

**EXHIBIT 4**

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

**ENGLISH BAY AGREEMENTS**  
including

(1) Agreement for the Sale and Purchase of Lands  
From **ENGLISH BAY CORPORATION** by the United  
States of America

(2) Amendment Number 1 to the Agreement between  
English Bay Corporation and the United States of  
America



THE SECRETARY OF THE INTERIOR  
WASHINGTON

**AGREEMENT**

**FOR THE**

**SALE AND PURCHASE**

**OF**

**LANDS FROM**

**ENGLISH BAY CORPORATION**

**BY THE**

**UNITED STATES OF AMERICA**

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**AGREEMENT FOR THE SALE AND PURCHASE OF LANDS FROM  
ENGLISH BAY CORPORATION BY THE UNITED STATES OF AMERICA**

**THIS Agreement** for the Sale and Purchase of Lands is entered into by and between English Bay Corporation (hereinafter "EBC"), a Native Corporation authorized pursuant to the Alaska Native Claims Settlement Act (hereinafter "ANCSA"), as heretofore amended, 43 U.S.C. § 1601, et seq., and duly organized under the business for profit laws of the State of Alaska; and the United States of America (hereinafter "United States"). EBC and the United States are collectively referred to as "the Parties."

W I T N E S S E T H :

WHEREAS, EBC owns the surface estate of, or is to be conveyed valid prioritized selections under ANCSA for the surface estate of lands within Kenai Fjords National Park (the "Park") and the Alaska Maritime National Wildlife Refuge (the "Refuge"), totaling a maximum of approximately 32,537.06 acres (and collectively referred hereinafter as the "Lands"). The subsurface rights associated with the Lands are owned by, or are to be conveyed by the United States to, Chugach Alaska Corporation, a Native Regional Corporation.

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

WHEREAS, EBC is desirous of selling and conveying the Lands to the United States as part of the Trustee Council program to restore the natural resources and services that were injured by the *Exxon Valdez* Oil Spill ("EVOS").

WHEREAS, the Lands include important habitat for various species of fish and wildlife for which significant injury resulting from EVOS has been documented through the Council's habitat protection analysis and large parcel evaluation and ranking. This analysis has indicated that the Lands have high value for the restoration of such injured natural resources as pink salmon, black oystercatchers, harbor seals, harlequin ducks, bald eagles, the intertidal/subtidal zone, marbled murrelets, pigeon guillemots, sea otters, river otters, and cultural and archeological resources. This analysis has also indicated that the Lands have high value for the restoration of injured services that rely on these natural resources, including wilderness, recreation and tourism. Restoration of the injured species will benefit

from acquisition and protection of this important habitat through the elimination of activities and disturbances which may adversely affect their recovery.

WHEREAS, the Lands are located wholly within the boundaries of the Park or Refuge and their protection will help to ensure the preservation of a significant portion of one of the nation's most unique ecosystems.

WHEREAS, the Lands are located along the shoreline of or on small islands off the south coast of the Kenai Peninsula. Development occurring on the Lands may have a significant effect, particularly on a cumulative basis, on both water quality and injured or reduced natural resources and services located on the Lands or on areas nearby. In the event the Lands are not acquired or protected at this time, development by the landowners may occur in a manner that may adversely impact water quality and subsequently natural resources and services injured or reduced by EVOS.

WHEREAS, the Department of the Interior (hereinafter "DOI"), through the National Park Service (hereinafter "NPS") and the U.S. Fish and Wildlife Service (hereinafter "FWS"), desires to purchase for the United States the Lands which, upon purchase by the United States, would become and be administered, respectively, as part of the Park or the Refuge.

WHEREAS, DOI has determined that the acquisition of the Lands will enhance the protection of the outstanding natural values of the areas as a part of the Park and Refuge and will further the purposes set forth in the Alaska National Interests Lands Conservation Act (hereinafter, "ANILCA"), 16 U.S.C. § 3101, et seq.

WHEREAS, representatives of DOI, for itself and on behalf of the Trustee Council, and EBC met and reached a conceptual agreement pursuant to which the United States would purchase the Lands in fee.

WHEREAS, the Trustee Council, by resolution entered on February 14, 1997, has agreed to provide substantial funding for acquisition of the Lands.

WHEREAS, the federal trustees for the natural resources injured by 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.

WHEREAS, DOI is authorized by Section 207 of P.L. 102-227 to obligate and expend EVOS joint settlement funds for restoration purposes upon distribution of

such funds to it from the United States District Court for the District of Alaska (hereinafter "District Court").

WHEREAS, EBC desires to utilize a portion of the funds received pursuant to the provisions of this Agreement to establish and fund a settlement trust (permanent fund) pursuant to the provisions of 43 U.S.C. § 1629e.

WHEREAS, the Lands, except as noted otherwise in departmental records, remain generally undeveloped and unchanged in character and condition from that which existed at conveyance to EBC by the United States.

WHEREAS, the Lands are of particular value to meet the restoration goals and objectives of the Trustee Council, as well as the conservation objectives established for the Park and the Refuge.

WHEREAS, the Parties desire to complete the entirety of the acquisitions herein described as at the earliest possible time.

NOW THEREFORE, in consideration of their mutual promises and other good and valuable consideration, the Parties covenant and agree as follows:

**(1) Definitions.**

(a) Agreement. The term "Agreement" as used herein shall mean this "Agreement for the Sale and Purchase of Lands from English Bay Corporation by the United States of America," and all appendices and exhibits attached hereto or incorporated by reference herein.

(b) Hazardous Substances. The term "Hazardous Substances" as used herein shall mean any substances designated as hazardous by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended and supplemented, 42 U.S.C. § 9601, et seq., or the Clean Water Act, as amended and supplemented, 33 U.S.C. § 1251, et seq., or both, or any regulations promulgated pursuant to either or both statutes or under any applicable state law.

(c) Hazardous Wastes. The term "Hazardous Wastes" as used herein shall mean any other substance, including oil and gas and byproducts and wastes thereof, designated as hazardous under any applicable federal or state laws or regulations or any combination thereof.

(d) EBC Fee Lands. The term "EBC Fee Lands" as used herein shall mean the surface estate of the Lands in the Park and Refuge owned in fee or for which valid prioritized selections exist up to EBC's remaining ANCSA entitlement within the Park, as more fully described in Appendix A, which EBC herein intends to sell to the United States at the Initial Closing.

(e) EBC In-Lieu Lands. The term "EBC In-Lieu Lands" shall mean the surface estate of those lands which are validly selected and prioritized up to EBC's remaining ANCSA entitlement within the Park, as more fully described in Appendix B, and, if conveyed to EBC by the United States pursuant to ANCSA, are to be sold to the United States under this Agreement.

(f) State Conservation Easement. The term "State Conservation Easement" as used herein shall mean an easement(s) to be granted by EBC to the State of Alaska with respect to any of the Lands sold in fee to the United States under this Agreement and in the form set forth at Exhibit I for the Lands to be administered by the Refuge and at Exhibit II for the Lands to be administered by the Park.

(g) Park Access and Use Easement. The term "Park Access and Use Easement" as used herein shall mean the interest to be reserved to the Shareholders of EBC and members of their immediate families, to engage in certain traditional activities with respect to certain of the Lands within the Park, as more fully described in Appendix C, and in the form set forth in the Warranty Deed form at Exhibit IV.

(h) Warranty Deed. The term "Warranty Deed" as used herein shall mean any of such deeds by which EBC shall convey to the United States, 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. The form for the Warranty Deed for those Lands within the Refuge is set forth at Exhibit III, for those Lands which are subject to the Park Access and Use Easement at Exhibit IV, and for those Lands within the Park which are not subject to the Park Access and Use Easement at Exhibit V.

## **(2) EBC Selections.**

The United States shall endeavor in good faith to use its best efforts to convey prior to the Initial Closing set forth in Section 6 of this Agreement the remaining

EBC Fee Lands in the priority order set forth in the agreement between EBC and the Secretary of the Interior, effective November 30, 1994. Such prioritization by EBC is irrevocable. To the extent that EBC has not received conveyances for its remaining ANCSA entitlement within the Park as a result of the pending validity determination and reconveyance of certain Native allotment claims on lands previously conveyed to EBC by the United States which are located near the Village of Nanwalek, the United States and EBC shall endeavor in good faith to complete that process at the earliest possible date and the United States shall endeavor to make any additional conveyances of EBC In-Lieu Lands as soon as practicable thereafter.

**(3) Purchase Price.**

(a) The Base Purchase Price of the Lands (hereinafter "Base Purchase Price") is \$15,371,420.48 (Fifteen million, three hundred seventy-one thousand four hundred and twenty dollars and forty-eight cents) based on a total acquisition of 32,537.06 acres within the Park and Refuge and a total of 7,963.31 acres subject to the Park Access and Use Easement. The Base Purchase Price will be adjusted either upward or downward in the event that the total acreage of the Lands is adjusted by BLM and/or that the total acreage subject to the Park Access and Use Easement changes. The price to be paid at any closing shall be calculated using the Base Purchase Price and the adjustments set forth in this Agreement.

(b) Should any of the EBC Fee Lands be subject at the Initial Closing to the Lis Pendens addressed in Section 5 hereof, then the Purchase Price to be paid at such closing for the EBC Fee Lands shall be reduced by an amount equal to the product of the number of acres subject to such Lis Pendens ("Lis Pendens Lands") multiplied by \$418.6433, which product shall be rounded to the nearest whole cent. The closing of the conveyance of the Lis Pendens Lands shall be deferred in the manner and at the time provided in Section 5 hereof.

(c) The parties acknowledge that in addition to the EBC Fee Lands, EBC may receive, pursuant to the provisions of ANCSA, certain other lands in the Park as the result of the conveyance of some or all of the EBC In-Lieu Lands following the pending determination of the validity of certain Native Allotment claims on lands outside the Park and Refuge previously conveyed to EBC by the United States. The purchase price by the United States for each acre of EBC In-Lieu Lands conveyed to EBC after the Initial Closing, is \$467.9835. Should the pending allotment claims be determined to be valid and EBC reconveys to the



United States the land subject to such claims or the conveyance to EBC with respect to the lands claimed for allotments is set aside, then EBC will receive pursuant to ANCSA lands in the Park of the same number of acres as were the lands it reconveyed or were subject to the conveyance which had been set aside. The purchase price of such EBC In-lieu Lands shall be determined by multiplying the number of such In-lieu Acres by \$467.9835 and then rounding to the nearest whole cent.

