



**ADL 418997**

**RIGHT-OF-WAY LEASE  
FOR  
THE ALASKA STAND ALONE GAS PIPELINE/ASAP**

**BY AND  
BETWEEN  
THE STATE OF ALASKA  
AND  
THE ALASKA GASLINE DEVELOPMENT CORPORATION**

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**RIGHT-OF-WAY LEASE**

This Right-of-Way Lease (hereinafter "Lease") is entered into this 25<sup>th</sup> day of July, 2011 (hereinafter "Effective Date"), by the State of Alaska (hereinafter "State"), acting through the Commissioner of the Department of Natural Resources (hereinafter "Commissioner"), and by the Alaska Gasline Development Corporation (hereinafter "AGDC" or "Lessee").

WHEREAS the AGDC was created pursuant to Alaska Statutes 38.34.030(a) and 18.56.086;

WHEREAS AGDC is required by AS 38.34.040(e)(3) to apply for and obtain rights-of-way and other permits for the project route;

WHEREAS AS 38.34.050(c) provides the Commissioner shall grant AGDC a right-of-way lease under AS 38.35 for the gas pipeline transportation corridor if AGDC submits a complete right-of-way lease application under AS 38.35.050, the lease application is made the subject of notice and other reasonable and appropriate publication requirements under AS 38.35.070, and (3) AGDC agrees to be bound by certain right-of-way lease covenants set out in AS 38.35.120; and

WHEREAS AGDC submitted a complete right-of-way lease application, and the lease application was noticed for public comment on March 21, 2011.

Now, in consideration of Lessee's covenants and agreements described hereinafter, and subject to the provisions of this Lease, the State and Lessee agree as follows:

**1. Lease of Right-of-Way**

(a) Pursuant to the provisions of AS 38.35, the Alaska Right-of-Way Leasing Act, as amended, and for and in consideration of the covenants and conditions contained herein and the Stipulations incorporated by reference and attached as Exhibit A, the State hereby grants to the Lessee, for a limited duration described in Section 2, a non-exclusive right-of-way Lease only for the purposes described in Subsection (c) of this section, across, through, and upon those State Lands and those lands now owned or hereafter acquired, each as shown and described in the incorporated alignment and site locations attached hereto as Exhibit B. If needed upon completion of a title report on the lands listed in Exhibit B, Exhibit B shall be amended.

(b) This Lease conveys a right-of-way interest only in lands in which the State holds or obtains a property interest, including lands selected by the State pursuant to Section 906 of the Alaska National Interest Lands Conservation Act. This Lease does not convey land or interest in lands owned or administered by the University of Alaska, the Alaska Mental Health Trust Authority, or the Alaska Railroad Corporation. Although this Lease applies to State Lands in which the Alaska Department of Transportation and Public Facilities has an interest or which the Alaska Department of Transportation and Public Facilities administers, the Lessee must also secure the written permission of the Alaska Department of Transportation and Public Facilities to enter upon and use such lands through an Highway Use Agreement to be entered into pursuant to Exhibit A Stipulation 4.

(c) This Lease is granted for the purpose of the Construction, Operation, Maintenance, and Termination of a Natural Gas transportation Pipeline, consisting of one 24-inch diameter Pipeline, one 12-inch diameter Pipeline and Related Facilities in compliance with the terms of this Lease and all applicable State laws and regulations.

(d) Except as otherwise provided herein, the Lessee shall not allow or suffer any other Person or entity to use the Leasehold for carrying on activities which are not part of the Lessee's authorized operations pursuant to this Lease. Nothing in this subsection is intended to excuse or preclude the Lessee from complying with its obligations under this Lease, or employing agents, employees, or Contractors to effect the Construction, Operation, Maintenance, or Termination of the Pipeline. This Lease is subject to any valid existing rights including rights of third parties and of State entities with authority over the Leasehold.

## **2. Duration**

(a) This Lease shall expire on the 25<sup>th</sup> day of July, 2041, at 12 noon (Alaska Time), unless prior thereto it is released, abandoned, or otherwise terminated pursuant to the provisions of this Lease or any applicable law or regulation.

(b) The Lessee shall give written notice to the Commissioner of its intent to seek renewal of this Lease no later than one-hundred eighty (180) days before expiration. The Commissioner shall, upon request of the Lessee, renew the Lease for additional terms of up to thirty (30) years each, but not less than ten (10) years each, so long as the Pipeline is in commercial operation and Lessee is in compliance with:

- (1) all terms of the Lease;
- (2) all State laws, including but not limited to State law pertaining to regulation and taxation of the Pipeline; and
- (3) any agreement(s) between the State and the Lessee pertaining to regulation and taxation of the Pipeline.

