bay #1 Subdivision Plat Number

Sec. 14, East Simpson Bay #2 Subdivision Plat Number

Sec. 23, East Simpson Bay #2 Subdivision Plat Number

Sec. 24, East Simpson Bay #5 Subdivision Plat Number

Sec. 26, East Simpson Bay #3 Subdivision Plat Number 98-___ filed for record

Township 15 South, Range 3 West

Sec. 5, Deep Bay Subdivision Plat Number 98-___ filed for record on

Sec. 8, Deep Bay Subdivision Plat Number 98-___ filed for record on

Sec. 19, Mud Bay Subdivision Plat Number 98-___ filed for

Surveyed Township 15 South, Range 4 West

Sec. 18, North Cedar Bay Subdivision Plat Number 98-___ filed for

Sec. 19, North Cedar Bay Subdivision Plat Number 98-___ filed for

Sec. 24, Mud Bay Subdivision Plat Number 98-___ filed for

Surveyed Township 15 South, Range 5 West

Sec. 24, Cedar Bay Subdivision Plat Number 98-___ filed for record on

Partially Surveyed Township 16 South, Range 5 West

Sec. 3, Excluding Canoe Passage Subdivision Plat Number 98-___ filed for

B1 00075PG255

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

Containing, in aggregate, 95 lots comprising 143.6 acres, more or less.

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

APPENDIX H

Federal Conveyance Lands at Port Gravina, Sheep Bay, Simpson Bay, Hawkins Island, Rude River, Observation Island, Power Creek, Eyak Lake, Eyak River and Scott River. State Conveyance Lands at Canoe Passage

The surface estate of lands to be conveyed to the United States in fee simple, within the Cordova Recording District, Third Judicial District State of Alaska:

COPPER RIVER MERIDIAN, ALASKA

Partially Surveyed Township 13 South, Range 1 West

Sec. 19, Entire

according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted February 13, 1995, containing 467.00 acres, more or less.

Partially Surveyed Township 13 South, Range 2 West

Sec. 23, Entire,

Sec. 24, Entire,

Sec. 25, Entire,

Sec. 26, Entire,

Sec. 27, Entire,

according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted December 12, 1997, containing 2,668.00 acres, more or less.

Partially Surveyed Township 13 South, Range 4 West

Sec. 27, Entire

Sec. 32, Entire

Sec. 33, Lot 1 and 2

Sec. 34, Lots 1, 2, 3 & 4

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 22, 1987 and October 24, 1991, containing 1,854.05 acres, more or less.

B: 0075PG257

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

The surface estate of lands to be conveyed to the United States in fee simple, within the **Valdez** Recording District, Third Judicial District State of Alaska:

COPPER RIVER MERIDIAN, ALASKA

Partially Surveyed Township 13 South, Range 5 West

- Sec. 3, Lots 1 and 2
- Sec. 9, Entire
- Sec. 10, Entire
- Sec. 16, Entire
- Sec. 17, Lots 1 and 2
- Sec. 18, Entire
- Sec. 19, Lots 1-15
- Sec. 20, Lots 1-7
- Sec. 21, Lots 2 and 3

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted September 14, 1995, June 22, 1987 and October 24, 1991, containing 2,826.04 acres, more or less.

The surface estate of lands to be conveyed to the United States in fee simple, within the **Cordova** Recording District, Third Judicial District State of Alaska:

COPPER RIVER MERIDIAN, ALASKA

Partially Surveyed Township 13 South, Range 5 West

- Sec. 11, Lots A, 1 and 2
- Sec. 14, Entire
- Sec. 15, Entire
- Sec. 22, Entire
- Sec. 26, Entire
- Sec. 27, Entire
- Sec. 28, Lots 1-5
- Sec. 29, Lots 1 and 2
- Sec. 31, Entire
- Sec. 32, Entire
- Sec. 36, Entire

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted September 14, 1995, June 22, 1987 and October 24, 1991 containing 3,747.20 acres, more or less.

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

Surveyed Township 14 South, Range 3 West

Sec. 32, SE1/4

Sec. 33, Entire

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 22, 1987 and October 24, 1991, containing 240.15 acres, more or less.

Surveyed Township 14 South, Range 4 West

Sec. 1, Lots 1,2,3 & 4

Sec. 2, Entire

Sec. 3, Entire

Sec. 4, Lots 1,2,4-9

Sec. 5, Lot 1

Sec. 6, Lot 1

Sec. 7, Lots 3 and 5

Sec. 8, Lots 1 and 3-6

Sec. 9, Entire

Sec. 10, Excluding West Simpson Bay Subdivision Plat Number 98-____ filed for

Sec. 11, Lots 1,2,3 & 4

Sec. 15, Lots 1,2,3,5,6,

Sec. 16, Entire

Sec. 17, Entire

Sec. 18, Lots 1 and 2

Sec. 19, Lots 1 and 2

Sec. 20, Entire

Sec. 21, Entire

Sec. 25, East Simpson Bay Public Access Subdivision Plat Number 98-____ filed for

Sec. 30, Lots 1 and 2

Sec. 31, Entire

according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted June 22, 1987, containing 6,772.26 acres, more or less.

Surveyed Township 14 South, Range 5 West

Sec. 1, Entire

Sec. 2, Entire

Sec. 5, Entire

B1 0075PG259

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO
FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE
ALASKA DEPARTMENT OF LAW.

Sec. 6, Entire
Sec. 7, Entire
Sec. 8, Entire
Sec. 9, Entire
Sec. 10, Entire
Sec. 11, Entire
Sec. 12, Entire
Sec. 14, Entire
Sec. 15, Entire
Sec. 16, Entire
Sec. 17, Entire
Sec. 18, Entire
Sec. 19, Entire
Sec. 20, Entire
Sec. 21, Entire
Sec. 29, Entire
Sec. 30, Entire

according to the official United States of America, Department of the Interior, Bureau of Land
Management plats accepted June 22, 1987 and October 24, 1991 containing 9,857.20 acres, more
or less.

Partially Surveyed Township 15 South, Range 2 West:

Sec. 3, Entire
Sec. 4, Excluding Power Creek Hydroelectric Project FERC Project No. 11243-001,
Sec. 5, Excluding North Eyak Lake Subdivision Plat Number 98-____ filed for record
Sec. 6, Excluding Power Creek Delta Subdivision Plat Number 98-____ filed for
Sec. 7, Excluding Power Creek Delta Subdivision Plat Number 98-____ filed for
Sec. 8, Excluding Power Creek Hydroelectric Project FERC Project No. 11243-001,
Sec. 9, Entire Excluding Power Creek Hydroelectric Project FERC Project No. 11243

Sec. 18, Entire
Sec. 19, Lots 1 and 2, excluding Lot 3
Sec. 29, Entire
Sec. 30, Lots 1 and 2, Excluding South Eyak Lake Material Site Plat Number 98-____
Sec. 31, Lots 1 through 4, including the Eyak River Boat Ramp Subdivision Plat
Sec. 32, Excluding the Currin Slough-6 mile Subdivision Plat Number 98-____ filed
Sec. 33, Entire

according to the official United States of America, Department of the Interior, Bureau of Land
Management plats accepted October 24, 1991 and June 22, 1987, containing 7,974.96 acres, more
or less.

B: 00075PG260

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO
FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE
ALASKA DEPARTMENT OF LAW.

Surveyed Township 15 South, Range 3 West

- Sec. 3, Lot 1
- Sec. 4, Lots 1, 2, & 3
- Sec. 5, Lots 1 and 2, Excluding Deep Bay Subdivision Plat Number 98-_____ filed
- Sec. 6, Lot 1
- Sec. 7, Entire
- Sec. 8, Lot 3, Excluding Deep Bay Subdivision Plat Number 98-_____ filed for record
- Sec. 9, Lot 1
- Sec. 12, Located within and outside of USS 5103
- Sec. 13, Located within and outside of USS 5103, Lots 1 and 4, Excluding West Eyak
- Sec. 18, Lot 2
- Sec. 19, Lots 2 & 3, Excluding Mud Bay Subdivision Plat Number 98-_____ filed for
- Sec. 24, Lots 1 and 2, and that portion located within USS 5103.
- Sec. 25, Lot 2, and that portion located within USS 5103, Excluding South Eyak Lake
- Sec. 35, Lot 2
- Sec. 36, Lot 1

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 22, 1987, December 22, 1995, and March 18, 1996, containing 3,622.96 acres, more or less.

Surveyed Township 15 South, Range 4 West

- Sec. 8, Entire
- Sec. 9, Entire
- Sec. 10, Entire
- Sec. 11, Entire
- Sec. 12, Entire
- Sec. 16, Entire
- Sec. 17, Entire
- Sec. 18, Excluding North Cedar Bay Subdivision Plat Number 98-_____ filed for
- Sec. 19, Excluding North Cedar Bay Subdivision Plat Number 98-_____ filed for
- Sec. 20, Entire
- Sec. 21, Entire
- Sec. 22, Entire
- Sec. 24, Lots 1 & 2, Excluding Mud Bay Subdivision Plat Number 98-_____ filed for

according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted October 24, 1991, containing 5,852.65 acres, more or less.

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO
FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE
ALASKA DEPARTMENT OF LAW.

Surveyed Township 15 South, Range 5 West

Sec. 23, Entire

Sec. 24, Excluding Cedar Bay Subdivision Plat Number 98-_____ filed for record on
according to the official United States of America, Department of the Interior, Bureau of Land
Management plats accepted June 22, 1987 and October 24, 1991, containing 271.97 acres, more or
less.

Partially Surveyed Township 16 South, Range 2 West

Sec. 1, Entire

Sec. 2, Lots 1 through 10, Excluding Scott River Subdivision Plat Number 98-_____

Sec. 3, Entire

Sec. 4, Entire

Sec. 6, Lot 1, Excluding West Eyak River Subdivision Plat Number 98-_____ filed
according to the official United States of America, Department of the Interior, Bureau of Land
Management plats accepted June 22, 1987 and October 24, 1991, containing 2,289.93 acres, more
or less.

Partially Surveyed Township 16 South, Range 3 West

Sec. 1, Portion North and West of a diagonal line from NE Section Corner to the SW

Sec. 11, Portion North and West of a diagonal line from NE Section Corner to the

Sec. 15, Portion North and West of a diagonal line from NE Section Corner to the

according to the official United States of America, Department of the Interior, Bureau of Land
Management plats accepted October 24, 1991, June 22, 1987, and March 18, 1996, containing 960.0
acres, more or less.