(d) EBC agrees that upon the completion of the Initial Closing, all moneys due it under the Memorandum of Understanding with the NPS that was effective on September 1, 1993, will have been received and that no additional claims against the United States will be made thereunder.

(e) The Parties further agree that once the transactions provided for in this Agreement are completed, EBC will not hold in fee any lands acquired pursuant to ANCSA within the Park or the immediately adjacent unit of the Refuge, and that its interest in lands therein is limited to those reserved interests covered by this Agreement.

#### **(4) Archeological Foundation.**

(a) Within one hundred eighty (180) days of the Initial Closing, EBC shall cause a non-profit corporation to be incorporated under the laws of the State of Alaska, which corporation shall have as its primary purpose the identification, preservation, protection and interpretation of the history of the Native people of Nanwalek and the Kenai Fjords area. Such corporation may seek tax exempt status as well as foundation status. Following said incorporation, EBC will make a donation to it of Five Hundred Thousand Dollars (\$500,000.00), but the establishment of such corporation and the donation is not dependent upon the granting of such tax status. To the extent permitted by law, EBC may assign to such corporation the rights it has reserved to itself under the terms of the Warranty Deed with respect to all human remains, archeological and cultural artifacts in, on or under such lands and for certain rights of access to such lands in conjunction therewith. The notice of EBC to the Secretary of the Interior (hereinafter "Secretary") of its donation pursuant to this section shall be deemed to be the fulfillment of EBC's obligations under this section.

(b) Subject to the availability of funds, NPS will work cooperatively with EBC and/or the above-referenced corporation to provide advice, assistance and technical expertise related to the protection, preservation, removal or curation

of such artifacts. Such assistance may include making available personnel to assist in the planning, design and operation of buildings, facilities, and interpretative displays for the public and personnel to train individuals in the identification, recovery, preservation, demonstration, and management of cultural resources. The Parties agree to share with each other appropriate information and archeological data concerning artifacts found before and after closing from the granted lands as well as from other lands within the Park which are of cultural significance to the people of the Village of Nanwalek.

**(5) Pending Litigation.**

(a) Certain of the EBC Fee Lands are subject to a Lis Pendens filed in the matter of DeMichele, et al. v. English Bay Corporation, et al. EBC has provided the United States with a copy of the complaint filed in such matter. EBC will continue to vigorously oppose the claims of plaintiffs set out in such suit.

(b) Should the Lis Pendens be outstanding with respect to any of the EBC Fee Lands as of the Initial Closing, then such lands which are subject to such Lis Pendens will not be included in the Warranty Deed issued for such Initial Closing. The Parties agree to close on the acquisition of any such lands at the agreed to purchase price of \$418.6433 per acre within fifteen days of the lifting of the Lis Pendens and the satisfaction of the applicable Conditions Precedent set forth in Section 7 hereof.

(c) In consideration for the United States agreeing to close on the remaining EBC Fee Lands prior to resolution of the foregoing litigation, EBC agrees that it shall not enter into a settlement or other agreement to sell, lease, or otherwise permit, except as required by law, the use of the Lis Pendens lands by any third party without the express written consent of the Secretary of the Interior or the Assistant Secretary for Fish and Wildlife and Parks. This authority to consent shall not be redelegated to lower level officials.

**(6) Closing.**

(a) Subject to the terms and conditions of this Agreement, at any closing:

(i) EBC shall convey at no additional consideration to the State of Alaska, the applicable State Conservation Easement encompassing the relevant portion of the Lands; and

(ii) EBC shall sell and convey to the United States by the respective Warranty Deed the fee interests in the relevant portion of the Lands subject to the related State Conservation Easement;

(b) The United States shall be responsible for recording such Warranty Deed and shall do it as expeditiously as possible but in any event within five (5) business days of receipt. Within fourteen (14) days of the recording of the Warranty Deed issued pursuant to Subsection 6(a)(ii) hereof, the United States shall promptly pay EBC the agreed purchase price for the relevant portion of the Lands.

(c) Initial Closing. The Initial Closing shall occur within fifteen (15) business days following the satisfaction of all of the conditions set forth in Section 7 hereof or upon such other date as the Parties may mutually agree. The Parties shall use their best efforts to comply with the conditions as expeditiously as possible. The time and location of the closing shall be set by the Parties by mutual agreement.

(d) Subsequent Closings. Within fifteen (15) days of the receipt by EBC of the conveyance of any EBC In-lieu Lands and the satisfaction by EBC of the provisions of Section 4(a) and Subsection 7(a) and (b)(ii) and (iii), the parties shall hold a Closing for the transfer of such lands at such date, time and location as the parties may agree. At such Closing, EBC shall deliver such conveyances as are required by Subsection (a) hereof with respect to the EBC In-lieu Lands which had been conveyed to it and which are the subject of the Closing, and the United States shall pay the purchase price for such lands as provided in Subsection 3(c) hereof.

**(7) Conditions Precedent.**

(a) The following conditions shall be satisfied prior to any closing under this Agreement:

(i) receipt by the United States of an opinion of counsel to EBC confirming the authority of EBC to enter into the transactions contemplated by this Agreement;



(ii) receipt by the United States of a certificate of corporate standing for EBC; and

(iii) compliance by EBC with its representations that since February 14, 1997, development has not taken place upon any of the Lands.

(b) The following conditions shall be satisfied prior to any closing under this Agreement:

(i) the receipt by the District Court of the settlement payments due from Exxon Corporation, et al. and disbursement of such funds to the United States by the District Court for the purpose of this acquisition;

(ii) with respect to any portion of the Lands to be conveyed at such closing, the satisfactory completion of title opinions by the United States satisfying the regulations promulgated by the U.S. Department of Justice (hereinafter "DOJ") pursuant to 40 U.S.C. § 255 relating to federal land acquisitions, and by the State of Alaska for the interests in the Lands it is to acquire. The Parties acknowledge that prior to execution of this Agreement, a waiver of certain provisions of such regulations has been granted by DOJ in order to accommodate the provisions of this Agreement, including in particular, the Park Access Easement reservation contained in the respective Warranty Deeds, the reservation for artifacts contained in the respective Warranty Deeds, the limited warranty of title provided by EBC with respect to all of the conveyance instruments, and the enforcement rights of the State of Alaska, as reflected in each Warranty Deed and related State Conservation Easement;

(iii) satisfactory completion by the United States of hazardous material surveys and preclosing inspections of the Lands as required by DOI or DOJ regulations for land acquisitions, which surveys and inspections shall be promptly performed by the United States.

#### **(8) General Closing Provisions.**

(a) Pending Resolution of EBC Final ANCSA Entitlement with the Park or Refuge. The Parties recognize that the lands to be purchased by the United States under this Agreement include valid, prioritized selections for which conveyance to EBC by the United States has not yet been made. It is anticipated that all of EBC's remaining ANCSA entitlement will have been conveyed by the United States prior to the Initial Closing, with the exception of the In-Lieu Lands.

The Base Purchase Price shall be adjusted for the Initial Closing as provided in Section 3 hereof.

(b) Acreage Calculation and Chargeability. Upon the resolution of all pending allotment claims and the conveyance by the United States to EBC of its full ANCSA entitlement, EBC shall relinquish any remaining selections. Some of the lands to be conveyed hereunder have not been surveyed and the precise charge against EBC's ANCSA entitlement arising from such conveyances has not therefore been determined. The determination by BLM of acreage chargeability as reflected on the land descriptions attached in appendices hereto shall be deemed to be final, and no change in the charge against EBC's ANCSA entitlement shall be made as the result of any future survey of these lands, notwithstanding any future change in the method of computing the acres charged to entitlement.

(c) Third Party Rights of the State of Alaska. In recognition of the joint federal and State of Alaska responsibility to ensure that expenditure of the EVOS settlement funds properly achieves federal and state objectives for the restoration of the injured natural resources and related services, the Trustee Council has required that, in return for the commitment of settlement funds to this acquisition, certain rights be established for the State of Alaska with respect to this transaction. Accordingly, with respect to any of the Lands purchased by the United States hereunder, EBC shall convey to the State of Alaska, and the title received by the United States at such closing shall be subject to, the State Conservation Easement which authorizes the State to enforce on a non-exclusive basis the restoration objectives of this acquisition.

(d) Adjustment of Legal Descriptions. The Parties acknowledge that while they have utilized their best efforts to arrive at the legal descriptions found in the attached appendices, and believe such descriptions to be accurate and correct, it may be necessary to make technical corrections in such descriptions, including but not limited to, adjustments to exclude lands subject to applications under the Alaska Native Allotment Act of 1906. The Parties agree to negotiate in good faith any such correction as a Party may believe to be necessary, but no adjustment in such descriptions shall be made without the consent of both Parties, which consent may be withheld by a Party based upon the exercise of its good faith judgment.

**(9) Warranties and Disclosures.**

EBC represents and warrants to the United States as follows:

(a) Subject to the provisions of Sections 14(g) and 17(b) of ANCSA, 43 U.S.C. § 1613(g) and 43 U.S.C. § 1616(b) (1976 ed.), respectively, and the provisions of the Act of May 17, 1906, 34 Stat. 197, as amended, and Section 905 of ANILCA, 43 U.S.C. § 1634, to the extent applicable, the regulations promulgated thereunder, and the reservations, restrictions and limitations set forth in the conveyances from the United States to EBC, as of the date of the respective closings, EBC will be the sole legal owner of the surface estate of lands and interests in lands to be conveyed to the United States at such closing under this Agreement.