(c) The Lessee shall provide three hundred sixty-five (365) days notice to the Commissioner prior to any relinquishment, renewal, abandonment or other Termination of this Lease.

(d) Upon the expiration of the Lease term (including any renewal thereof), or upon its earlier forfeiture, relinquishment, abandonment, or other Termination, the provisions of this Lease, to the extent applicable, shall continue in effect and shall be binding on the Lessee, its successors, and assigns, until they have fully performed their respective obligations and liabilities resulting from that Lessee's tenure as the leaseholder or on account of the expiration, or prior Termination, of the Lease. At any time following the expiration, forfeiture, relinquishment, abandonment, or other Termination of this Lease, upon a determination in writing that the State's best interest shall be served, the Commissioner may release the Lessee from all or a portion of such continuing obligations and liabilities, with the exception of those contained in Section 8(m) and Section 9 herein.

## **3. Rental**

- (a) Construction Leasehold:

(1) The Lessee shall pay to the State annual rental payments in the amount of \$188,600.00 during the period of Pipeline Construction. However, this rental amount shall be adjusted on the basis of a formal appraisal conducted on or before one (1) year after the Effective Date of this Lease.

(2) The first payment is due on or before the Effective Date of this Lease and all subsequent payments are due on or before each Lease Anniversary Date.

(3) The annual rental payments made during Construction under this subsection shall be adjusted by an amount which reflects any overpayment for the period from the date of the Commissioner's approval of all the requirements under Section 23(e) of this Lease to the next Lease Anniversary Date following the re-appraisal of the Operation and Maintenance Leasehold. The amount of difference shall be calculated on a pro rata acreage basis.

(b) Operation and Maintenance Leasehold:

(1) Upon receipt of the Commissioner's approval of all of the requirements under Section 23(e) of this Lease, and for the remainder of the term of this Lease and any subsequent renewals, Lessee shall pay to the State annual rental payments in the amount of the annual fair market rental of the Leasehold based on the appraised fair market rental value of the Leasehold.

(c) The initial formal appraisal, and all subsequent reappraisals, shall be carried out by an independent appraiser selected by the Lessee from a list of appraisers provided by the Department of Natural Resources. All costs of the initial formal appraisal, and of all subsequent reappraisals, shall be borne by the Lessee.

(d) The annual rental payment is subject to adjustment by the State five years from the first payment date as set out in (a) of this section and every fifth Lease Anniversary Date thereafter. The new rental payment shall be based on the appraised fair market rental value of the Leasehold. Except as set forth in Subsection (a)(3), the new annual rental payment takes effect on the applicable Lease Anniversary Date, regardless of whether the adjustment determination occurs before or after the applicable Lease Anniversary Date.

(e) The Lessee's rental obligations described in this section shall expire upon the expiration, forfeiture, relinquishment, abandonment, or other Termination of this Lease, subject only to the completion of all of Lessee's obligations described in Section 25 of this Lease.

(f) Except as provided in AS 38.34.040(f) and (g), any interest in land acquired under the provisions of AS 38.35.130 for the Pipeline shall become part of the Leasehold, and the costs for the acquisition thereof shall be borne by the Lessee. Rental shall not be charged for any land acquired under AS 38.35.130 and conveyed without cost to the State.

#### **4. Payment**

(a) The initial rental payment is due and shall be tendered on or before the Effective Date of the Lease. Subsequent rental payments shall be due annually on or before each Lease Anniversary Date.

(b) All payments to the State under this Lease must be made payable to the State in the manner directed by the State, and unless otherwise specified, shall be tendered to the State at:

Alaska Department of Natural Resources  
Attention: Revenue Unit  
550 West 7th Avenue, Suite 1410  
Anchorage, Alaska 99501-3561

or to any other depository designated by the State. If the State changes the designated depository, it shall give at least sixty (60) days written notice to the Lessee in the manner provided in Section 26 herein.

(c) The Lessee shall pay the fee set forth in 11 AAC 05.010 for any late payment or returned check issued by the Lessee. Interest at the rate set by AS 45.45.010(a) shall be assessed on all past due amounts until payment is tendered to the State.

#### **5. Denial of Warranty**

(a) The State makes no representations or warranties, express or implied, as to title to, access to, or quiet enjoyment of the Leasehold. The State is not liable to the Lessee for any deficiency of title to or difficulty in securing access to the Leasehold. The Lessee or any successor in interest to the Lessee is not entitled to any refund of prior rentals paid under this Lease due to deficiency of title.