Surveyed Township 15 South, Range 5 West

Sec. 35, Entire

Sec. 36, Entire

according to the official United States of America, Department of the Interior, Bureau of Land
Management plat accepted October 24, 1991, containing 1280.0 acres, more or less.

Surveyed Township 16 South, Range 4 West

Sec. 6, Lot 1, NE1/4NW1/4, N1/2NE1/4

according to the official United States of America, Department of the Interior, Bureau of Land
Management plat accepted October 24, 1991, containing 157.49 acres, more or less.

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO
FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE
ALASKA DEPARTMENT OF LAW.

Partially Surveyed Township 16 South, Range 5 West

Sec. 3, NE1/4NE1/4, Lot 1, Excluding Canoe Passage Subdivision Plat Number 98-

Sec. 4, S1/2

Sec. 10, W1/2, SE1/4, S1/2NE1/4

Sec. 11, S1/2, S1/2N1/2

Sec. 12, S1/2

according to the official United States of America, Department of the Interior, Bureau of Land
Management plat accepted October 24, 1991, containing 1,561.56 acres, more or less.

Containing, in aggregate, 52, 453.42 acres, more or less.

CONCEPTUAL DRAWING OF BEAR VIEWING EASEMENT AREA IN Sections 26, 27 and 34

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

APPENDIX I

Potential Reconveyance Lands

Sheep Bay, Sheep Bay Islands, Simpson Bay (West), Deep Bay/Mud Bay

The surface estate of lands to be conveyed to the United States in fee simple, within the Cordova Recording District, Third Judicial District State of Alaska:

COPPER RIVER MERIDIAN, ALASKA

Partially Surveyed Township 13 South, Range 4 West

- Sec. 26, Entire
- Sec. 27, Entire
- Sec. 32, Entire
- Sec. 33, Lot 1 and 2
- Sec. 34, Lots 1, 2, 3 & 4

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 22, 1987 and October 24, 1991, containing 2,494.05 acres, more or less.

Partially Surveyed Township 13 South, Range 5 West

- Sec. 36, Entire

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted September 14, 1995, June 22, 1987 and October 24, 1991 containing 592.67 acres, more or less.

Surveyed Township 14 South, Range 3 West

- Sec. 32, SE1/4
- Sec. 33, Entire

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 22, 1987 and October 24, 1991, containing 240.15 acres, more or less.

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO
FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA
DEPARTMENT OF LAW.

Surveyed Township 14 South, Range 4 West

- Sec. 1, Lots 1,2,3&4
- Sec. 2, Entire
- Sec. 3, Entire
- Sec. 4, Lots 1,2, & 4-9
- Sec. 5, Lot 1
- Sec. 6, Lot 1
- Sec. 7, Lots 3 and 5
- Sec. 8, Lots 1 and 3-6
- Sec. 9, Entire
- Sec. 10, Excluding West Simpson Bay Subdivision Plat Number 98-____ filed for
- Sec. 11, Lots 1,2,3 & 4
- Sec. 15, Lots 1,2,3,5 & 6
- Sec. 16, Entire
- Sec. 17, Entire
- Sec. 18, Lots 1 and 2
- Sec. 19, Lots 1 and 2
- Sec. 20, Entire
- Sec. 21, Entire
- Sec. 22, Lots 1 and 2
- Sec. 30, Lots 1 and 2
- Sec. 31, Entire

according to the official United States of America, Department of the Interior, Bureau of Land
Management plat accepted June 22, 1987, containing 6,732.26 acres, more or less.

Surveyed Township 14 South, Range 5 West

- Sec. 1, Entire
- Sec. 2, Entire
- Sec. 7, Entire
- Sec. 8, Entire
- Sec. 9, Entire
- Sec. 10, Entire
- Sec. 11, Entire
- Sec. 12, Entire
- Sec. 14, Entire
- Sec. 15, Entire

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

Sec. 16, Entire
 Sec. 17, Entire
 Sec. 18, Entire
 Sec. 19, Entire
 Sec. 20, Entire
 Sec. 21, Entire
 Sec. 29, Entire
 Sec. 30, Entire

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 22, 1987 and October 24, 1991 containing 8,631.28 acres, more or less.

Surveyed Township 15 South, Range 3 West

Sec. 4, Lots 1, 2, & 3

Sec. 5, Lots 1 and 2, Excluding Deep Bay Subdivision Plat Number 98-_____ filed

Sec. 8, (fractional) N1/2NW1/4, SWNW, Lot 3, Excluding Deep Bay Subdivision Plat

Sec. 9, Lot 1

Sec. 18, Lot 2 except NW1/4,

Sec. 19, Lots 2 and 3, Excluding Mud Bay Subdivision Plat Number 98-_____ filed

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 22, 1987, December 22, 1995, and March 18, 1996, containing 997.25 acres, more or less.

Surveyed Township 15 South, Range 4 West

Sec. 24, Lots 1 & 2, Excluding Mud Bay Subdivision Plat Number 98-_____ filed for according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted October 24, 1991, containing 520.23 acres, more or less.

Lands to be acquired by Conservation Easements with Public Access, by the United States, within the Cordova Recording District, Third Judicial District, State of Alaska:

COPPER RIVER MERIDIAN, ALASKA

B 0075PG266

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

Surveyed Township 14 South, Range 4 West,

Sec. 4, Lot 3

Sec. 5, Lots 2,3,4,5 & 6 Excluding Sheep Bay Island #2 Subdivision Plat Number

Sec. 6, Lots 2 & 3

Sec. 7, Lots 1,2 & 4 Excluding Sheep Bay Island #3 Subdivision Plat Number

Sec. 8, Lot 2

according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted June 22, 1987 containing 140.25 acres, more or less.

Aggregating 20,348.14 acres, more or less.

B: 0075PG267

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

APPENDIX J

Potential Reconveyance Lands

Simpson Bay 40 acres Public Access, Canoe Passage, Orca Narrows Special Public Access Lands

The surface estate of lands to be conveyed to the United States in fee simple, within the Cordova Recording District, Third Judicial District State of Alaska:

COPPER RIVER MERIDIAN ALASKA

Surveyed Township 14 South, Range 4 West

Sec. 25, West Simpson Bay Public Access Subdivision Plat Number 98-____ filed

Lands to be acquired in Fee Simple by the State of Alaska, within the Cordova Recording District, Third Judicial District, State of Alaska:

COPPER RIVER MERIDIAN ALASKA

Surveyed Township 15 South, Range 5 West

Sec. 35, Entire

Sec. 36, Entire

according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted October 24, 1991, containing 1280.0 acres, more or less.

Surveyed Township 16 South, Range 4 West

Sec. 6, Lot 1, NE1/4NW1/4, N1/2NE1/4

according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted October 24, 1991, containing 157.49 acres, more or less.

Partially Surveyed Township 16 South, Range 5 West

Sec. 1, Entire

Sec. 2, Entire

Sec. 3, Excluding Canoe Passage Subdivision Plat Number 98-____ filed for record on

Sec. 4, S1/2

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

Sec. 10, W1/2, SE1/4, S1/2NE1/4

Sec. 11, S1/2, S1/2N1/2

Sec. 12, S1/2

according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted October 24, 1991, containing 2,997.04 acres, more or less.

Lands to be retained in fee, subject to a timber conservation easement, by The Eyak Corporation within the Cordova Recording District, Third Judicial District, State of Alaska:

COPPER RIVER MERIDIAN, ALASKA

Surveyed Township 15 South, Range 5 West

Sec. 27, Entire

Sec. 28, Lots 1, 2, & 3.

Sec. 33, Lots 1, 2, Excluding Canoe Passage Retreats Subdivision Plat

Sec. 34, Excluding Canoe Passage Retreats Subdivision Excluding Canoe Passage

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 22, 1987, and October 24, 1991, containing 1,305.03 acres, more or less.

Lands to be retained in fee, subject to a special access easement, by The Eyak Corporation within

BY 0075PG269

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

the Cordova Recording District, Third Judicial District, State of Alaska:

COPPER RIVER MERIDIAN, ALASKA

Surveyed Township 14 South, Range 3 West

Sec. 29, Lot 1, Excluding SE1/4NE1/4 (Sortyard Area)

Sec. 30, Lot 2,

Sec. 31, All.

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 22, 1987 and October 24, 1991, containing 1,017.77 acres, more or less.

Containing, in aggregate, 6,797.33 acres, more or less.

B: 00075PG270

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

APPENDIX K

Potential Reconveyance Lands Windy Bay on Hawkins Island

The surface estate of lands within the Cordova Recording District, Third Judicial District State of Alaska:

COPPER RIVER MERIDIAN, ALASKA

Surveyed Township 15 South, Range 3 West

Sec. 6, Lot 1

Sec. 7, Entire

Sec. 18, (fractional) NW,

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 22, 1987, December 22, 1995, and March 18, 1996, containing 856.79 acres, more or less.

Surveyed Township 15 South, Range 4 West

Sec. 8, Entire

Sec. 9, Entire

Sec. 10, Entire

Sec. 11, Entire

Sec. 12, Entire

Sec. 16, Entire

Sec. 17, Entire

Sec. 18, Excluding North Cedar Bay Subdivision Plat Number 98-_____ filed for

Sec. 19, Excluding North Cedar Bay Subdivision Plat Number 98-_____ filed for

Sec. 20, Entire

Sec. 21, Entire

Sec. 22, Entire

according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted October 24, 1991, containing 5,332.42 acres, more or less.

B# 0075PG271

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

Surveyed Township 15 South, Range 5 West

Sec. 23, Entire

Sec. 24, Excluding Cedar Bay Subdivision Plat Number 98-_____ filed for record on according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 22, 1987 and October 24, 1991, containing 271.97 acres, more or less.

Aggregating 6,461.18 acres, more or less.

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

APPENDIX L

Potential Reconveyance Lands Simpson Bay(East), Rude River, Orca Narrows

The surface estate of lands to be conveyed to the United States in fee simple, within the Cordova Recording District, Third Judicial District State of Alaska:

COPPER RIVER MERIDIAN, ALASKA

Partially Surveyed Township 13 South, Range 1 West

Sec. 19, Entire

according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted February 13, 1995, containing 467.00 acres, more or less.