(b) Title to the lands and interests in lands to be conveyed to the United States under this Agreement shall be, at closing, free and clear of all liens, charges, encumbrances, clouds and defects whatsoever, except for (i) liens, charges, encumbrances, clouds and defects of record; (ii) liens, charges, encumbrances, clouds and defects not of record which existed prior to the date(s) on which said lands were conveyed to EBC pursuant to Section 14 of ANCSA, 43 U.S.C. § 1613; (iii) all restrictions, reservations, encumbrances and limitations set forth in the conveyances from the United States to EBC arising under ANCSA and the rules and regulations promulgated thereunder; (iv) the reservation of the Park Access and Use Easement; (v) the reservation of title to the archeological and cultural artifacts and the access easement related thereto and (vi) the State Conservation Easement.

(c) To the best of EBC's knowledge and belief: (i) EBC has not, nor has it allowed any other person, since the conveyance of lands to EBC by the United States under ANCSA, to place, store, spill or dump in an unlawful manner any Hazardous Wastes, Hazardous Substances, hazardous materials, chemical waste, or any other toxic substance on the lands to be conveyed to the United States under this Agreement; (ii) such lands are not now, nor since their conveyance to EBC, have they ever been, used for industrial purposes; (iii) no third party has ever unlawfully placed, stored, spilled or dumped any Hazardous Wastes, Hazardous Substances, hazardous materials, chemical waste, or any other toxic substance on such lands during the time in which they were owned by EBC; (iv) EBC has disclosed to NPS and FWS all information in its possession or knowledge which indicates that any of the foregoing activities, whether lawful or unlawful, took place on such lands prior to the conveyance of the lands to EBC; and (v) EBC has disclosed to NPS and FWS all information in its possession or

knowledge concerning the location and activities thereon that took place on those areas subject to this Agreement which EBC or a third party has used while they may have been in the lawful possession of such hazardous or toxic substances. To the extent that any of the Lands to be conveyed to the United States under this Agreement were oiled as a result of EVOS, the Parties stipulate and agree that such oiling does not constitute a violation of the warranties in this subparagraph.

(d) While both EBC and the United States believe there to be no valid claims to the EBC Fee Lands or EBC In-Lieu Lands arising pursuant to the provisions of Section 14(c) of ANCSA, 43 U.S.C. § 1613(c), the statute of limitations for the bringing of such claims may not have expired prior to the conveyance of such lands to the United States. The Parties agree that, consistent with their respective roles in implementation of Section 14(c), they shall take appropriate action to initiate the running of the statute of limitations as expeditiously as possible. Should any such claims be brought prior to the Initial Closing, the Parties shall mutually identify the lands that may be subject to such claims, the closing on such portion of the Lands shall be deferred until the validity of the claim has been determined, and the purchase price at closing shall be adjusted in accordance with the provisions for adjustment set forth in this Agreement based on whether such lands are subject or not subject to the Park Access and Use Easement (\$418.6433 or \$467.9835 per acre, respectively). EBC shall vigorously oppose any invalid claims with respect to the lands conveyed or to be conveyed hereunder to the United States, whether brought before or after any closing under this Agreement, and shall defend the title of the United States from any such claims. Should any claims be brought, EBC shall promptly give notice thereof to the United States. To assist EBC in its defense of any such claims, the Parties agree to consult and share all available information concerning such lands and usage thereon prior to conveyance by the United States to EBC pursuant to ANCSA. If, as the result of a final decision of a court having jurisdiction over the United States, a conveyance of lands hereunder to the United States is held to be void because such lands were subject to a valid claim arising under Section 14(c), or the United States is required to convey title to any such lands to EBC or a third party because such lands are subject to a valid claim arising under Section 14(c), then EBC shall refund to the United States an amount equal to the purchase price paid pursuant to this Agreement for such lands which are conveyed by the United States thereunder or for which the conveyance is held to be void.

**(10) Claims Arising from EVOS.**

Nothing in this Agreement or any document executed pursuant thereto shall be deemed to constitute an assignment, waiver or release of any claim EBC or its individual shareholders may have against Exxon Corporation and any other person or entity as a result of EVOS and EBC specifically reserves to itself all claims arising from EVOS against any party whatsoever.

**(11) Recordation.**

A copy of this Agreement and any amendment hereto may be recorded by or on behalf of either Party following the execution thereof by the Parties.

**(12) Effective Date.**

The effective date of this Agreement shall be the date of the last signature by a Party hereto.

**(13) Execution in Separate Counterparts.**

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

**(14) Other Agreements and Actions.**

The Parties agree to take other action or enter into other agreements reasonably necessary to carry out the intent of this Agreement.

**(15) Signature Authority.**

Each signatory to this Agreement represents that such signatory is authorized to enter into this Agreement.

**(16) Unanticipated Events.**

The Parties acknowledge that there may exist circumstances beyond the reasonable control of either Party which interfere with the Parties' abilities to complete the transaction and to comply with the time constraints set forth in this Agreement. The Parties agree to use their good faith best efforts to complete the transactions contemplated within this Agreement as set forth herein. In the event that circumstances occur beyond the reasonable control of either Party which significantly impair or detract from the rights and benefits provided to either of the Parties, then both Parties will, in good faith, attempt to negotiate reasonable modifications of this Agreement so as to protect the rights, interests and duties of the Parties under this Agreement so as to carry out the intent of this Agreement; provided, however, that in no event, shall this provision be construed to authorize the partition of the estate or the return of any lands purchased in fee for which closing has previously occurred and conveyance made to the United States under this Agreement.

**(17) Miscellaneous.**

The following general provisions shall apply to each of the provisions of the Agreement:

(a) All exhibits and appendices attached hereto are incorporated herein. The Parties mutually covenant and agree that this instrument and its exhibits and appendices embody the whole agreement of the Parties regarding the Agreement and that there are no promises, terms, conditions or obligations other than those contained or referred to in this Agreement. The Parties agree that any oral representations made by any Party during the negotiation of this Agreement which are not incorporated by writing into this Agreement are not binding.

(b) EBC and the Park Superintendent may, but are not required, to jointly negotiate and adopt written procedures to facilitate the exercise of the rights reserved by EBC under the respective Warranty Deeds for certain



subsistence access and use or for activities associated with the reservation of ownership of cultural and archeological artifacts.

(c) No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit arising from it. However, this clause does not apply to this contract to the extent that this contract is made with a corporation for the corporation's general benefit.

(d) The Parties agree that clerical and typographical errors contained herein may be corrected upon written notice to the other Party. Unless such errors are deemed substantive or otherwise objected to by either Party within sixty (60) days by written notice, correction will be considered made without formal ratification by the Parties. The Party making such correction shall ensure that it is properly recorded if this Agreement has been recorded.

(e) DOI neither represents nor warrants the manner in which the transactions under this Agreement will be treated under federal or state income tax laws.

(f) This Agreement may be amended, modified or supplemented only by a written amendment signed by all parties hereto.

(g) Nothing herein shall be construed as obligating the expenditure by the United States, now or in the future, in excess or advance of appropriations authorized by law.

(h) The Sectional headings used in this Agreement are merely labels, inserted for convenience and without substantive import.

(i) All notices, requests, orders and other communications under this Agreement shall be in writing (unless expressly provided otherwise), and shall be deemed to have been duly given if delivered personally to the addressee or

upon receipt if mailed by certified or registered mail, return receipt requested, with postage prepaid as follows:

If to EBC:

- (i) President  
English Bay Corporation  
1637 Stanton Avenue  
Anchorage, Alaska 99508

With a copy to:

Middleton & Timme  
421 West First Avenue, Suite 250  
Anchorage, Alaska 99501

- (ii) If to the United States:

Regional Director  
National Park Service  
2525 Gambell Street, Room 107  
Anchorage, Alaska 99503

With a copy to:

Superintendent  
Kenai Fjords National Park  
P. O. Box 1727  
Seward, Alaska 99664

or to such other addresses as any Party may designate in writing.



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

**English Bay Corporation**

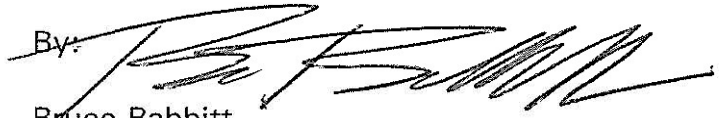
Date: May 19, 1997

By: 

Donald D. Emmal  
President

**United States of America**

Date: May 19, 1997

By: 

Bruce Babbitt  
Secretary of the Interior

ACKNOWLEDGMENT

DISTRICT OF COLUMBIA       )  
  ) ss:  
  )

THIS IS TO CERTIFY that on the 19th day of May, 1997, before me, the undersigned a Notary Public in and for the District of Columbia, duly commissioned and sworn as such personally appeared Donald D. Emmal, President of English Bay Corporation, known to me and known to be the person he represented himself to be and the same identical person who executed the above and foregoing AGREEMENT FOR THE SALE AND PURCHASE OF LANDS FROM ENGLISH BAY CORPORATION BY THE UNITED STATES OF AMERICA on behalf of English Bay Corporation, and who acknowledged before me that he had full power and authority to and did execute the above and foregoing as a free and voluntary act and deed of said corporation 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 written above.



Notary Public in and for the  
District of Columbia

My Commission expires: 4-14-2002

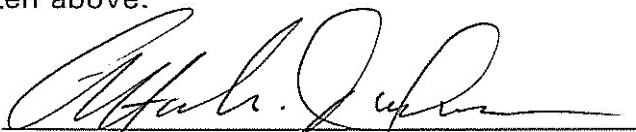
SEAL

ACKNOWLEDGMENT

DISTRICT OF COLUMBIA       )  
  ) ss:  
  )

THIS IS TO CERTIFY that on the 19th day of May, 1997, before me, the undersigned a Notary Public in and for the District of Columbia, duly commissioned and sworn as such, personally appeared Bruce Babbitt, known to me and known to be the Secretary of the Interior, who acknowledged before me that he signed as accepting the foregoing AGREEMENT FOR THE SALE and PURCHASE OF LANDS FROM ENGLISH BAY CORPORATION BY THE UNITED STATES OF AMERICA, and he acknowledged before 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.