(b) The State makes no warranty, express or implied, and assumes no liability whatsoever, regarding the social, economic, or environmental aspects of the Leasehold granted herein, including, without limitation, the soil conditions, water drainage, access, natural or artificial hazards that may exist, or the profitability or fitness of the Leasehold granted herein for any use. The Lessee represents that the Lessee has inspected the Leasehold granted herein and determined that the Leasehold is suitable for the use intended, or has voluntarily declined to do so, and accepts the State Lands included in the Leasehold granted herein "as is" and "where is," subject to Section 13 of this Lease.

#### **6. Reservation of Certain Rights to the State**

(a) The State reserves and shall have a continuing and reasonable right of access to any part of the Leasehold (including the subsurface of, and the air space above, such Leasehold) and a continuing and reasonable right of physical entry to any part of the Pipeline, including federal and private lands, for inspection or monitoring purposes and for any other purpose or reason that is consistent with any right or obligation of the State.

(b) The right of access and entry reserved in Subsection (a) of this section shall extend to and be enjoyed by any Contractor of the State designated by the Commissioner in writing. Such written designation shall be provided to the Lessee. The Commissioner and the Lessee may mutually develop additional procedures to implement this subsection.

(c) There is reserved to the State the right to grant additional permits, Leases or easements for rights-of-way or other uses to third parties that include lands subject to the Leasehold; provided that such grant shall not unreasonably interfere with the Lessee's rights under this Lease.

(d) This Lease is subject to the reservations set forth in AS 38.05.125 as such statutes exist on the Effective Date of this Lease.

**7. Access to Navigable and Public Waters**

The State reserves a public access easement to and along all public or navigable water bodies or waterways that border on or are included in the State Lands included in the Leasehold. The State shall make the determinations and provisions required in AS 38.05.127(a) before the first formal appraisal. No public access easement may be obstructed or otherwise rendered incapable of reasonable use for the purposes for which it was reserved. The Lessee shall not petition to vacate, abandon, or extinguish any public access easement without the prior written approval of the Commissioner.

**8. Covenants of Lessee**

Unless specifically exempted by law, the Lessee expressly covenants, in consideration of the rights acquired by it pursuant to this Lease, that:

(a) Lessee will assume the status of and will perform all of its functions undertaken under this Lease as a common carrier and will accept, convey, and transport without discrimination Natural Gas delivered to it for transportation from fields in the vicinity of the Pipeline throughout its route on State Land obtained under this Lease and on other land; Lessee will accept, convey, and transport Natural Gas without unjust or unreasonable discrimination in favor of one producer or person, including itself, as against another but will take the Natural Gas delivered or offered, without unreasonable discrimination, that the Regulatory Commission of Alaska or its successor with jurisdiction over common carrier pipelines shall, after a full hearing with due notice to the interested Parties and a proper finding of facts, determine to be reasonable in the performance of its duties as a common carrier;

(b) Lessee will interchange Natural Gas with each like common carrier and provide connections and facilities for the interchange of Natural Gas at every locality reached by both pipelines when the necessity exists, subject to rates and regulations made by the appropriate State or federal regulatory agency;

(c) Lessee shall maintain and preserve books, accounts, and records and shall make those reports that the Commissioner may prescribe by regulation or law as necessary and appropriate for the purposes of administering AS 38.35;

(d) Lessee shall accord at all reasonable times to the State and its authorized agents and auditors the right of access to its property and records, of inspection of its property, and of examination and copying of records at Lessee's offices or other location chosen by Lessee;

(e) Lessee will provide connections, as determined by the Regulatory Commission of Alaska or its successor with jurisdiction over common carrier pipelines, under AS 42.06.340, to facilities on the Pipeline subject to this Lease, both on State Lands and other land in the State, for the purpose of delivering Natural Gas to persons (including the State and its political subdivisions) contracting for the purchase at wholesale of Natural Gas transported by the Pipeline when required by the public interest;

(f) Lessee shall, notwithstanding any other provision, provide connections and interchange facilities at State expense at such places the State considers necessary, if the State determines to take a portion of its royalty or taxes in Natural Gas;

(g) Lessee shall construct and operate the Pipeline in accordance with applicable State laws and lawful regulations and orders of the Regulatory Commission of Alaska or its successor with jurisdiction over common carrier pipelines;

(h) Lessee shall, at its own expense, during the term of this Lease

(1) maintain the Leasehold and Pipeline in good repair;

(2) promptly repair or remedy any damage to the Leasehold;

(3) promptly compensate for any damage to or destruction of property for which the Lessee is liable resulting from damage to or destruction of the Leasehold or Pipeline;