Partially Surveyed Township 13 South, Range 2 West

Sec. 23, Entire,

Sec. 24, Entire,

Sec. 25, Entire,

Sec. 26, Entire,

Sec. 27, Entire,

according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted December 12, 1997, containing 2,668.00 acres, more or less.

Lands to be retained in fee, subject to a timber conservation easement, by The Eyak Corporation within the Cordova Recording District, Third Judicial District, State of Alaska:

COPPER RIVER MERIDIAN, ALASKA

Partially Surveyed Township 13 South, Range 2 West

Sec. 33, excluding USS No. 440

Sec. 34, excluding USS No. 440

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted December 12, 1997, containing 1,121.76 acres, more or less.

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

Partially Surveyed Township 14 South, Range 2 West

- Sec. 4, excluding USS No. 440
- Sec. 5, excluding USS No. 440
- Sec. 6, Entire
- Sec. 7, excluding USS No. 440
- Sec. 8, excluding USS No. 440
- Sec. 17, excluding USS No. 440
- Sec. 19, (fractional), all;
- Sec. 20, (fractional), all.

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 22, 1987 and October 24, 1991, containing 2,700.54 acres, more or less.

Surveyed Township 14 South, Range 3 West

- Sec. 12, Entire
- Sec. 13, Entire
- Sec. 14, Entire
- Sec. 15, Entire
- Sec. 16, Entire
- Sec. 21, Entire
- Sec. 22, Entire
- Sec. 23, Entire
- Sec. 28, Lot 1 and 2, Excluding sortyard

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 22, 1987 and October 24, 1991, containing 4,284.60 acres, more or less.

Lands to be acquired by Conservation Easements with Public Access, by the United States, within the Cordova Recording District, Third Judicial District, State of Alaska:

COPPER RIVER MERIDIAN, ALASKA

Surveyed Township 14 South, Range 3 West,

- Sec. 6, Entire
- Sec. 7, Entire
- Sec. 8, Entire
- Sec. 17, Entire
- Sec. 18, Entire
- Sec. 19, Excluding East Simpson Bay #4 Subdivision Plat Number 98-___ filed
- Sec. 20, Entire

B: 0075PG274

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 27, 1987 and October 24, 1991 containing 3,878.44 acres, more or less.

Surveyed Township 14 South, Range 4 West,

Sec. 1, Lot 5

Sec. 11, Lots 5, 6, 7, 8 & 9,

Sec. 12, Excluding East Simpson Bay #1 Subdivision Plat Number

Sec. 13, Entire

Sec. 14, Excluding East Simpson Bay #2 Subdivision Plat Number

Sec. 15, Lot 4

Sec. 23, Excluding East Simpson Bay #2 Subdivision Plat Number

Sec. 24, Excluding East Simpson Bay #5 Subdivision Plat Number

Sec. 26, Lots 1-7, Excluding East Simpson Bay #3 Subdivision Plat Number 98-

Sec. 27, Entire

according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted June 22, 1987 containing 2,382.55 acres, more or less.

Aggregating 17,502.89 acres, more or less.

B: 0075PG275

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

APPENDIX M

Eyak Selection Lands

Lands which have been selected and prioritized for conveyance to The Eyak Corporation and on which certain rights will be conveyed to the United States or State of Alaska

The surface estate of lands within the Valdez Recording District, Third Judicial District State of Alaska:

COPPER RIVER MERIDIAN, ALASKA

Partially Surveyed Township 13 South, Range 5 West

Sec. 3, Lots 1 and 2

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted September 14, 1995, June 22, 1987 and October 24, 1991, containing 493.72 acres, more or less.

The surface estate of lands within the Cordova Recording District, Third Judicial District State of Alaska:

COPPER RIVER MERIDIAN, ALASKA

Partially Surveyed Township 13 South, Range 4 West

Sec. 27, Entire

Sec. 33, Lot 1 and 2

Sec. 34, Lots 1, 2, 3 & 4

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 22, 1987 and October 24, 1991, containing 1,263.44 acres, more or less.

B1 0075PG276

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO
FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA
DEPARTMENT OF LAW.

Partially Surveyed Township 13 South, Range 5 West

- Sec. 11, Lots A, 1 and 2
- Sec. 14, Entire
- Sec. 15, Entire
- Sec. 22, Entire
- Sec. 26, Entire
- Sec. 27, Entire

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted September 14, 1995, June 22, 1987 and October 24, 1991 containing 2,061.36 acres, more or less.

Partially Surveyed Township 14 South, Range 2 West

- Sec. 6, Entire
- Sec. 31, Entire

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 22, 1987 and October 24, 1991, containing 1,231.17 acres, more or less.

Surveyed Township 14 South, Range 5 West

- Sec. 5, Entire

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 22, 1987 and October 24, 1991 containing 639.6 acres, more or less.

Partially Surveyed Township 15 South, Range 2 West

- Sec. 17, Entire

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted October 24, 1991 and June 22, 1987, containing 640.0 acres, more or less.

Surveyed Township 15 South, Range 3 West

- Sec. 4, Lots 2 & 3
- Sec. 7, SESE
- Sec. 8, Lot 3
- Sec. 9, Lots 1 & 3
- Sec. 11, USS 5103-14
- Sec. 14, USS 5103-14
- Sec. 18, rem Lot 2
- Sec. 19, rem Lot 2

B: 0075PG277

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

Sec. 24, Lot 2, USS 5103-14,
Sec. 25, Lot 2, USS 5103-12,
Sec. 35, Lot 2
Sec. 36, Lot 6,

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 22, 1987, December 22, 1995, and March 18, 1996, containing 797.49 acres, more or less.

Surveyed Township 15 South, Range 4 West

Sec. 8, Entire
Sec. 9, Entire
Sec. 10, Entire
Sec. 11, Entire
Sec. 12, Entire
Sec. 16, Entire
Sec. 17, Entire
Sec. 18, Entire
Sec. 19, Entire
Sec. 20, Entire
Sec. 21, Entire
Sec. 22, Entire
Sec. 24, Lots 1 & 2,

according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted October 24, 1991, containing 5,863.15 acres, more or less.

Surveyed Township 15 South, Range 5 West

Sec. 23, Entire
Sec. 24, Entire
Sec. 35, Entire
Sec. 36, Entire

according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted October 24, 1991, containing 1,579.57 acres, more or less.

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

Partially Surveyed Township 16 South, Range 2 West,
Sec. 6, Lot 2.

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 22, 1997 and October 24, 1991 containing 63.41 acres, more or less.

Partially Surveyed Township 16 South, Range 3 West,

Sec. 1, Lot 4
Sec. 11, Lots 1, 2, and 3;
Sec. 12, Lot 1;
Sec. 14, Lot 1;
Sec. 15, Lot 1.

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 22, 1997, October 24, 1991 and April 18, 1996 containing 1,452.25 acres, more or less.

Surveyed Township 16 South, Range 4 West

Sec. 6, Lot 1, NE1/4NW1/4, N1/2NE1/4

according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted October 24, 1991, containing 157.49 acres, more or less.

Partially Surveyed Township 16 South, Range 5 West

Sec. 3, NE1/4NE1/4, Lot 1, Excluding Canoe Passage Subdivision Plat Number 98-

Sec. 4, S1/2

Sec. 10, W1/2, SE1/4, S1/2NE1/4

Sec. 11, S1/2, S1/2N1/2

Sec. 12, S1/2

according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted October 24, 1991, containing 1,561.56 acres, more or less

Aggregating 17,825.95 acres, more or less.

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U. S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

APPENDIX N

State Conveyance Lands Part 2 at Canoe Passage

Lands to be acquired in Fee Simple by the State of Alaska, within the Cordova Recording District, Third Judicial District, State of Alaska:

COPPER RIVER MERIDIAN ALASKA

Partially Surveyed Township 16 South, Range 5 West

Sec. 1, Entire

Sec. 2, Entire

Sec. 3, SW1/4SW1/4, NW1/4SW1/4, SE1/4SW1/4, Lot 3, Lot 4, and Lot 5.

according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted October 24, 1991, containing 1,435.48 acres, more or less.

Containing, in aggregate, 1435.48 acres, more or less.

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

APPENDIX O

Federal Conveyance Lands Part 2 at Sheep Bay.

The surface estate of lands to be conveyed to the United States in fee simple, within the Cordova Recording District, Third Judicial District State of Alaska:

COPPER RIVER MERIDIAN, ALASKA

Partially Surveyed Township 13 South, Range 4 West

Sec. 26, Entire

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted June 22, 1987 and October 24, 1991, containing 640.0 acres, more or less.

Aggregating 640.0 acres, more or less.

B: 0075PG281

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE ALASKA DEPARTMENT OF LAW.

APPENDIX P

Federal Conveyance Lands Part 3 at Olsen Bay.

The surface estate of lands to be conveyed to the United States in fee simple, within the Valdez Recording District, Third Judicial District State of Alaska:

COPPER RIVER MERIDIAN, ALASKA

Partially Surveyed Township 13 South, Range 5 West

Sec. 7, Excluding USS 10239

Sec. 8, W1/2

according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted September 14, 1995, June 22, 1987 and October 24, 1991, containing 793.02 acres, more or less.

Aggregating 793.02 acres, more or less.

006

| | | |
|------------------|----------------|-----------|
| RECORDED - FILED | | NIC |
| CORDOVA | | REC. DIST |
| DATE | 01-06 | 19 99 |
| TIME | 2:30 | P.M. |
| Requested by | A.S./D. Agric. | |
| Address | | |

EXCHANGE AGREEMENT

THIS EXCHANGE AGREEMENT ("Exchange Agreement") is entered into by The Eyak Corporation ("Eyak"), a Native Village Corporation organized pursuant to the Alaska Native Claims Settlement Act, as amended, 43 U.S.C. 1601 *et. Seq.* ("ANCSA"), and the laws of the State of Alaska, whose address is P. O. Box 340, Cordova, Alaska 99574, and the United States of America ("United States"), acting by and through the U.S. Department of Agriculture, Forest Service, whose address is P. O. Box 21628, Juneau, Alaska 99802-1628 (together hereafter "the Parties"), in consideration of the interests in land herein described and other good and valuable considerations. The Parties hereby agree as follows:

WITNESSETH:

This Exchange Agreement authorizes the exchange of land and interests in land between the United States and Eyak. The purpose of this exchange is to facilitate the restoration of injured natural resources and reduced services resulting from the *Exxon Valdez* Oil Spill of March 24, 1989 ("EVOS") by enabling the implementation of the Agreement for the Sale and Purchase of Lands and Interests in Land Among the Eyak Corporation, the United States, and the State ("Lands Agreement" or "Agreement"). The Agreement provides for the purchase by the United States and the State of surface fee interests and conservation easements to certain lands owned by Eyak for the restoration of a portion of the injured resources and reduced services resulting from the EVOS. For these reasons, the Secretary of Agriculture has determined that the public interest will be well served by completing this exchange.