Notary Public in and for the

District of Columbia

My Commission expires: 4-14-2002

SEAL

## EXHIBIT I

### STATE CONSERVATION EASEMENT (REFUGE) FORM

#### CONSERVATION EASEMENT

THIS Conservation Easement is made this \_\_\_\_ day of \_\_\_\_\_, 199\_\_, by **English Bay Corporation**, 1637 Stanton Avenue, Anchorage, Alaska 99503 ("EBC")("Grantor") and the **State of Alaska** ("Grantee") whose address is Department of Natural Resources, 3601 C Street, Suite 960, Anchorage, Alaska 99503-5936, under the authority of AS 38.05.035(a)(12) and pursuant to the Agreement for the Sale and Purchase of Lands from English Bay Corporation by the United States of America dated May 19, 1997 ("Agreement").

WHEREAS, the real property subject to this conservation easement (the "Protected Property") lies within the boundaries of the Alaska Maritime National Wild Refuge ("Refuge") in the State of Alaska, a conservation system unit administered by the U.S. Fish and Wildlife Service; and

WHEREAS, Grantor 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; 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 of the protected property, subject to certain third-party rights to be held by the State of Alaska in order to assure that the restoration objectives for use of the settlement funds are achieved; and

WHEREAS, Grantor intends to convey its fee simple interest in the surface estate of the Protected Property to the United States of America ("United States"); and

WHEREAS, Grantor desires to provide to the State of Alaska 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 for good and valuable consideration as described in the Agreement, Grantor does hereby grant and convey to Grantee, its successors and assigns, forever, with special warranties of title, subject to conditions, restrictions and limitations of record, including, but not limited to, conditions, restrictions and limitations contained in Interim Conveyance Number x, dated xx, and recorded at page \_\_\_\_\_, book \_\_\_\_\_, of the records of the Kenai Recording District, Third Judicial District, State of Alaska, a conservation easement in perpetuity over the Protected Property of the nature and character and to the extent hereinafter set forth (the "Easement"), as to the property described as follows:

INSERT LEGAL DESCRIPTION OF THE PROPERTY

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

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

- (a) The following listed activities are prohibited on the Protected Property except as determined by the U.S. Fish and Wildlife Service, or its successors in administrative function ("Service"), to be necessary for either refuge or conservation research or management of the subject lands (whether carried out by the Service, an entity approved by the Service, or its successors in law or interests), or for conveying information to the public to protect public safety or natural resources:
  - (i) the construction or placing of buildings, fixed or improved camping accommodations or mobile homes, fences, billboards or signs;
  - (ii) the changing of the topography of the Protected Property in any manner;

- (iii) the removal, destruction or cutting of trees or plants except for local subsistence uses;
  - (iv) the use of biocides except as necessary to control or remove non-indigenous fish, wildlife or plants; and
  - (v) the manipulation or alteration of natural water courses, shores, marshes or other water bodies or activities or uses detrimental to water purity on the Protected Property.
- (b) The following listed activities by any person are prohibited:
- (i) the introduction of non-indigenous fish, wildlife or plants, including, but not limited to, the grazing of domestic animals or the introduction of reindeer; and
  - (ii) the dumping of trash, garbage, or other unsightly or offensive material.

The foregoing restrictions shall not apply to the activities related to the reservation of ownership of archeological and cultural artifacts as provided in the Warranty Deed to the United States for the Protected Property and recorded immediately after this easement.

Nothing herein shall be deemed to cause a merger of the surface and subsurface estates, and nothing herein shall be deemed to pertain to, affect, expand or limit the rights of the subsurface owner to utilize that estate in accordance with applicable law.

Grantor agrees that these restrictive covenants shall run with the lands and shall be binding upon Grantor, its successors and assigns.

The Grantor hereby covenants to and with the Grantee and its assigns, that the Grantor is lawfully seized of the surface estate in fee simple of the above granted real 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 the Grantor will forever warrant and defend the title thereto and the quiet possession thereof, such warranty and defense being limited to that portion of the chain of title from the moment of conveyance by the United States to Grantor or its predecessors in interest 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 State of Alaska and its assigns, against the lawful claims and demands of all persons.

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

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

(Grantor)  
**English Bay Corporation**

By: Donald D. Emmal, President

STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DISTRICT )

THIS IS TO CERTIFY that on the \_\_\_\_ day of \_\_\_\_\_, 199\_, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared Donald D. Emmal, President of English Bay Corporation, to me known and known to be the person he represented himself to be, and the same identical person who acknowledged before me that he executed the above and foregoing CONSERVATION EASEMENT on behalf of English Bay Corporation, in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors 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) and the Agreement for the Sale and Purchase of Lands from English Bay Corporation by the United States of America dated May 19, 1997, the Grantee hereby accepts this Conservation Easement conveying title to the State of Alaska and its assigns those interests in lands described herein.

By: \_\_\_\_\_  
Marty K. Rutherford  
Deputy Commissioner  
Alaska Department of Natural Resources

ACKNOWLEDGMENT

STATE OF ALASKA                    )  
  ) ss:  
THIRD JUDICIAL DISTRICT        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 199\_, by Marty K. Rutherford, Deputy Commissioner, Alaska Department of Natural Resources.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Printed or typed name of Notary)  
NOTARY PUBLIC in and for Alaska  
My Commission Expires: \_\_\_\_\_

(SEAL)



Location Index:

Meridian

Section/Township/Range

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 (PARK) FORM

#### CONSERVATION EASEMENT

THIS Conservation Easement is made this \_\_\_\_ day of \_\_\_\_\_, 199\_\_, by English Bay Corporation, 1637 Stanton Avenue, Anchorage, Alaska 99508 ("EBC")("Grantor") and the **State of Alaska** ("Grantee") whose address is Department of Natural Resources, 3601 C Street, Suite 960, Anchorage, Alaska 99503-5936, under the authority of AS 3805.035(a)(12), and pursuant to the Agreement for the Sale and Purchase of Lands between English Bay Corporation and the United States of America dated May 19, 1997 ("Agreement")..

WHEREAS, the real property subject to this conservation easement (the "Protected Property") lies within the boundaries of the Kenai Fjords National Park ("Park") in the State of Alaska, a conservation system unit administered by the National Park Service; and

WHEREAS, Grantor 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; 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 of the protected property, subject to certain third-party rights to be held by the State of Alaska in order to assure that the restoration objectives for use of the settlement funds are achieved; and

WHEREAS, Grantor intends to convey its fee simple interest in the surface estate of the Protected Property to the United States of America ("United States"); and

WHEREAS, Grantor desires to provide to the State of Alaska 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 for good and valuable consideration as described in the Agreement does hereby grant and convey to Grantee, its successors and assigns, forever, with special warranties of title, subject to conditions, restrictions and limitations of record, including, but not limited to, conditions, restrictions and limitations contained in Interim Conveyance Number x, dated xx, and recorded at page \_\_\_\_\_, book \_\_\_\_\_, of the records of the Kenai Recording District, Third Judicial District, State of Alaska, a conservation easement in perpetuity over the Protected Property of the nature and character and to the extent hereinafter set forth (the "Easement"), as to the property described as follows:

INSERT LEGAL DESCRIPTION OF THE PROPERTY

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

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

- (a) The following listed activities are prohibited on the Protected Property except as determined by the National Park Service, or its successors in administrative function ("Service"), to be necessary for either park or conservation research or management of the subject lands in accordance with applicable laws pertaining to the National Park System, including the National Park Service Organic Act (16 U.S.C. § 1, et seq.)(whether carried out by the Service, an entity approved by the Service, or its successors in law or interests), or for conveying information to the public to protect public safety or natural resources:
  - (i) the construction or placing of buildings, fixed or improved camping accommodations or mobile homes, fences, billboards or signs;
  - (ii) the changing of the topography of the Protected Property in any manner;

- (iii) the removal, destruction or cutting of trees or plants except for local subsistence uses;
  - (iv) the use of biocides except as necessary to control or remove non-indigenous fish, wildlife or plants; and
  - (v) the manipulation or alteration of natural water courses, shores, marshes or other water bodies or activities or uses detrimental to water purity on the Protected Property.
- (b) The following listed activities by any person are prohibited:
  - (i) the introduction of non-indigenous fish, wildlife or plants, including, but not limited to, the grazing of domestic animals or the introduction of reindeer; and
  - (ii) the dumping of trash, garbage, or other unsightly or offensive material.

The foregoing restrictions shall not apply to the activities related to the reservation of ownership of archeological and cultural artifacts as provided in the Warranty Deed to the United States for the Protected Property and recorded immediately after this easement.

Nothing herein shall be deemed to cause a merger of the surface and subsurface estates, and nothing herein shall be deemed to pertain to, affect, expand or limit the rights of the subsurface owner to utilize that estate in accordance with applicable law.

Grantor agrees that these restrictive covenants shall run with the lands and shall be binding upon Grantor, its successors and assigns.

The Grantor hereby covenants to and with the Grantee and its assigns, that the Grantor is lawfully seized of the surface estate in fee simple of the above granted real 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 the Grantor will forever warrant and defend the title thereto and the quiet possession thereof, such warranty and defense being limited to that portion of the chain of title from the moment of conveyance by the United States to Grantor or its predecessors in interest pursuant to the Alaska Native Claims

EXHIBIT II  
STATE CONSERVATION EASEMENT (PARK) FORM  
AGREEMENT BETWEEN ENGLISH BAY CORPORATION  
AND THE UNITED STATES OF AMERICA  
PAGE 32

ACCEPTANCE BY THE STATE OF ALASKA

Pursuant to AS 38.05.035(a)(12) and the Agreement for the Sale and Purchase of Lands from English Bay Corporation by the United States of America dated May 19, 1997, the Grantee hereby accepts this Conservation Easement conveying title to the State of Alaska and its assigns those interests in lands described herein.

By: \_\_\_\_\_  
Marty K. Rutherford  
Deputy Commissioner  
Alaska Department of Natural Resources

ACKNOWLEDGMENT

STATE OF ALASKA                    )  
  ) ss:  
THIRD JUDICIAL DISTRICT        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 199\_, by Marty K. Rutherford, Deputy Commissioner, Alaska Department of Natural Resources.