Pursuant to the authority of Section 22(f) of ANCSA, and Section 1302(h) of the Alaska National Interest Lands Conservation Act ("ANILCA"), Eyak agrees to convey to the United States the lands and interests in lands described in Appendix A, which consists of legal descriptions attached hereto and made a part hereof. In exchange therefor, the United States agrees to convey to Eyak the lands described in Appendix B, which consists of legal descriptions attached hereto and made a part hereof once the State of Alaska ("State") has relinquished its interests described in Appendix C as provided for in Section 3(f) of the Lands Agreement.

1. Eyak agrees to convey the following:

- (a) Eyak shall relinquish to the United States, through such documents as may be acceptable to the Department of the Interior, Bureau of Land Management, the U.S. Department of Justice, and the U.S. Department of Agriculture, 3,153 acres, more or less, of ANCSA Section 12(a) and 12(b) selection rights as described in Appendix A.

- (b) Eyak shall convey by special warranty deed, the form of which is Exhibit VII (Part 2) of the Lands Agreement, subject to the conservation easement conveyed to the State (Exhibit II, Part 2) and other applicable provisions of the Lands Agreement, the surface fee to 640 acres, more or less, as described in Appendix A.

Eyak agrees to convey the interests described in Appendix A to the United States and its assigns, together with all necessary documents required to convey good title, free from all encumbrances except those provided herein or acceptable to the United States.

2. In accordance with the Lands Agreement, following the amendment of the survey plat for T16S, R5W, CRM, the State has agreed to provide to the designated closing agent a document, acceptable in form to the State and the United States, prior to recordation of the deeds required by this Exchange Agreement that relinquishes to the United States its State selection rights to the lands described in Appendix C. Prior to recordation of the deeds, the designated closing agent shall provide the relinquishment to the Bureau of Land Management.
3. When title to the interests described in Appendix A is acceptable to the United States, and the State has relinquished its state selections to the lands described in Appendix C, the United States agrees to convey by quit claim deed, the surface fee to 2,228 acres, more or less, as described in Appendix B, subject to valid existing rights, reservations, and any encumbrances noted therein.
4. Eyak agrees that there shall be no development or timber harvesting on the land located in T 13S-R4W Sec. 26, Copper River Meridian, during the period from the time such land is interimly conveyed to Eyak until the closing on the Exchange Agreement.
5. The Forest Service agrees that the lands described in Appendix B shall continue to be managed under the Forest Plan for the Chugach National Forest until the closing on the Exchange Agreement.
6. The Parties agree not to do, or suffer others to do, any act by which the value of the real property that is the subject of this Exchange Agreement may be diminished or further encumbered other than as contemplated in this Exchange Agreement. In the event any such loss or damage occurs from any cause, including acts of God, to the real property described in Appendix A or B before execution of the conveyance documents, the Parties may refuse without liability to complete the exchange.
7. This Exchange Agreement shall be simultaneously executed with the Lands Agreement. The Parties agree to make a good faith effort to achieve closing on the Exchange Agreement as soon as possible after closing on the Lands Agreement. This Exchange Agreement terminates in the event that any of the Parties cannot convey good and sufficient title to the real property or to the interests in land agreed to be relinquished

or exchanged.

8. In accordance with Section 22(f) of ANCSA and Section 1302(h) of ANILCA, the United States and Eyak have, based on a consultation from the Forest Service Regional Appraiser, equalized the value of the interests exchanged to conform to public interest and equal value requirements. Nevertheless, the Secretary of Agriculture has determined that, if the mutual consideration flowing between Eyak and the United States is not of approximately equal value, then it is in the public interest to consummate such an exchange notwithstanding any inequality of values. Further, the Exchange Agreement will be provided to the appropriate Congressional Committees for notification.
9. No member of Congress or Resident Commissioner shall be admitted to any share or part of this Exchange Agreement or to any benefit that may arise therefrom unless it is made with a corporation for its general benefit (18 U.S.C. 431, 433).
10. For purposes of expeditious execution of this Exchange Agreement or any amendments hereto, this Exchange Agreement or any amendments may be signed in separate counterparts by the Parties, which, when all have so signed, shall be deemed a single Exchange Agreement or amendment hereto, and the effective date of the Exchange Agreement or any amendment hereto shall be the date upon which the last of the subscribed parties signs the Exchange Agreement or the amendment.

IN WITNESS WHEREOF, Eyak and the United States have executed this Exchange Agreement.

DATED this 31st day of December, 1998.

THE EYAK CORPORATION

By: Nancy C. Barnes
Nancy C. Barnes, President

STATE OF ALASKA)
) ss:
3rd JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the 31 day of December, 1998, before me, the undersigned, a Notary Public in and for the State of Alaska, commissioned and sworn, personally appeared NANCY C. BARNES, to me known to be the individual described and who executed the within and foregoing Eyak EXCHANGE AGREEMENT as President of The Eyak Corporation, the Corporation that executed the within and foregoing instrument, and acknowledged to me that he signed the same as President of The Eyak Corporation in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors and shareholders for the use and purposes therein mentioned.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

SEAL



Kay J. Rawlings
Notary Public in and for Alaska
My commission expires: 4/17/2002

DATED this 31st day of December, 1998.

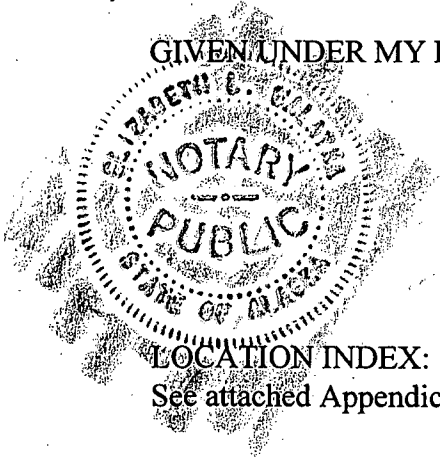
USDA FOREST SERVICE, ALASKA REGION

By: James A. Caplan
James A. Caplan
Acting Regional Forester

STATE OF ALASKA)
) ss.
1st JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the 31st day of December, 1998, at Juneau, Alaska, the foregoing instrument was acknowledged before me by JAMES A. CAPLAN, Acting Regional Forester, Alaska Region of the Forest Service within the Department of Agriculture of the United States of America, on behalf of the United States of America.

GIVEN UNDER MY HAND and official seal the day and year last above written.



Elizabeth C. White
Notary Public in and for Alaska
My commission expires: 10/10/2002

LOCATION INDEX:
See attached Appendices A, B and C

STATE BUSINESS - NO CHARGE

AFTER RECORDING RETURN TO:
U.S. Department of Agriculture
Forest Service
P.O. Box 21628
Juneau, Alaska 99802-1628

**DRAFT INSTRUMENT SUBJECT TO FINALL APPROVAL AND MODIFICATION AS
TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE
ALASKA DEPARTMENT OF LAW.**

APPENDIX A

Eyak land interests to be conveyed to the United States:

Sheep Bay

Surface estate, subject to conservation easement held by State of Alaska:

Copper River Meridian

| <u>Township</u> | <u>Range</u> | <u>Section</u> | <u>Description</u> | <u>Acres</u> |
|-----------------|--------------|----------------|--------------------|--------------|
| 13S, | 4W | 26 | Entire | 640 |

Miles Lake, Copper River

ANCSA Section 12(a) and (b) Selection rights to be conveyed or relinquished:

Copper River Meridian

| <u>Township</u> | <u>Range</u> | <u>Section</u> | <u>Description</u> | <u>Acres</u> |
|-----------------|--------------|----------------|--------------------|--------------|
| 14S, | 4E | 23 | Entire | 483.00 |
| | | 26 | Entire | 640.00 |
| | | 27 | Entire | 640.00 |
| | | 33 | Entire | 640.00 |
| | | 34 | Entire | 640.00 |
| | | 35 | W1/2NW1/4 | 80.00 |
| | | 35 | W1/2NE1/4NW1/4 | 20.00 |
| | | 35 | W1/2E1/2NE1/4NW1/4 | <u>10.00</u> |
| | | | | 3153.00 |

Aggregating 3,793 acres, more or less.

**DRAFT INSTRUMENT SUBJECT TO FINALL APPROVAL AND MODIFICATION AS
TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE
ALASKA DEPARTMENT OF LAW.**

APPENDIX B

United States land interests to be conveyed to Eyak:

Olsen Bay

Surface estate:

Copper River Meridian

| <u>Township</u> | <u>Range</u> | <u>Section</u> | <u>Description</u> | <u>Acres</u> |
|-----------------|--------------|----------------|--------------------------------|---------------|
| 13S, | 5W | 7 | Entire, excluding USS 10239 | 473.02 |
| | | 8 | W1/2 | <u>320.00</u> |
| | | | | 793.02 |

Canoe Passage

Surface estate:

Copper River Meridian

| <u>Township</u> | <u>Range</u> | <u>Section</u> | <u>Description</u> | <u>Acres</u> |
|-----------------|--------------|----------------|--------------------|--------------|
| 16S, | 5W | 1 | Entire | 602.52 |
| | | 2 | Entire | 630.43 |
| | | 3 | SWSW | 40.00 |
| | | | NWSW | 40.00 |
| | | | SESW | 40.00 |
| | | | Lot 3 | 13.59 |
| | | | Lot 4 | 35.72 |
| | | | Lot 5 | <u>33.22</u> |
| | | | | 1,435.48 |

Aggregating 2,228.50 acres, more or less.

**DRAFT INSTRUMENT SUBJECT TO FINALL APPROVAL AND MODIFICATION AS
TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF JUSTICE AND THE
ALASKA DEPARTMENT OF LAW.**

APPENDIX C

State Selection rights to be relinquished by the State of Alaska to the United States:

Canoe Passage

Surface estate:

Copper River Meridian

| <u>Township</u> | <u>Range</u> | <u>Section</u> | <u>Description</u> | <u>Acres</u> |
|-----------------|--------------|----------------|--------------------|--------------|
| 16S, | 5W | 1 | Entire | 602.52 |
| | | 2 | Entire | 630.43 |
| | | 3 | SWSW | 40.00 |
| | | | NWSW | 40.00 |
| | | | SESW | 40.00 |
| | | | Lot 3 | 13.59 |
| | | | Lot 4 | 35.72 |
| | | | Lot 5 | 33.22 |

Aggregating 1,435.48 acres, more or less.

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| | | |
|-------------------------|--------------|------------|
| RECORDED - FILED | | NIC |
| CORDOVA | | REC. DIST. |
| DATE | 01.06 | 1999 |
| TIME | 2:31 | P.M. |
| Requested by | AS/D. Agric. | |
| Address | | |

**AMENDMENT TO
AGREEMENT FOR SALE AND PURCHASE
OF LANDS AND INTERESTS IN LANDS
AMONG THE EYAK CORPORATION AND
UNITED STATES OF AMERICA AND
THE STATE OF ALASKA**

THIS AMENDMENT TO AGREEMENT FOR SALE AND PURCHASE OF LANDS AND INTERESTS IN LAND is entered into among The Eyak Corporation (Eyak), an Alaska Native Village Corporation, organized pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 *et seq.*, as amended ("ANCSA"), and duly organized under the business for profit laws of the State of Alaska; and the United States of America (United States); and the State of Alaska (State). Eyak, the United States and the State are collectively referred to as the "Parties."

WHEREAS, the Parties are parties to the Agreement for Sale and Purchase of Lands and Interests in Lands Among The Eyak Corporation and the United States of America and the State of Alaska dated December 31, 1998, recorded at Book 74, Page 640 through 920 and Book 75, Page 001 through 281, Cordova Recording District, Third Judicial District, State of Alaska, and at Book 137, Page 940 through Book 138, Page 218 in the Valdez Recording District, Third Judicial District, State of Alaska (the "Lands Agreement"); and

WHEREAS, Eyak and Cordova Electric Cooperative, Inc. ("Cooperative") entered into a lease agreement on May 14, 1997, recorded at Book 72, Page 444, Cordova Recording District, Third Judicial District, State of Alaska, as amended on December 28, 1998, recorded at Book 74, Page 612, Cordova Recording District, Third Judicial District, State of Alaska ("Lease Agreement"); and

WHEREAS, the Parties desire that the lands described in Appendix P, attached hereto and incorporated herein by reference, be excluded from the closing of the Lands Agreement ("Excluded Lands"); and

WHEREAS, the Lease Agreement provides that the Cooperative may lease no more than twenty-five acres of land ("Leased Lands"), which lands are to be surveyed after construction of a hydroelectric project ("Project"); and

WHEREAS, the Cooperative anticipates completing construction of the Project during the next year; and

WHEREAS, the Parties desire to close the Lands Agreement prior to completion of the Project and make completion of the Project's property survey one of the conditions precedent to the October 1, 2001 payment; and

WHEREAS, Eyak shall cause a property survey of the Project to be prepared as provided in the Lease Agreement, which area may not exceed twenty-five acres ("Surveyed Leased Lands"); and

WHEREAS, the Surveyed Leased Lands are not included in the lands and interest in lands to be conveyed by Eyak pursuant to the Lands Agreement; and

WHEREAS, Eyak shall convey the Excluded Lands less the Surveyed Leased Lands ("Power Creek Lands") pursuant to the Lands Agreement upon completion of certain conditions; and

WHEREAS, the Parties desire to amend the Lands Agreement accordingly and to correct typographical and other minor errors in the Lands Agreement;

NOW THEREFORE, in consideration of the mutual promises set forth herein, and other good and valuable consideration, the receipt and adequacy of which are acknowledged and confessed, the Parties hereby covenant and agree as follows:

1. **Definitions**. The definitions set forth in the Lands Agreement shall apply to this amendment.
2. **Lands Excluded From Closing**. The Excluded Lands shall be excluded from the closing of the Lands Agreement.
3. **No Development on Excluded Lands**. There shall be no development or timber harvesting on the Excluded Lands except for the Leased Lands and such immediately adjacent and adjoining lands as may be necessary for purposes of constructing the Project, however such adjacent area may not exceed ten acres in total.
4. **Property Survey**. As provided in the Lease Agreement, following completion of the Project, Eyak shall cause a property survey of the Project to be completed of the Surveyed Leased Lands.
5. **Hazardous Substance**. Following completion of the Project, the United States and/or the State shall cause a Hazardous Substance survey to be completed of the Power Creek Lands in order to establish that there are no Hazardous Substances on such lands.

6. Conveyance. Following completion of the property survey and completion of the Hazardous Substance survey establishing that there are no Hazardous Substances on the Power Creek Lands, Eyak shall convey the Power Creek Lands, as follows:

a. Eyak shall convey to the State, the State Conservation Easement with respect to the Power Creek Lands in satisfaction of the requirements of Paragraph 5 of the Lands Agreement.

b. Eyak shall convey to the United States by Warranty Deed all of the rights, title and interest of Eyak in the surface estate of the Power Creek Lands, reserving therefrom the easement for Subsistence Access and the right to enforce the restrictive covenant and other applicable provisions, which reservations the United States agrees to accept and further agrees to be bound by the terms thereof, and subject to the enforcement rights established in the related State Conservation Easement.

c. Subject only to causes beyond the reasonable control of Eyak or Cooperative, such as strikes, material shortages, fires, and other acts of God, which could not by the exercise of due diligence have been avoided (however, in no case later than September 30, 2002), if Eyak fails to complete the conveyances described in the foregoing subparagraphs on or before September 30, 2001, the United States may withhold any additional payments due pursuant to Paragraph 3(g) of the Lands Agreement until such conveyances are completed, or the Parties otherwise agree. The withholding of a payment or payments pursuant hereto shall not be deemed to be a default as described in Paragraph 4 of the Lands Agreement.

d. The Parties agree that contingencies that may arise with respect to this amendment shall be dealt with pursuant to Paragraph 18 of the Lands Agreement.

7. Errata. The Parties agree to amend the identified language of the Lands Agreement to state as follows:

a. Page iv:

Potential Reconveyance Lands (Sheep Bay, Sheep Bay Islands, Simpson Bay (West), Mud Bay/Deep Bay)...Appendix I

Potential Reconveyance Lands (Simpson Bay 40 acres public access parcel, Canoe Passage, Orca Narrows)...Appendix J

Potential Reconveyance Lands (Windy Bay)...Appendix K

Potential Reconveyance Lands (Rude River, Orca Narrows)...Appendix L

- b. Page 5, subparagraph 1.bb:

State Conveyance Lands. The term "State Conveyance Lands" as used herein shall mean together the State Conveyance Lands - Part 1 and the State Conveyance Lands - Part 2.

- c. Page 8, subparagraph 3(f), second sentence:

The Parties shall make a good faith effort to achieve closing on the Exchange Agreement as soon as possible after closing on the Lands Agreement and after the vote of concurrence of the shareholders of Eyak as described in subparagraph 20(b).

- d. Page 9, subparagraph 3(h), second and third sentences:

The United States shall exert its good faith best efforts to obtain all approvals, including court approval, so as to disburse the initial payment of \$13,000,000 into escrow in accordance with subparagraph 3(j) within the said sixty (60) day period, and, if the time period is extended, will endeavor in good faith to complete the disbursement as soon as reasonably practical within the extended time period. In the event the United States fails to make timely disbursement, Eyak shall have the right, but not the obligation, to extend the closing further in order to complete the transaction as otherwise agreed to by the Parties upon satisfaction of the conditions precedent set forth in paragraph 7.

- e. Page 9, subparagraph 3(i), second sentence:

The Parties shall execute and provide written closing instructions to the closing agent no later than three days prior to the date of closing, which instructions shall provide, among other things, that documents will be recorded when the United States can disburse the initial payment of \$13,000,000 into escrow in accordance with subparagraph 3(j).

- f. Page 9, subparagraph 3(j), second sentence:

The escrow agent shall hold the initial payment of \$13,000,000 and instruments necessary or desirable to effect the terms of this Agreement, including deeds of reconveyance from Rayonier, Inc. to Eyak.

- g. Page 20, subparagraph 20(b), third sentence:

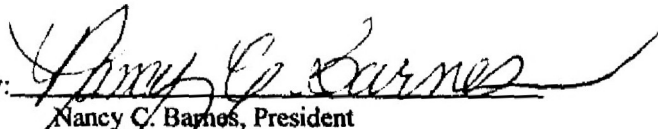
The United States shall pay the reasonable documented expenses, up to \$100,000, incurred by Eyak for the additional shareholder ratification vote in accordance with the resolution of the Trustee Council dated December 30, 1998.

- i. The attached Appendix I (as amended), Appendix J (as amended), Appendix K (as amended), and Appendix L (as amended), shall be substituted in full for the same appendices attached to the Lands Agreement.

8. Effectiveness of Lands Agreement. Except as set forth in this amendment, all of the provisions of the Lands Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Amendment to the Lands Agreement as of the date herein written.

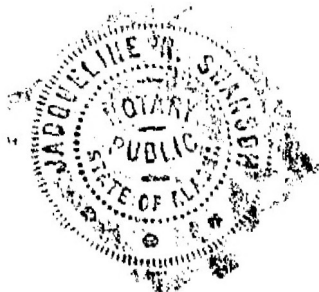
THE EYAK CORPORATION

By: 
Nancy C. Barnes, President

STATE OF ALASKA)
) ss:
FIRST JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the 2 day of February, 1999, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared NANCY C. BARNES to me known to be the individual described in and who executed the within and foregoing AMENDMENT TO AGREEMENT FOR SALE AND PURCHASE OF LANDS AND INTERESTS IN LAND as President of The Eyak Corporation, the Corporation that executed the within and foregoing instrument, and acknowledged to me that he signed the same as President of The Eyak Corporation in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors and shareholders for the use and purposes therein mentioned.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal
the day and year first above written.