\_\_\_\_\_  
(Signature)

(SEAL)

\_\_\_\_\_  
Printed or typed name of Notary)  
NOTARY PUBLIC in and for Alaska  
My Commission Expires: \_\_\_\_\_

Location Index:

Meridian

Section/Township/Range

AFTER RECORDING RETURN TO:

State of Alaska

Department of Law

Environmental Section

1031 W. 4th Avenue, Suite 200

Anchorage, Alaska 99501

### EXHIBIT III

#### DRAFT WARRANTY DEED (REFUGE) FORM

#### WARRANTY DEED

THIS Indenture, made this \_\_\_\_\_ day of \_\_\_\_\_, 1997, between **ENGLISH BAY CORPORATION**, 1637 Stanton Avenue, Anchorage, Alaska 99508, Grantor ("EBC"), and the **UNITED STATES OF AMERICA** and its assigns, Grantee ("United States"), whose address is c/o Fish and Wildlife Service, Division of Realty, 1011 E. Tudor Road, Anchorage, Alaska 99503-6199, under the authority of Section 1302(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. § 3192(a)) and the Fish and Wildlife Act of 1956 (16 U.S.C. § 742f(a)(4)), and pursuant to the Agreement for the Sale and Purchase of Lands From English Bay Corporation by the United States of America dated May 19, 1997.

WITNESSETH, that the Grantor for and in consideration of the sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) to it in hand paid by the Grantee, the receipt whereof is hereby acknowledged, conveys and warrants to the Grantee and its assigns, forever, the surface estate of all those lands lying and being in the Kenai Recording District, Third Judicial District, State of Alaska, containing approximately \_\_\_\_\_ acres, more or less, and more particularly described as follows:

Seward Meridian, Alaska,

#### INSERT LEGAL DESCRIPTION

Aggregating approximately \_\_\_\_\_ acres conveyed.

The herein described lands are acquired for administration by the Secretary of the Interior through the U. S. Fish and Wildlife Service ("Service").

TO HAVE AND TO HOLD THE SAME, Together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining, to the Grantee and its assigns, FOREVER.

SUBJECT, however, to:



1. Easements, rights and reservations of the United States, and third parties if any, of record.
2. Enforcement Rights of the State of Alaska as established by the Conservation Easement granted by Grantor to the State of Alaska dated \_\_\_\_\_, 1997, and recorded immediately prior to this deed, authorizing the State of Alaska to enforce on a non-exclusive basis the restrictive covenants set forth therein.

**RESERVING** from the lands so granted the following described rights and covenants:

Grantor, to the extent that it holds such ownership, or its successors, agents and assigns (collectively referred to hereinafter as "Grantor"), reserves from the lands so granted hereby, all historic and prehistoric archeological and cultural artifacts (hereinafter "artifacts"), including but not limited to human remains, funerary objects and other artifacts located in, on or below the granted lands, and the right to go on such lands for the purpose of locating, protecting, excavating or removing artifacts for curation, together with the right of access to visit, survey, excavate, stabilize, restore or protect culturally significant sites; provided however, that when conducting such activities Grantor shall take all actions reasonably necessary to minimize to the greatest extent reasonably practicable, any damage or disturbance to the environment or natural values of the land which may occur in the performance of the activities authorized hereunder. Such activities conducted by Grantor on the granted lands may only be conducted in accordance with accepted professional practices including, but not limited to, those specified in "Archeology and Historic Preservation; Secretary of the Interior's Standards and Guidelines" (hereinafter "Standards and Guidelines"), and to the extent such activities are permissible under this Reservation.

At least ninety (90) days prior to entry upon the granted lands, Grantor shall submit to the Refuge Manager, Alaska Maritime National Wildlife Refuge (hereinafter "Refuge Manager" and "Refuge", respectively) for review and comment its plan of operations, describing the activities to be conducted, their location, a timetable of their occurrence, the measures to be taken to avoid environmental damage and the restoration activities to be undertaken ("Operating Plan"). Within sixty (60) days of the receipt of the Operating Plan, the Refuge Manager shall provide Grantor with written comments on the Operating Plan and in particular, those activities, if any, which the

Refuge Manager believes to be in violation of the requirements provided herein for maintaining accepted professional practices, avoiding damage to the environmental and natural values of the Refuge, and restoring sites disturbed in the exercise of this Reservation, together with a detailed explanation for any such beliefs. To the extent that Grantor's activities are consistent with its Operating Plan and accepted professional practices, all such activities are hereby deemed to be performed by persons carrying out official agency duties under the Federal land manager's direction associated with the management of archeological resources on the public lands, and therefore Grantor is exempt from the permit application procedures required pursuant to the Archeological Resources Protection Act, 16 U.S.C. § 470aa, et seq., and the implementing regulations, 43 C.F.R. Part 7. Grantor is required to comply with applicable refuge rules and regulations pertaining to the granted lands except to the extent of the activities specifically permitted under this Reservation, including the Refuge Manager's written response to the Operating Plan, provided, as applicable, that such Operating Plan and the written response are consistent with this Reservation. In the event of any proceeding brought by the United States hereunder, Grantee has the burden to show that the activities performed by Grantor are not in compliance with this Reservation.

Nothing herein shall be construed as:

- (1) Diminishing any ownership rights of EBC in artifacts;
- (2) Authorizing the Grantee to excavate or remove artifacts from the granted lands without the consent of the Grantor;
- (3) Affecting the Secretary's authority and responsibility to maintain the scenic and environmental integrity of the granted lands in their natural state as an integral part of the Refuge consistent with the rights reserved hereunder;
- (4) Reserving any property right in any area or resource on the granted lands, other than artifacts owned by the Grantor;
- (5) Limiting the Secretary's authority to control the access and activities of visitors in any area of the Refuge provided the exercise of such control does not interfere with the rights granted hereunder; or

- (6) Implying that by accepting this Warranty Deed, the Secretary has confirmed (a) with respect to any artifact located within the granted lands that title to such artifact is vested in EBC, or (b) that the permissible activities which may be undertaken by the Grantor hereunder are in full compliance with the laws of the State or the United States that may be applicable to that activity, including, but not limited to, the Archeological Resources Protection Act, 16 U.S.C. § 470aa, et seq., and the Native American Graves Protection and Repatriation Act, 25 U.S.C. § 3001, et seq.

Nothing herein shall be deemed to cause a merger of the surface and subsurface estates, or to affect, expand or limit the rights of the subsurface owner to utilize that estate in accordance with applicable law.

The Grantor hereby covenants to and with the Grantee and its assigns, that the Grantor is lawfully seized of the surface estate in fee simple of the above granted real 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 the Grantor 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 Grantor 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.

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

(Grantor)  
ENGLISH BAY CORPORATION

Donald D. Emmal, President

ACKNOWLEDGMENT

STATE OF ALASKA                    )  
  ) ss.  
THIRD JUDICIAL DISTRICT        )

THIS IS TO CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, in the year of 1997, before me, the undersigned a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared DONALD D. EMMAL, President of English Bay Corporation, to me known and known to be the person he represented himself to be, and the same identical person who executed the above and foregoing WARRANTY DEED on behalf of English Bay Corporation, and who acknowledged before me that he signed the same as President of English Bay Corporation, in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors 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 § 1302 of the Act of December 2, 1980, Alaska National Interest Lands Conservation Act, P.L. 96-487 (16 U.S.C. § 3192) and the Fish and Wildlife Act of 1956, (16 U.S.C. § 742f(a)(4)), and pursuant to the Agreement for the Sale and Purchase of Lands from English Bay Corporation by the United States of America, dated May 19, 1997, the Grantee hereby accepts this WARRANTY DEED conveying to the United States and its assigns, those lands described therein.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 199\_.

Regional Director, Region 7  
U.S. Fish and Wildlife Service

## ACKNOWLEDGMENT

STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DISTRICT )

THIS IS TO CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, 199\_, 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 \_\_\_\_\_, Region 7 of the U.S. Fish and Wildlife Service, and she/he acknowledged before me that she/he signed as accepting the foregoing WARRANTY DEED conveying to the United States, those lands described therein, and she/he acknowledged to me that she/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

Meridian

Section/Township/Range

AFTER RECORDING RETURN TO:

U. S. Department of the Interior

U. S. Fish and Wildlife Service

Division of Realty

1011 E. Tudor Road

Anchorage, Alaska 99503

EXHIBIT IV

DRAFT WARRANTY DEED (PARK) FORM  
WITH PARK ACCESS AND USE EASEMENT

WARRANTY DEED

THIS Indenture, made this \_\_\_\_\_ day of \_\_\_\_\_, 1997, between **ENGLISH BAY CORPORATION**, 1637 Stanton Avenue, Anchorage, Alaska 99508, Grantor ("EBC"), and the **UNITED STATES OF AMERICA** and its assigns, Grantee ("United States"), whose address is National Park Service, Land Resources Program Center, 2525 Gambell Street, Room 107, Anchorage, Alaska 99503, under the authority of Section 1302(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. § 3192(a)) and pursuant to the Agreement for the Sale and Purchase of Lands from English Bay Corporation by the United States of America dated May 19, 1997.

WITNESSETH, that the Grantor for and in consideration of the sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) to it in hand paid by the Grantee, the receipt whereof is hereby acknowledged, conveys and warrants to the Grantee and its assigns, forever, the surface estate of all those lands lying and being in the Kenai Recording District, Third Judicial District, State of Alaska, containing approximately \_\_\_\_\_ acres, more or less, and more particularly described as follows:

Seward Meridian, Alaska,

INSERT LEGAL DESCRIPTION

Aggregating approximately \_\_\_\_\_ acres conveyed.

The herein described lands are acquired for administration by the Secretary of the Interior through the National Park Service ("Service").

TO HAVE AND TO HOLD THE SAME, Together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining, to the Grantee and its assigns, FOREVER.

SUBJECT, however, to:

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

2. Enforcement Rights of the State of Alaska as established by the Conservation Easement granted by Grantor to the State of Alaska dated \_\_\_\_\_, 1997, and recorded immediately prior to this deed, authorizing the State of Alaska to enforce on a non-exclusive basis the restrictive covenants set forth therein.

**RESERVING** from the lands so granted the following described rights and covenants:

Easement for Subsistence Access and Use

Shareholders shall have the right to enter upon and travel across the granted lands for the purpose of engaging in lawful customary and traditional uses (hereinafter "subsistence uses") of wild, renewable resources for direct personal or family consumption as food or clothing; for making and selling handicraft articles out of non-edible by-products of fish and wildlife resources taken for personal or family consumption; for customary trade and barter, or sharing for personal or family consumption. While engaging in subsistence uses on the granted lands, shareholders may use timber which is fallen and dead for fuel, tools, emergency shelter or transportation. The taking of fish and wildlife hereunder shall be governed by the laws of the United States and the State of Alaska in the same manner as though the granted lands were privately owned and not part of Kenai Fjords National Park (hereinafter the "Park"). The rights reserved herein do not authorize the taking of wild, renewable resources for sport or commercial purposes or the conduct of commercial activities within the Park.

As used herein, the terms:

- (1) "shareholder" means a shareholder of EBC and such shareholder's immediate family which shareholder or immediate family maintains a primary, permanent abode on the Kenai Peninsula and such shareholder's immediate family, or a shareholder of EBC who resides elsewhere and has permission of EBC to engage in subsistence uses on the granted lands to assist his or her immediate family in meeting their nutritional and other essential needs or for the teaching of



cultural knowledge to or by their immediate family; provided however, at such time as the present restraints on alienation of the stock of EBC which are imposed by ANCSA are lifted by amendment of EBC's Articles of Incorporation, the term "shareholder" shall mean a resident of Nanwalek (formerly known as the Village of English Bay).

- (2) "immediate family" means children, parents, grandparents, and siblings;
- (3) "family" means all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis; and
- (4) "trade and barter" means the exchange of fish and wildlife or their parts, taken for subsistence uses, for other fish or game or their parts, or for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature, but does include the aforementioned making and selling of handicraft articles.

By February 15 of each year, EBC shall provide the Park Superintendent (hereinafter "Superintendent") with a list of current shareholders of EBC, their current addresses and as to those residing outside the Kenai Peninsula, whether they have permission to engage in subsistence activities.

While engaging in subsistence uses on the granted lands, shareholders may use (a) such means of transportation as are permitted to the general public on the adjoining federal lands and (b) any additional means of ground transportation actually used by Park personnel for transportation on the granted lands, limited to the same areas and conditions imposed by the Park for official use; provided however, that the Secretary of the Interior or his delegate (hereinafter "Secretary") may impose such reasonable restrictions on such means of transportation as may be necessary to protect the natural and other values of the Park.

Nothing herein shall be construed as:

- (1) affecting the Secretary's authority and responsibility to maintain unimpaired the scenic and environmental integrity of the granted lands in their natural state as an integral part of the Park;
- (2) reserving any property right in any resource on the granted lands;

- (3) permitting any subsistence use of living resources inconsistent with the conservation of healthy populations of fish, wildlife and plants;
- (4) preventing the Secretary from closing any portion of the granted lands to subsistence uses or prohibiting the taking of a particular population of fish, wildlife or plants when necessary for reasons of public safety, administration or to assure the continued health and viability of such population; provided however, that the Secretary shall not limit or preclude such subsistence uses for purpose 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 granted lands that contribute to such conditions;
- (5) Allowing the construction of new trails and the improvement, enhancement or maintenance, including the clearing of vegetation, for existing trails, without compliance with applicable laws and regulations.
- (6) Creating any fiduciary or trust obligation whatsoever on the part of the Secretary, his successors and assigns, or the United States and its assigns with respect to the Grantor for the management of such lands;
- (7) Affecting the authority of the State of Alaska to regulate or prohibit the taking of fish and wildlife upon the above-granted lands; or
- (8) Affecting the authority of the United States under the provisions of any federal law governing the conservation or protection of fish, wildlife and plants, including, but not limited to, the National Park Service Organic Act (16 U.S.C. §1, et seq.), the National Park System General Authorities Act (16 U.S.C. §1a-1, et. seq.), the Endangered Species Act of 1973, as amended (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 (16 U.S.C. §§ 742a-754), the Migratory Bird Treaty Act, as amended (16 U.S.C. §§ 703-711), the Federal Aid in Wildlife Restoration Act (16 U.S.C. §§ 669-669i), the Fishery Conservation and Management Act of 1976 (16 U.S.C. §§

1801-1882), the Federal Aid in Fish Restoration Act (16 U.S.C. §§ 777-777k) or any amendments, to any one or more of such acts.

The Secretary shall, consistent with his/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.

**FURTHER EXCEPTING AND RESERVING** to Grantor, to the extent that it holds such ownership, or its successors, agents and assigns (collectively referred to hereinafter as "Grantor"), from the lands so granted hereby, all historic and prehistoric archeological and cultural artifacts (hereinafter "artifacts"), including but not limited to human remains, funerary objects and other artifacts located in, on or below the granted lands, and the right to go on such lands for the purpose of locating, protecting, excavating or removing artifacts for curation, together with the right of access to visit, survey, excavate, stabilize, restore or protect culturally significant sites; provided however, that when conducting such activities Grantor shall take all actions reasonably necessary to minimize to the greatest extent reasonably practicable, any damage or disturbance to the environment or natural values of the land which may occur in the performance of the activities authorized hereunder. Such activities conducted by Grantor on the granted lands may only be conducted in accordance with accepted professional practices including, but not limited to, those specified in "Archeology and Historic Preservation; Secretary of the Interior's Standards and Guidelines" (hereinafter "Standards and Guidelines"), and to the extent such activities are permissible under this Reservation.

At least ninety (90) days prior to entry upon the granted lands, Grantor shall submit to the Superintendent for review and comment its plan of operations, describing the activities to be conducted, their location, a timetable of their occurrence, the measures to be taken to avoid environmental damage and the restoration activities to be undertaken ("Operating Plan"). Within sixty (60) days of the receipt of the Operating Plan, the Superintendent shall provide Grantor with written comments on the Operating Plan and in particular, those activities, if any, which the Superintendent believes to be in violation of the requirements provided herein for maintaining accepted professional practices, avoiding damage to the environmental and natural values of the Park, and restoring sites disturbed in the exercise of this Reservation, together with a detailed explanation for any such beliefs. To the extent that Grantor's activities are consistent with its Operating Plan

and accepted professional practices, all such activities are hereby deemed to be performed by persons carrying out official agency duties under the Federal land manager's direction associated with the management of archeological resources on the public lands, and therefore Grantor is exempt from the permit application procedures required pursuant to the Archeological Resources Protection Act, 16 U.S.C. § 470aa, et seq., and the implementing regulations, 43 C.F.R. Part 7. Grantor is required to comply with applicable park rules and regulations pertaining to the granted lands except to the extent of the activities specifically permitted under this Reservation, including the Superintendent's written response to the Operating Plan, provided, as applicable, that such Operating Plan and the written response are consistent with this Reservation. In the event of any proceeding brought by the United States hereunder, Grantee has the burden to show that the activities performed by Grantor are not in compliance with this Reservation.

Nothing herein shall be construed as:

- (1) Diminishing any ownership rights of EBC in artifacts;
- (2) Authorizing the Grantee to excavate or remove artifacts from the granted lands without the consent of the Grantor;
- (3) Affecting the Secretary's authority and responsibility to maintain the scenic and environmental integrity of the granted lands in their natural state as an integral part of the Park consistent with the rights reserved hereunder;
- (4) Reserving any property right in any area or resource on the granted lands, other than artifacts owned by the Grantor;
- (5) Limiting the Secretary's authority to control the access and activities of visitors in any area of the Park provided the exercise of such control does not interfere with the rights granted hereunder; or
- (6) Implying that by accepting this Warranty Deed, the Secretary has confirmed (a) with respect to any artifact located within the granted lands that title to such artifact is vested in EBC, or (b) that the permissible activities which may be undertaken by the Grantor hereunder are in full compliance with the laws of the State or the

United States that may be applicable to that activity, including, but not limited to, the Archeological Resources Protection Act, 16 U.S.C. § 470aa, et seq., and the Native American Graves Protection and Repatriation Act, 25 U.S.C. § 3001, et seq.

Nothing herein shall be deemed to cause a merger of the surface and subsurface estates, or to affect, expand or limit the rights of the subsurface owner to utilize that estate in accordance with applicable law.

The Grantor hereby covenants to and with the Grantee and its assigns, that the Grantor is lawfully seized of the surface estate in fee simple of the above granted real 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 the Grantor 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 Grantor 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.

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

(Grantor)  
**ENGLISH BAY CORPORATION**

Donald D. Emmal, President

## ACKNOWLEDGMENT

[illegible]

THIS IS TO CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, in the year of 199\_, before me, the undersigned a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared DONALD D. EMMAL, President of English Bay Corporation, to me known and known to be the person he represented himself to be, and the same identical person who executed the above and foregoing WARRANTY DEED on behalf of English Bay Corporation, and who acknowledged before me that he signed the same as President of English Bay Corporation, in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors 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: \_\_\_\_\_

## Location Index

Meridian  
Section/Township/Range

**AFTER RECORDING RETURN TO:**  
U.S. Department of the Interior  
National Parks Service  
Land Resources Program Center  
2525 Gambell Street, Room 107  
Anchorage, Alaska 99503

EXHIBIT V

DRAFT WARRANTY DEED (PARK) FORM

WARRANTY DEED

THIS Indenture, made this \_\_\_\_\_ day of \_\_\_\_\_, 1997, between **ENGLISH BAY CORPORATION**, 1637 Stanton Avenue, Anchorage, Alaska 99508, Grantor ("EBC"), and the **UNITED STATES OF AMERICA** and its assigns, Grantee ("United States"), whose address is National Park Service, Land Resources Program Center, 2525 Gambell Street, Room 107, Anchorage, Alaska 99503, under the authority of Section 1302(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. § 3192(a)), and pursuant to the Agreement for the Sale and Purchase of Lands From English Bay Corporation by the United States of America dated May 19, 1997.