Jacqueline R. Swanson
Notary Public in and for Alaska
My commission expires: 11/16/2000

STATE OF ALASKA, DEPARTMENT OF
NATURAL RESOURCES

By: Marty Rutherford
Marty Rutherford
Deputy Commissioner

STATE OF ALASKA)
) ss:
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the 4th day of February, 1999, at
Anchorage, Alaska, the foregoing AMENDMENT TO AGREEMENT FOR SALE AND
PURCHASE OF LANDS AND INTERESTS IN LAND was acknowledged before me by MARTY
RUTHERFORD, Deputy Commissioner of the Department of Natural Resources of the State of
Alaska on behalf of the State of Alaska.



GIVEN UNDER MY HAND and official seal the day and year last above written.

Susan E. Smith
Notary Public in and for Alaska
My commission expires: 05/15/02

UNITED STATES OF AMERICA

By: James Caplan
James Caplan
Acting Regional Forester

STATE OF ALASKA)
) ss:
FIRST JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the 2 day of February, 1999, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared JAMES CAPLAN, personally known to me, and known to me to be the Acting Regional Forester, Region 10, Forest Service, United States Department of Agriculture, and who as such executed the foregoing AMENDMENT TO AGREEMENT FOR THE SALE AND PURCHASE OF LANDS AND INTERESTS IN LANDS Among The Eyak Corporation and the United States of America and the State of Alaska (Amendment), and acknowledged that the said Amendment is the free act and deed of the United States of America, and that he executed the same as Acting Regional Forester, Region 10, Forest Service, Department of Agriculture, for the use and purposes therein expressed and with full authority to do so.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal
this 2 day of February, 1999.



Jacqueline R. Swanson
Notary Public in and for Alaska
My commission expires: 11/16/2000

AFTER RECORDING RETURN TO:
U.S. Department of Agriculture
Forest Service
P.O. Box 21628
Juneau, Alaska 99802-1628

62077LC17595

APPENDIX P

Excluded Lands at Power Creek

Partially surveyed Township 15 South, Range 2 West, C.R.M., according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted May 6, 1987 and September 30, 1991:

Section 4; SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Section 5; S $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, excluding Tract A of North
Eyak Lake Gravel Pit Tract, Plat No. 98-32 recorded November 6,
1998, Cordova Recording District;
Section 8; NE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$;
Section 9; N $\frac{1}{2}$ N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$.

Containing in aggregate, 638 acres, more or less.

APPENDIX I

Potential Reconveyance Lands (Sheep Bay, Sheep Bay Islands, Simpson Bay (West),
Mud Bay/Deep Bay)

Federal Conveyance Lands:

Partially surveyed Township 13 South, Range 4 West, C.R.M., according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted May 6, 1987 and September 30, 1991:

Section 27 (fractional), all,
Section 33 Lots 1 and 2,
Section 34 Lots 1, 2, 3 and 4.

All of the Sheep Bay Paper Plat 1998, Plat 98-5, recorded May 14, 1998,
Cordova Recording District:

Section 32.

Surveyed Township 14 South, Range 4 West, C.R.M., according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted May 6, 1987:

Section 4 Lot 3,

All of the Simpson Bay Paper Plat 1998, Plat No. 98-9 recorded May 14, 1998,
Cordova Recording District:

G'Lot 3 (Sec. 1),
G'Lot 4 (Sec. 1),
G'Lot 1 (Sec. 2),
G'Lot 2 (Sec. 2),
G'Lot 3 (Sec. 2),
Section 3,
G'Lot 1 (Sec. 4),
G'Lot 2 (Sec. 4),
G'Lot 4 (Sec. 4),
G'Lot 5 (Sec. 4),
G'Lot 6 (Sec. 4),
G'Lot 7 (Sec. 4),
G'Lot 8 (Sec. 4),
G'Lot 9 (Sec. 4),
G'Lot 1 (Sec. 5),

G'Lot 1 (Sec. 6),
G'Lot 3 (Sec. 7),
G'Lot 5 (Sec. 7),
G'Lot 1 (Sec. 8),
G'Lot 3 (Sec. 8),
G'Lot 4 (Sec. 8),
G'Lot 5 (Sec. 8),
G'Lot 6 (Sec. 8),
Section 9,
G'Lot 1 (Sec. 10),
excluding therefrom Lots 1, 2 and 3, Block 2, of West
Simpson Bay Subdivision, Plat No. 98-25 recorded August
17, 1998, Cordova Recording District,
G'Lot 1 (Sec. 11),
G'Lot 2 (Sec. 11),
G'Lot 3 (Sec. 11),
G'Lot 4 (Sec. 11),
G'Lot 1 (Sec. 15),
G'Lot 2 (Sec. 15),
G'Lot 3 (Sec. 15),
G'Lot 5 (Sec. 15),
G'Lot 6 (Sec. 15),
Section 16,
Section 17,
G'Lot 1 (Sec. 18),
G'Lot 2 (Sec. 18),
G'Lot 1 (Sec. 19),
G'Lot 2 (Sec. 19),
Section 20,
G'Lot 1 (Sec. 21),
G'Lot 2 (Sec. 21),
G'Lot 3 (Sec. 21),
G'Lot 4 (Sec. 21),
G'Lot 1 (Sec. 30),
G'Lot 2 (Sec. 30),
Section 31.

Surveyed Township 14 South, Range 5 West, C.R.M., according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted May 6, 1987 and September 30, 1991:

All of the following parcels within Orca Bay Paper Plat 1998, Plat No. 98-3 recorded May 14, 1998, Cordova Recording District:

Section 1,
Section 2,
Section 7,
Section 8,
Section 9,
Section 10,
Section 11,
Lot 1 (Sec. 12),
Lot 2, Sec. 12),
Section 14,
Section 15,
Section 16,
Section 17,
Section 18,
Section 19,
Section 20,
Section 21,
Section 29,
Section 30.

Surveyed Township 15 South, Range 3 West, C.R.M., according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted May 6, 1987, December 4, 1995, and March 1, 1996:

- Section 4 Lots 2 and 3,
Section 8 Lot 3, excluding Lot 3A (Sec. 8) of Hawkins Island Paper Plat 1998, Plat No. 98-4 recorded May 14, 1998, as amended by Paper Plat No. 98-52, recorded December 30, 1998, Cordova Recording District, and further excluding Deep Bay Subdivision, Plat No. 98-29 recorded August 17, 1998, Cordova Recording District, and which was described as "that portion of lot 3 lying between Interim Conveyance No. 127 and the City of Cordova's 2-mile boundary" in Interim Conveyance No. 1772 dated December 9, 1998,
Section 18 Lot 2, excluding therefrom Lot 2A (Sec. 18) of Hawkins Island Paper Plat 1998, Plat No. 98-4 recorded May 14, 1998, as amended by Paper Plat No. 98-52, recorded December 30, 1998, Cordova Recording District, and which was described as "Sec. 18, that portion of lot 2 lying between Interim Conveyance No. 127 and the City of Cordova's 2-mile boundary" in Interim Conveyance No. 1772 dated December 9, 1998,
Section 19 Lot 2, excluding therefrom Lot 2A (Sec. 19) of Hawkins Island Paper Plat 1998, Plat No. 98-4 recorded May 14, 1998, as amended by Paper Plat No. 98-52, recorded December 30, 1998, Cordova

Recording District, and which was described as "Sec. 19, that portion of lot 2 lying between Interim Conveyance No. 127 and the City of Cordova's 2-mile boundary" in Interim Conveyance No. 1772 dated December 9, 1998,

All of the Hawkins Island Paper Plat, Plat No. 98-4 recorded May 14, 1998, as amended by Paper Plat No. 98-52, recorded December 30, 1998, Cordova Recording District:

G-Lot 3A (Sec. 8), excluding the Deep Bay Subdivision, Plat No. 98-29 recorded August 17, 1998, Cordova Recording District,
G'Lot 1 (Sec. 9),
G-Lot 2A (Sec. 18),
G-Lot 2A (Sec. 19), excluding therefrom Lots 1, 2 and 3, Block 2, Lot 1, Block 3, and Lots 1, 2 and 3, Block 4, of the Mud Bay Subdivision, Plat No. 98-30 recorded August 17, 1998 and amended by Plat No. 98-46 recorded December 11, 1998, Cordova Recording District, and further excluding therefrom the Conrad Johnson Property, Plat No. 98-31 recorded November 6, 1998, Cordova Recording District.

Surveyed Township 15 South, Range 4 West, C.R.M., according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted September 30, 1991:

Section 24 Lots 1 and 2, excluding Lots 1 and 2, Block 1, Mud Bay Subdivision, Plat No. 98-30 recorded August 17, 1998 and amended by Plat No. 98-46 recorded December 11, 1998, Cordova Recording District, and further excluding Mud Bay Subdivision Addition No. 1, Block 1, Lot 1, Plat No. 98-49 recorded December 14, 1998, Cordova Recording District.

Eyak Conservation Easement Lands:

Surveyed Township 14 South, Range 4 West, C.R.M. according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted May 6, 1987.

Section 5 Lots 2, 3, 4, 5 and 6, excluding Sheep Bay Island No. 2 Subdivision, Lots 1, 2, and 3, Block 1, and Lots 1, 2 and 3, Block 2, Plat No. 98-13, recorded August 17, 1998, Cordova Recording District,
Section 6 Lots 2 and 3,
Section 7 Lots 1, 2 and 4, excluding Sheep Bay Island No. 3 Subdivision, Lots 1, 2 and 3, Block 1, Lots 1 and 2, Block 2, Lot 1, Block 3, and Tract

A, Plat No. 98-14, recorded August 17, 1998, Cordova Recording District,
Section 8 Lot 2,
Section 10 Lot 2, excluding West Simpson Bay Subdivision Lots 1, 2 and 3,
Block 1, Plat 98-25, recorded August 17, 1998, Cordova Recording District,
Section 11 Lots 7 and 8, excluding West Simpson Bay Subdivision, Lots 1, 2,
and 3, Block 1, Plat 98-25, recorded August 17, 1998, Cordova Recording District.