WITNESSETH, that the Grantor for and in consideration of the sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) to it in hand paid by the Grantee, the receipt whereof is hereby acknowledged, conveys and warrants to the Grantee and its assigns, forever, the surface estate of all those lands lying and being in the Kenai Recording District, Third Judicial District, State of Alaska, containing approximately \_\_\_\_\_ acres, more or less, and more particularly described as follows:

Seward Meridian, Alaska,

INSERT LEGAL DESCRIPTION

Aggregating approximately \_\_\_\_\_ acres conveyed.

The herein described lands are acquired for administration by the Secretary of the Interior through the National Park Service ("Service").

TO HAVE AND TO HOLD THE SAME, Together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining, to the Grantee and its assigns, FOREVER.

SUBJECT, however, to:



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

2. Enforcement Rights of the State of Alaska as established by the Conservation Easement granted by Grantor to the State of Alaska dated \_\_\_\_\_, 199\_, and recorded immediately prior to this deed, authorizing the State of Alaska to enforce on a non-exclusive basis the restrictive covenants set forth therein.

**RESERVING** from the lands so granted the following described rights and covenants:

Grantor, to the extent that it holds such ownership, or its successors, agents and assigns (collectively referred to hereinafter as "Grantor"), from the lands so granted hereby, all historic and prehistoric archeological and cultural artifacts (hereinafter "artifacts"), including but not limited to human remains, funerary objects and other artifacts located in, on or below the granted lands, and the right to go on such lands for the purpose of locating, protecting, excavating or removing artifacts for curation, together with the right of access to visit, survey, excavate, stabilize, restore or protect culturally significant sites; provided however, that when conducting such activities Grantor shall take all actions reasonably necessary to minimize to the greatest extent reasonably practicable, any damage or disturbance to the environment or natural values of the land which may occur in the performance of the activities authorized hereunder. Such activities conducted by Grantor on the granted lands may only be conducted in accordance with accepted professional practices including, but not limited to, those specified in "Archeology and Historic Preservation; Secretary of the Interior's Standards and Guidelines" (hereinafter "Standards and Guidelines"), and to the extent such activities are permissible under this Reservation.

At least ninety (90) days prior to entry upon the granted lands, Grantor shall submit to the Superintendent, Kenai Fjords National Park (hereinafter "Superintendent" and "Park," respectively), for review and comment its plan of operations, describing the activities to be conducted, their location, a timetable of their occurrence, the measures to be taken to avoid environmental damage and the restoration activities to be undertaken ("Operating Plan"). Within sixty (60) days of the receipt of the Operating Plan, the Superintendent shall provide Grantor with written comments on the Operating Plan and in particular, those activities, if any, which the



Superintendent believes to be in violation of the requirements provided herein for maintaining accepted professional practices, avoiding damage to the environmental and natural values of the Park, and restoring sites disturbed in the exercise of this Reservation, together with a detailed explanation for any such beliefs. To the extent that Grantor's activities are consistent with its Operating Plan and accepted professional practices, all such activities are hereby deemed to be performed by persons carrying out official agency duties under the Federal land manager's direction associated with the management of archeological resources on the public lands, and therefore Grantor is exempt from the permit application procedures required pursuant to the Archeological Resources Protection Act, 16 U.S.C. § 470aa, et seq., and the implementing regulations, 43 C.F.R. Part 7. Grantor is required to comply with applicable park rules and regulations pertaining to the granted lands except to the extent of the activities specifically permitted under this Reservation, including the Superintendent's written response to the Operating Plan, provided, as applicable, that such Operating Plan and the written response are consistent with this Reservation. In the event of any proceeding brought by the United States hereunder, Grantee has the burden to show that the activities performed by Grantor are not in compliance with this Reservation.

Nothing herein shall be construed as:

- (1) Diminishing any ownership rights of EBC in artifacts;
- (2) Authorizing the Grantee to excavate or remove artifacts from the granted lands without the consent of the Grantor;
- (3) Affecting the Secretary's authority and responsibility to maintain the scenic and environmental integrity of the granted lands in their natural state as an integral part of the Park consistent with the rights reserved hereunder;
- (4) Reserving any property right in any area or resource on the granted lands, other than artifacts owned by the Grantor;
- (5) Limiting the Secretary's authority to control the access and activities of visitors in any area of the Park provided the exercise of such control does not interfere with the rights granted hereunder; or

- (6) Implying that by accepting this Warranty Deed, the Secretary has confirmed (a) with respect to any artifact located within the granted lands that title to such artifact is vested in EBC, or (b) that the permissible activities which may be undertaken by the Grantor hereunder are in full compliance with the laws of the State or the United States that may be applicable to that activity, including, but not limited to, the Archeological Resources Protection Act, 16 U.S.C. § 470aa, et seq., and the Native American Graves Protection and Repatriation Act, 25 U.S.C. § 3001, et seq.

Nothing herein shall be deemed to cause a merger of the surface and subsurface estates, or to affect, expand or limit the rights of the subsurface owner to utilize that estate in accordance with applicable law.

The Grantor hereby covenants to and with the Grantee and its assigns, that the Grantor is lawfully seized of the surface estate in fee simple of the above granted real 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 the Grantor 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 Grantor 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.

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

Grantor:  
ENGLISH BAY CORPORATION

Donald D. Emmal, President

## ACKNOWLEDGMENT

[illegible]

THIS IS TO CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, in the year of 1997, before me, the undersigned a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared DONALD D. EMMAL, President of English Bay Corporation, to me known and known to be the person he represented himself to be, and the same identical person who executed the above and foregoing WARRANTY DEED on behalf of English Bay Corporation, and who acknowledged before me that he signed the same as President of English Bay Corporation, in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors 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: \_\_\_\_\_

## Location Index

Meridian  
Section/Township/Range

**AFTER RECORDING RETURN TO:**  
U.S. Department of the Interior  
National Parks Service  
Land Resources Program Center  
2525 Gambell Street, Room 107  
Anchorage, Alaska 99503

**APPENDIX A**

**EBC FEE LANDS**

**ENGLISH BAY CORPORATION SURFACE OWNERSHIP  
WITHIN KENAI FJORDS NATIONAL PARK AND  
ALASKA MARITIME NATIONAL WILDLIFE REFUGE**

SEWARD MERIDIAN, ALASKA

**KENAI FJORDS NATIONAL PARK**

ANCSA Sec. 12(a) Entitlement:

T. 3 S., R. 2 W., unsurveyed.

Secs. 22 and 23;  
Secs. 25 and 26;  
Sec. 33, parcel B;  
Secs. 35 and 36.

Containing approximately 2,160 acres.

T. 4 S., R. 2 W., unsurveyed.

Secs. 2, 3, and 4;  
Sec. 11.

Containing approximately 1,270 acres.

T. 6 S., R. 4 W., unsurveyed.

Sec. 7.

Containing approximately 613 acres.

T. 5 S., R. 5 W., unsurveyed.

Sec. 33.

Containing approximately 620 acres.

T. 6 S., R. 5 W., unsurveyed.

Sec. 4;  
Sec. 9;  
Secs. 28 and 29;  
Sec. 32;  
Sec. 33, parcels A and B.

Containing approximately 3,105 acres.

T. 7 S., R. 5 W., surveyed.

Sec. 4, portion.

Containing approximately 384.02 acres.

T. 8 S., R. 6 W.,

Secs. 7, 8, and 9;  
Sec. 10, lots 1 through 4;  
Secs. 11 and 12;  
Sec. 14, lot 1;  
Secs. 15 and 16;  
Sec. 17, lots 1 and 2;  
Sec. 18, lots 1 and 2;  
Sec. 19;  
Sec. 20, lot 1;  
Sec. 21, lots 1 and 2;  
Sec. 22;  
Sec. 29, lot 2;  
Sec. 30, lots 1 and 2;

Containing 4,872.42 acres, as shown on the plat of survey officially filed April 14, 1989.

T. 7 S., R. 7 W.,

Secs. 1 and 2;  
Sec. 9, lot 1;  
Sec. 11, lot 1;  
Sec. 12, lots 1 and 5;  
Sec. 13, lots 1, 2, and 4;  
Sec. 14;  
Sec. 16, lot 1;  
Sec. 17;  
Sec. 23, lots 1 and 2;  
Sec. 24, lot 2.

Containing 5,296.36 acres, as shown on the plat of survey officially filed April 14, 1989.

T. 8 S., R. 7 W.,

Secs. 24 and 25;

Containing 366.60 acres, as shown on the plat of survey officially filed April 14, 1989.

T. 7 S., R. 8 W.,

Sec. 5;  
Sec. 8;  
Secs. 16 and 17.  
Sec. 20, excluding mining claims AA-28078 and AA-28079;  
Sec. 21, lot 1;  
Sec. 28, lot 2;  
Sec. 29.

Containing 4,455.18 acres, as shown on the plat of survey officially filed April 14, 1989.

Aggregating approximately 23,142.58 acres.

NOTE: ANCSA Sec. 12(a) entitlement is reached in Sec. 4, T. 7 S., R. 5 W. Includes those lands described in Appendix B of this Agreement.

ANCSA Sec. 12(b) Entitlement:

T. 5 S., R. 3 W., unsurveyed.

Sec. 18, parcels A and B;  
Sec. 19, parcels A, B, and D;  
Sec. 20;  
Sec. 23, parcel A, portion;  
Sec. 26, excluding US Survey 8393, lot 1;  
Secs. 27 and 28;  
Sec. 29, parcels A and B;  
Sec. 32;  
Sec. 33, parcels A and B;  
Sec. 34, parcels A and B;  
Sec. 35, excluding US Survey 8393, lot 2;  
Sec. 36.

Containing approximately 3,673.25 acres.

T. 5 S., R. 4 W., unsurveyed.

Sec. 13.

Containing approximately 380 acres.

T. 7 S., R. 7 W.,

Sec. 5, lot 1;  
Sec. 6;  
Sec. 8, lot 1.

Containing 725.65 acres, as shown on the plat of survey officially filed April 14, 1989.

T. 7 S., R. 8 W.,

Sec. 1;  
Secs. 12, 13, and 14;  
Sec. 23;  
Sec. 26, lot 1;  
Sec. 27.

Containing 2,335.99 acres, as shown on the plat of survey officially filed April 14, 1989.

Aggregating approximately 7,114.89 acres.

NOTE: ANCSA Sec. 12(b) entitlement is reached in Sec. 23, T. 5 S., R. 3 W.

ANCSA Secs. 12(a) and 12(b) entitlements in the Park aggregate 30,257.47 acres.

## **ALASKA MARITIME NATIONAL WILDLIFE REFUGE**

ANCSA Sec. 12(a) Entitlement:

### T. 8 S., R. 6 W.,

Sec. 14, lot 2;  
Sec. 20, lot 2;  
Sec. 21, lot 3;  
Sec. 27, lots 1, 2, and 3;  
Sec. 28, lots 1 and 2;  
Sec. 29, lot 1;  
Sec. 30, lot 3;  
Secs. 31 and 32;  
Sec. 33, lots 1 and 2;  
Sec. 34, lots 1 and 2.

Containing 1,924.97 acres, as shown on the plat of survey officially filed April 14, 1989.

### T. 7 S., R. 7 W.,

Sec. 9, lots 2, 3 and 4;  
Sec. 11, lots 2, 3, and 4;  
Sec. 12, lots 2, 3, and 4;  
Sec. 13, lots 3 and 5;  
Sec. 16, lot 2;  
Sec. 24, lot 1.

Containing 6.69 acres, as shown on the plat of survey officially filed April 14, 1989.



T. 8 S., R. 7 W.,

Sec. 35;

Sec. 36, lots 1, 2, and 3.

Containing 339.05 acres, as shown on the plat of survey officially filed April 14, 1989.

T. 7 S., R. 8 W.,

Sec. 21, lots 2 and 3;

Sec. 28, lot 1.

Containing 0.42 acres, as shown on the plat of survey officially filed April 14, 1989.

Aggregating 2,271.13 acres.

ANCSA Sec. 12(b) Entitlement:

T. 5 S., R. 3 W., unsurveyed.

Sec. 19, parcel C.

Containing approximately 5 acres.

T. 7 S., R. 7 W.,

Sec. 5, lot 2;

Sec. 8, lots 2 and 3.

Containing 3.08 acres, as shown on the plat of survey officially filed April 14, 1989.

T. 7 S., R. 8 W.,

Sec. 26, lots 2, 3, and 4.

Containing 0.38 acres, as shown on the plat of survey officially filed April 14, 1989.

Aggregating approximately 8.46 acres.

ANCSA Secs. 12(a) and 12(b) entitlements in the Refuge aggregate 2,279.59 acres.

ANCSA Secs. 12(a) and 12(b) entitlements in the Park and Refuge aggregate 32,537.06 acres, including EBC In-Lieu Lands which are to be excluded from the legal description of the EBC Fee Lands. EBC Fee Lands aggregate 31,726.24 acres.

**APPENDIX B**  
**EBC IN-LIEU LANDS**

SEWARD MERIDIAN, ALASKA

ANCSA Sec. 12(a) land:

T. 6 S., R. 4 W., unsurveyed.

Sec. 7, portion.  
Containing approximately 241.80 acres.

T. 6 S., R. 5 W., unsurveyed.

Sec. 33, parcels A and B.  
Containing approximately 185 acres.

T. 7 S., R. 5 W., surveyed.

Sec. 4, portion.  
Containing approximately 384.02 acres.

EBC In-Lieu Lands aggregate approximately 810.82 acres.

## APPENDIX C

### PARK ACCESS AND USE EASEMENT LANDS

SEWARD MERIDIAN, ALASKA

ANCSA Sec. 12(a) land:

T. 7 S., R. 7 W.,

Sec. 9, lot 1, excluding east one half mile of lot 1;

Sec. 16, lot 1, excluding east one half mile of lot 1;

Sec. 17.

Containing 926.49 acres, as shown on the plat of survey officially filed April 14, 1989.

T. 7 S., R. 8 W.,

Sec. 5; E  $\frac{1}{2}$  and E  $\frac{1}{2}$  W  $\frac{1}{2}$

Sec. 8;

Secs. 16 and 17;

Sec. 20, excluding mining claims AA-28078 and AA-28079;

Sec. 21, lot 1;

Sec. 28, lot 2;

Sec. 29.

Containing approximately 4,295.18 acres, as shown on the plat of survey officially filed April 14, 1989.

Aggregating approximately 5,221.67 acres.

ANCSA Sec. 12(b) land:

T. 7 S., R. 7 W.,

Sec. 5, lot 1;

Sec. 6;

Sec. 8, lot 1.

Containing 725.65 acres, as shown on the plat of survey officially filed April 14, 1989.

T. 7 S., R. 8 W.,

Sec. 1;  
Secs. 12 and 13;  
Sec. 14, E½;  
Sec. 23;  
Sec. 26, lot 1;  
Sec. 27.

Containing 2,015.99 acres, as shown on the plat of survey officially filed April 14, 1989.

Aggregating 2,741.64 acres.

EBC Park Access and Use Easement Lands aggregate 7,963.31 acres.



**Amendment Number 1  
to the Agreement between  
English Bay Corporation and the United States of America**

This Amendment to the **Agreement for the Sale and Purchase of Lands from English Bay Corporation by the United States of America**, dated May 19, 1997 (hereinafter "Amendment" or "Agreement," as appropriate), is entered into in accordance with the provisions of Sections 14, 16 and 17(f) of the Agreement:

**Modification of Section 3 (Purchase Price) of the Agreement**

(a) English Bay Corporation ("EBC"), whose address is 1637 Stanton Avenue, Anchorage, Alaska 99508, and the United States of America ("United States"), acting through the National Park Service, Land Resources Program Center, whose address is 2525 Gambell Street, Room 107, Anchorage, Alaska 99503, hereinafter the "Parties," agree that the Agreement should be clarified as provided below. This is necessary in order to reflect the status of a portion of EBC's entitlement included within the calculation of the Base Purchase Price and which will not have been conveyed to EBC by the United States by the date contemplated for the first closing.

(b) Accordingly, the Parties agree that Section 3(c) of the Agreement is amended by adding the following at the end thereof:

The Parties also acknowledge that the United States will not have conveyed to EBC its complete land entitlement under section 12(a) of ANCSA by the date of the initial closing, the entitlement for which is reflected in the calculation of the Base Purchase Price. Accordingly, the Parties agree that the price to be paid at the initial closing shall be based only on those lands conveyed to EBC by the United States on the date of the initial closing, and not otherwise addressed in Section 3(b) or 3(c) of the Agreement, and that the Base Purchase Price is thereby also reduced by \$90,999.39 [194.45 acres x \$467.9835 per acre, rounded to the nearest whole cent].

(c) Once the United States has conveyed to EBC all of the lands to which EBC is ultimately entitled, the Parties shall mutually agree to an appropriate date and location for an additional closing at which EBC shall convey to the State of Alaska and the United States the appropriate interests in such lands utilizing the instruments required by Section 6(a) of the Agreement. The United States shall pay EBC the sum calculated as the product of the number of additional acres conveyed times \$467.9835, rounded to the nearest whole cent, upon recordation of the Warranty Deed.

(d) The Parties also recognize that due to the timing and order of the conveyances made by BLM to EBC and the possibility of typographical or similar minor errors, there may be some differences in the description of the lands to be conveyed at the Initial and any subsequent closings from those listed in Appendix A and B. The Parties agree that all lands conveyed by the United States to EBC pursuant to ANCSA and within the Park are intended to be sold to the United States in accordance with the terms and conditions otherwise stated in this agreement. Consistent with the foregoing sentence and, to the extent that the listings at either Appendix A and Appendix B are determined to be incorrect, the Parties agree that the descriptions in the respective conveyance instruments identified in Section 6(a) of the Agreement are to be controlling over the descriptions in either Appendix.

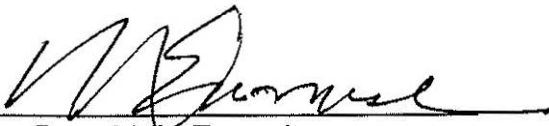
All other terms of the Agreement shall otherwise remain in effect.

Each signatory to this Amendment represents that the signatory is authorized to execute this Amendment.

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

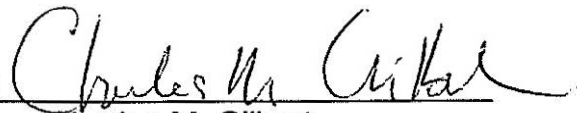
**English Bay Corporation**

Date: 10-29-97

By:   
Donald D. Emmal  
President

**United States of America**

Date: 10/30/97

By:   
Charles M. Gilbert  
Chief, Land Resources Program Center  
Alaska Region  
National Park Service



ACKNOWLEDGMENT

STATE OF ALASKA

)

) ss.

THIRD JUDICIAL DISTRICT

)

THIS IS TO CERTIFY that on the 29<sup>th</sup> day of October, 1997, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared Donald D. Emmal, President of English Bay Corporation, to me known and known to be the person he represented himself to be, and the same identical person who acknowledged before me that he executed the above and foregoing AMENDMENT on behalf of English Bay Corporation, in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors 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.

Ma D. Flowers

Notary Public in and for Alaska

My commission expires: 7-25-98

(SEAL)

ACKNOWLEDGMENT

STATE OF ALASKA

)

) ss.

THIRD JUDICIAL DISTRICT

)

THIS IS TO CERTIFY that on the 30<sup>th</sup> day of October, 1997, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared Charles M. Gilbert, Chief, Land Resources Program Center, Alaska Region, National Park Service, to me known and known to be the person he represented himself to be, and the same identical person who acknowledged before me that he executed the above and foregoing AMENDMENT freely and voluntarily.

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

[Signature]

Notary Public in and for Alaska

My commission expires: November 28, 1999

(SEAL)