Timber Conservation Easement Lands:

Surveyed Township 15 South, Range 3 West, C.R.M. according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted May 6, 1987.

Section 8 Lot 1,
Section 9 Lot 3.

APPENDIX J

Potential Reconveyance Lands (Simpson Bay 40 acres public access parcel, Canoe Passage, Orca Narrows)

Timber Conservation Easement Lands:

Surveyed Township 15 South, Range 5 West, C.R.M. according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted May 6, 1987.

Section 27 (fractional), all,
Section 28 Lots 1, 2 and 3.

Tracts A, B and C of Canoe Passage Retreats, Plat No. 84-5 filed for record August 30, 1984, Cordova Recording District.

Partially surveyed Township 16 South, Range 5 West, C.R.M. according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted September 30, 1991.

Section 3 Lot 2.

State Conveyance Lands:

Surveyed Township 15 South, Range 5 West, C.R.M. according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted September 30, 1991:

Section 35 all,
Section 36 all.

Surveyed Township 16 South, Range 4 West, C.R.M. according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted September 30, 1991:

Section 6 Lot 1, NE1/4NW1/4, N1/2NE1/4.

Partially surveyed Township 16 South, Range 5 West, C.R.M. according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted September 30, 1991:

- Section 3 Lots 1, 6, 7, 8, 9, 10 and 11, NE1/4NE1/4, excluding Canoe Passage Subdivision, Plat No. 98-26 recorded August 17, 1998 and amended by Plat No. 98-48 recorded December 11, 1998, Cordova Recording District,
Section 4 Protracted S1/2,
Section 10 Protracted W1/2, SE1/4, S1/2NE1/4,
Section 11 Protracted (fractional) S1/2, S1/2N1/2,
Section 12 Protracted (fractional), S1/2NW1/4, NW1/4SW1/4.

Federal Conveyance Lands:

Surveyed Township 14 South, Range 4 West, C.R.M., according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted May 6, 1987:

East Simpson Bay - Tract A Subdivision, Plat No. 98-24 recorded August 17, 1998, Cordova Recording District (within Section 25).

APPENDIX K

Potential Reconveyance Lands (Windy Bay)

Federal Conveyance Lands:

Surveyed Township 14 South, Range 3 West, C.R.M.:

All of the Salmo Point Paper Plat, Plat No. 98-6 recorded May 14, 1998, Cordova Recording District:

G'Lot 2 (Sec. 32),
Section 33, all.

Surveyed Township 15 South, Range 3 West, C.R.M., according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted May 6, 1987, December 4, 1995, and March 1, 1996:

Section 7 Lot 1, excluding Lot 1A (Sec. 7) of Hawkins Island Paper Plat 1998, Plat No. 98-4 recorded May 14, 1998, as amended by Paper Plat No. 98-52, recorded December 30, 1998, Cordova Recording District, which was described as "Sec. 7, that portion of lot 1 lying between Interim Conveyance No. 127 and the City of Cordova's 2-mile boundary" in Interim Conveyance No. 1772 dated December 9, 1998,

All of the Hawkins Island Paper Plat, Plat No. 98-4 recorded May 14, 1998, as amended by Paper Plat No. 98-52, recorded December 30, 1998, Cordova Recording District:

G'Lot 1 (Sec. 4),
G'Lot 1 (Sec. 5), excluding the Narrows Subdivision, Plat No. 98-28 recorded August 17, 1998, Cordova Recording District, and further excluding the Deep Bay Subdivision, Plat No. 98-29 recorded August 17, 1998, Cordova Recording District,
G'Lot 2 (Sec. 5),
G'Lot 1 (Sec. 6),
G'Lot 1A (Sec. 7),

Surveyed Township 15 South, Range 4 West, C.R.M., according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted September 30, 1991:

Section 8 Lots 1, 2 and 3,

Section 9 (fractional), all,
Section 10 (fractional), all,
Section 11 (fractional), all,
Section 12 (fractional), all,
Section 16 (fractional), all,
Section 17 Lots 1, 2, 3, 4 and 5,
Section 18 (fractional), all, excluding Cedar Bay Subdivision, Plat No. 98-27
recorded August 17, 1998 and amended by Plat No. 98-45 recorded
December 11, 1998, Cordova Recording District,
Section 19 (fractional), all, excluding Cedar Bay Subdivision, Plat No. 98-27
recorded August 17, 1998 and amended by Plat No. 98-45 recorded
December 11, 1998, Cordova Recording District,
Section 20 (fractional), all,
Section 21 Lots 1 and 2,
Section 22 all.

Surveyed Township 15 South, Range 5 West, C.R.M., according to the official United
States of America, Department of the Interior, Bureau of Land Management plat
accepted September 30, 1991:

Section 23 Lots 1, 2 and 3,
Section 24 Lots 1, 2, 3, 4, 5, 6, 7 and 8, SE1/4SE1/4, excluding Cedar Bay
Subdivision, Plat No. 98-27 recorded August 17, 1998 and
amended by Plat No. 98-45 recorded December 11, 1998, Cordova
Recording District.

APPENDIX L

Potential Reconveyance Lands (Rude River, Orca Narrows)

Federal Conveyance Lands:

Partially surveyed Township 13 South, Range 1 West, C.R.M.:

Section 19 protracted (fractional), all.

Partially surveyed Township 13 South, Range 2 West, C.R.M.:

Section 23 protracted (fractional), all,
Section 24 protracted (fractional), all,
Section 25 protracted (fractional), all,
Section 26 protracted (fractional), all,
Section 27 protracted (fractional), all.

Timber Conservation Easement Lands:

Partially surveyed Township 13 South, Range 2 West, C.R.M. according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted September 30, 1991.

Section 33 all,
Section 34 Protracted, all.

Partially surveyed Township 14 South, Range 2 West, C.R.M. according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted May 6, 1987 and September 30, 1991.

Section 4 excluding Lot 2,
Section 5
Section 6 all,
Section 7 (fractional),
Section 8 Lot 1.

Surveyed Township 14 South, Range 3 West, C.R.M. according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted May 6, 1987 and September 30, 1991.

Section 12 all,
Section 13 (fractional), all,
Section 14 (fractional), all,

Section 15 all,
Section 16 all,
Section 21 (fractional), all,
Section 22 (fractional), all,
Section 23 (fractional), all,
Section 27 Lot 1,
Section 28 Lots 1 and 2,

Eyak Conservation Easement Lands:

Surveyed Township 14 South, Range 3 West, C.R.M. according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted May 6, 1987 and September 30, 1991.

Section 6 all,
Section 7 all,
Section 8 all,
Section 17 Lots 1 and 2,
Section 18 Lots 1, 2 and 3,
Section 19 Lots 1 and 2, excluding East Simpson Bay Subdivision #4, Tract A, Plat No. 98-18, recorded August 17, 1998, Cordova Recording District; and further excluding East Simpson Bay Subdivision #5, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10, Plat No. 98-19, recorded August 17, 1998, Cordova Recording District,
Section 20 all.

Surveyed Township 14 South, Range 4 West, C.R.M. according to the official United States of America, Department of the Interior, Bureau of Land Management plat accepted May 6, 1987.

Section 1 Lot 5,
Section 11 Lots 5, 6, and 9,
Section 12 (fractional), all, excluding East Simpson Bay Subdivision #1, Lots 1 and 2, Plat No. 98-15, recorded August 17, 1998, Cordova Recording District,
Section 13 (fractional), all,
Section 14 (fractional), all, excluding East Simpson Bay Subdivision #2, Lots 1 and 2, Block 1, Lots 1 and 2, Block 2, Lots 1, 2, 3 and 4, Block 3, Plat 98-16, recorded August 16, 1998, Cordova Recording District,
Section 15 Lot 4,
Section 23 Lot 1, 2, 3 and 4, excluding East Simpson Bay Subdivision #2, Lots 1 and 2, Block 1, Lots 1 and 2, Block 2, Lots 1, 2, 3 and 4, Block 3, Plat 98-16, recorded August 16, 1998, Cordova Recording District; and

further excluding East Simpson Bay Subdivision #3, Lots 1, 2, 3, 4, 5, 6 and 7, Block 1, and Lot 1, Block 2, Plat No. 98-17, recorded August 17, 1998, Cordova Recording District; and further excluding East Simpson Bay Subdivision #6, Lots 1, 2 and 3, Block 1, Plat No. 98-20, recorded August 17, 1998, Cordova Recording District; and further excluding East Simpson Bay Subdivision #7, Lots 1 and 2, Plat No. 98-21, recorded August 17, 1998, Cordova Recording District; and further excluding East Simpson Bay Subdivision #8, Lot 1, Plat No. 98-22, recorded August 17, 1998, Cordova Recording District; and further excluding East Simpson Bay Subdivision #9, Lots 1, 2 and 3, Plat No. 98-23, recorded August 17, 1998, Cordova Recording District,

Section 24 Lots 1, 2, 3, 4, 5 and 6, excluding East Simpson Bay Subdivision #5, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10, Plat No. 98-19, recorded August 17, 1998, Cordova Recording District,

Section 26 Lots 1, 2, 3, 4, 5, 6 and 7, excluding East Simpson Bay Subdivision #3, Lots 1, 2, 3, 4, 5, 6 and 7, Block 1, and Lot 1, Block 2, Plat No. 98-17, recorded August 17, 1998, Cordova Recording District,

Section 27 Lots 1, 2 and 3,

Simpson Bay Paper Plat 1998, Plat No. 98-9, recorded May 14, 1998, Cordova Recording District:

G'Lot 1 (Sec. 1)

G'Lot 2 (Sec. 1)

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| RECORDED - FILED | | N/C-CC |
| CORDOVA REC. DIST. | | |
| DATE | 2-5 | 19 99 |
| TIME | 12:25 | P.M. |
| Requested by | Deputy Law | |
| Address | | |



**SECOND AMENDMENT TO
AGREEMENT FOR SALE AND PURCHASE
OF LANDS AND INTERESTS IN LANDS
AMONG THE EYAK CORPORATION AND
UNITED STATES OF AMERICA AND
THE STATE OF ALASKA**

CC

THIS AMENDMENT TO AGREEMENT FOR SALE AND PURCHASE OF LANDS AND INTERESTS IN LAND is entered into among The Eyak Corporation (Eyak), an Alaska Native Village Corporation, organized pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 *et seq.*, as amended ("ANCSA"), and duly organized under the business for profit laws of the State of Alaska; and the United States of America (United States); and the State of Alaska (State). Eyak, the United States and the State are collectively referred to as the "Parties."

WHEREAS, the Parties are parties to the Agreement for Sale and Purchase of Lands and Interests in Lands Among The Eyak Corporation and the United States of America and the State of Alaska dated December 31, 1998, recorded at Book 74, Page 640 through 920 and Book 75, Page 001 through 281, Cordova Recording District, Third Judicial District, State of Alaska, and at Book 137, Page 940 through Book 138, Page 218 in the Valdez Recording District, Third Judicial District, State of Alaska (the "Lands Agreement"); and

WHEREAS, Eyak and Cordova Electric Cooperative, Inc. ("Cooperative") entered into a lease agreement on May 14, 1997, recorded at Book 72, Page 444, Cordova Recording District, Third Judicial District, State of Alaska, as amended on December 28, 1998, recorded at Book 74, Page 612, Cordova Recording District, Third Judicial District, State of Alaska ("Lease Agreement"); and

WHEREAS, the Lease Agreement provides that the Cooperative may lease twenty-five acres of land ("Leased Lands"), which lands were to be surveyed after construction of the hydroelectric project ("Project") to be constructed at Power Creek; and

WHEREAS, in the "Amendment to Agreement for Sale and Purchase of Lands and Interests in Lands Among the Eyak Corporation and United States of America and the State of Alaska", approved by the Parties previously and recorded at Book 75, Pages 424 through 443, Cordova Recording District, Third Judicial District, State of Alaska, and Book 138, Pages 506 through 525, Valdez Recording District, Third Judicial District, State of Alaska, the Parties agreed that Eyak

would cause a property survey to be prepared as provided in the Lease Agreement not to exceed twenty-five acres; and

WHEREAS, because of the unanticipated need by the Cooperative to utilize a small number of additional acres for purposes of protecting the power production facilities at Power Creek against avalanches in the area; and

WHEREAS, because of the unanticipated desire by the United States that Eyak retain several small parcels of land in and around the original "footprint" of the power site that would fill in the gaps in land ownership and thereby insure such ownership was more manageable once Eyak finalized the last conveyance of lands around Power Creek to the United States pursuant to the Lands Agreement and that would, when combined with those lands needed for avalanche mitigation purposes, total approximately 7.8 acres; and

WHEREAS, the Shareholder Resolutions approving the Lands Agreement and the Amendment to that Agreement provide ample authorization and direction for the officers of Eyak to make such amendments to or modifications of the Lands Agreement (or Exhibits or Appendices thereto) and/or to the Amendment to the Lands Agreement as may be necessary, convenient, appropriate or helpful to enable Eyak to receive the benefits to Eyak thereunder, so long as such amendments or modifications do not materially change the general substance or general economics of the Lands Agreement (or the Exhibits or Appendices thereto) or the Amendment to Lands Agreement;

WHEREAS, the Board of Directors of the Eyak Corporation has concluded that the minor boundary adjustment of the parcel of land at Power Creek that Eyak is to retain under the Lands Agreement, necessitated and provided as discussed above and reflected on the plat recorded previously, is of a nature and required for such reasons so as to be considered a modification within the authority granted by prior Eyak Shareholder Resolutions and does not materially change the general substance or general economics of the Lands Agreement (or the Exhibits or Appendices thereto) or the Amendment to the Lands Agreement;

WHEREAS, the Parties desire to make this minor amendment to the Lands Agreement;

WHEREAS, the Power Creek Lands (Appendix B) are not included in the lands and interest in lands to be conveyed by Eyak pursuant to the Lands Agreement; and

WHEREAS, the Parties intend that the lands described in Appendix A, attached hereto and incorporated herein by reference be conveyed to the United States with a conservation easement to the State provided in the Lands Agreement; and

NOW THEREFORE, in light of the foregoing, and in consideration of the mutual promises set forth herein, and other good and valuable consideration, the receipt and adequacy of which are acknowledged and confessed, the Parties hereby covenant and agree as follows:

1. The Parties agree to amend the amount of Eyak lands to be conveyed to the United States with a conservation easement to the State to an aggregate amount of approximately 605.19 acres (Appendix A) and to amend the amount of Eyak lands that will be retained by Eyak at the Power Creek Hydroelectric Site to approximately 32.81 acres (Appendix B);

2. Eyak shall convey to the United States by Warranty Deed all of the rights, title and interest of Eyak in the surface estate of the lands described in Appendix A in the Power Creek area, reserving therefrom the easement for Subsistence Access and the right to enforce the restrictive covenants and other applicable provisions, which reservations the United States agrees to accept and further agrees to be bound by the terms thereof, and subject to the enforcement rights established in the related State Conservation Easement.

3. The Parties agree that contingencies that may arise with respect to this amendment shall be dealt with pursuant to Paragraph 18 of the Lands Agreement.

IN WITNESS WHEREOF, the Parties have executed this Amendment to the Lands Agreement as of the date herein written.

THE EYAK CORPORATION

By: Nancy C. Barnes
Nancy C. Barnes, President

STATE OF ALASKA)
) ss:
FIRST JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the 2nd day of October, 2002, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared NANCY C. BARNES to me known to be the individual described in and who executed the within and foregoing SECOND AMENDMENT TO AGREEMENT FOR SALE AND PURCHASE OF LANDS AND INTERESTS IN LAND as President of The Eyak Corporation, the Corporation that executed the within and foregoing instrument, and acknowledged to me that he signed the same as President of The Eyak Corporation in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors and shareholders for the use and purposes therein mentioned.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal
the day and year first above written.

Dawn M. Collinsworth
Notary Public in and for Alaska
My commission expires: 7/22/04

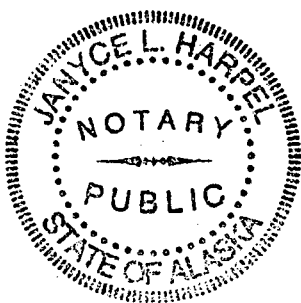
**STATE OF ALASKA, DEPARTMENT OF
NATURAL RESOURCES**

By: Marty Rutherford
Marty Rutherford
Deputy Commissioner

STATE OF ALASKA)
) ss:
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the 3 day of October, 2002, at
Anchorage, Alaska, the foregoing SECOND AMENDMENT TO AGREEMENT FOR SALE
AND PURCHASE OF LANDS AND INTERESTS IN LAND was acknowledged before me by
MARTY RUTHERFORD, Deputy Commissioner of the Department of Natural Resources of the
State of Alaska on behalf of the State of Alaska.

GIVEN UNDER MY HAND and official seal the day and year last above written.



Janyce L. Harpel
Notary Public in and for Alaska
My commission expires: 5.12.2006

UNITED STATES OF AMERICA

By: Dennis E. Bschor
Dennis E. Bschor
Regional Forester

STATE OF ALASKA)
) ss:
FIRST JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the 2 day of October, 2002, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared Dennis E. Bschor, personally known to me, and known to me to be the Regional Forester, Region 10, Forest Service, United States Department of Agriculture, and who as such executed the foregoing SECOND AMENDMENT TO AGREEMENT FOR THE SALE AND PURCHASE OF LANDS AND INTERESTS IN LANDS Among The Eyak Corporation and the United States of America and the State of Alaska (Amendment), and acknowledged that the said Amendment is the free act and deed of the United States of America, and that he executed the same as Regional Forester, Region 10, Forest Service, Department of Agriculture, for the use and purposes therein expressed and with full authority to do so.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal
this 2 day of October, 2002.

Jacqueline R. Swanson
Notary Public in and for Alaska
My commission expires: 11/16/2004

AFTER RECORDING RETURN TO:
U.S. Department of Agriculture
Forest Service
P.O. Box 21628
Juneau, Alaska 99802-1628

6207LCJ7595



APPENDIX A

Lands at Power Creek to be Conveyed to the United States by U.S. Warranty Deed

Partially surveyed Township 15 South, Range 2 West, C.R.M., according to the official United States of America, Department of the Interior, Bureau of Land Management plats accepted May 6, 1987 and September 30, 1991:

Section 4 SE1/4NE1/4, SE1/4, E1/2SW1/4, SW1/4SW1/4, excluding Tracts B, C, E and F of the Power Creek Hydroelectric Tracts, Plat 2001-12, recorded September 24, 2001, Cordova Recording District;

Section 5 S1/2SE1/4, SE1/4SW1/4, excluding Tract A of North Eyak Gravel Pit Tract, Plat No. 98-32 recorded November 6, 1998, Cordova Recording District, and further excluding Tract A of the North Eyak Lake Conservation Tract, Plat No. 98-33 recorded November 6, 1998, and amended by Plat No. 98-47 recorded December 11, 1998, and further excluding Tracts A and B of the Power Creek Hydroelectric Tracts, Plat 2001-12; recorded September 24, 2001, Cordova Recording District;

Section 8 NE1/4NW1/4, N1/2NE1/4, excluding Tract A of North Eyak Lake Conservation Tract, Plat No. 98-33 recorded November 6, 1998, and amended by Plat No. 98-47 recorded December 11, 1998, and further excluding Tracts A, B and D of the Power Creek Hydroelectric Tracts, Plat 2001-12, recorded September 24, 2001, Cordova Recording District;

Section 9 N1/2N1/2NW1/4NE1/4, N1/2NW1/4, excluding Tracts D, E and F of the Power Creek Hydroelectric Tracts, Plat 2001-12, recorded September 24, 2001, Cordova Recording District.

Containing in aggregate, 605.19 acres, more or less.

APPENDIX B

Power Creek Lands

Lands to be Retained by Eyak for the Power Creek Hydroelectric Site Lease

Tracts A, B, C, D, E and F all as shown on the plat entitled Power Creek Hydroelectric Tracts, a subdivision of Eyak Corporation Lands, located within Sections 4, 5, 8, & 9, T. 15 S., R. 2 W., Copper River Meridian, Alaska, containing 6 Tracts and \pm 32.81 acres, according to Plat 2001-12 dated September 20, 2001, recorded September 24, 2001 in the Cordova Recording District.

Containing in aggregate, 32.81 acres, more or less.