(i) As more fully set out in Section 22 of this Lease, Lessee shall not transfer, assign, or dispose of in any manner, directly or indirectly, or by transfer of control of the Lessee, its interest in this Lease, or any rights under this Lease or any Pipeline subject to this Lease to any person other than another owner of the Pipeline (including subsidiaries, parents and affiliates of the owners), except to the extent that the Commissioner, after consideration of the protection of the public interest (including whether the proposed transferee is fit, willing and able to perform the transportation or other acts proposed in a manner that shall reasonably protect the lives, property and general welfare of the people of Alaska), authorizes; the Commissioner shall not unreasonably withhold consent to the transfer, assignment, or disposal;

(j) Lessee shall file with the Commissioner a written appointment of a named permanent resident of the State of Alaska to be its registered agent in Alaska and to receive service of notices, regulations, decisions and orders of the Commissioner; if Lessee fails to appoint an agent for service, service may be made by posting a copy in the office of the Commissioner and filing a copy of it in the Office of the Lieutenant Governor and by mailing a copy to the Lessee's last known address;

(k) the applicable law of the State of Alaska shall be used in resolving questions of interpretation of this Lease;

(l) the granting of this Lease is subject to the express condition that the exercise of the rights and privileges granted under this Lease shall not unduly interfere with the management, administration, or disposal by the State of the State Land affected by this Lease, and that Lessee agrees and consents to the occupancy and use by the State, its grantees, permittees, or other Lessees of any part of the Leasehold not actually occupied or required by the Pipeline for the full and safe utilization of the Pipeline, for necessary operations incident to land management, administration, or disposal;

(m) as more fully set out in Section 9 of this Lease, Lessee shall be liable to the State for damages or injury incurred by the State caused by the Construction, Operation or Maintenance of the Pipeline and Lessee shall indemnify the State for the liabilities or damages;

(n) Lessee shall procure and furnish liability and property damage insurance from a company licensed to do business in the State or furnish other security or undertaking upon the terms and conditions the Commissioner considers necessary if the Commissioner finds that the net assets of the Lessee are insufficient to protect the public from damage for which the Lessee may be liable arising out of the Construction or Operation of the Pipeline.

**9. Indemnity**

(a) If and when the Lessee is no longer a State entity, then the Lessee shall assume all responsibility, risk, and liability for its Pipeline activities and its use of or contact with the Leasehold. If and when the Lessee is no longer a State entity, the Lessee shall defend, indemnify, and hold harmless the State, its agents and employees, from and against any and all demands, causes of action (whether in the nature of an action for damages, indemnity, contribution, government cost recovery or otherwise), fines, judgments, suits, claims, actions, proceedings, losses, costs (including reasonable attorneys' fees and costs), expenses, charges, forfeitures, liens, liabilities, settlements, penalties, and damages of any kind or nature whatsoever, including, but not limited to those alleging personal injury, wrongful death, nuisance, property damage, environmental contamination (including any disposal, release, spill or discharge or any threatened disposal, release, spill, or discharge of or contamination by Hazardous Materials, but subject to the limitations on Lessee's liabilities expressly provided under Section 13 of this Lease), and environmental noncompliance (including the Lessee's failure to provide all information, make all submissions, and take all steps required by the authority under the environmental laws or any other law concerning any spill, discharge, or contamination), arising out of, in connection with, directly or indirectly from, or otherwise incident to, Lessee's Construction, Operation or Maintenance of the Pipeline or use of or contact with the Leasehold, except to the extent the proximate cause of the injury or damage is due to the action or omission of the State, including any negligence, gross negligence, or reckless or willful misconduct of the State or anyone acting on the State's behalf.

(b) The State shall tender, and the Lessee shall accept the tender by the State of any such cause of action, lawsuit, or other proceeding brought against the State which is covered by Subsection (a) of this section. Subject to the last sentence in this subsection, any reasonable attorneys' fees or costs incurred by the State prior to such tender of defense shall be the complete and sole responsibility of Lessee, so long as the tender is covered by Subsection (a) of this section. If the State tenders such cause of action, lawsuit, or other proceeding later than twenty (20) days after service on the State, and the Lessee informs the State that the delay in tendering shall require Lessee to incur additional costs in order to respond in a competent and timely manner, and the State is unable to obtain an extension of time sufficient to provide Lessee with at least one-half of the number of days which the State originally had to respond, then the State shall reimburse Lessee for documented, reasonable costs incurred by the Lessee that are directly related to the delay in tendering and the State shall bear its attorneys' fees and costs prior to the tender.

(c) The obligations of the Lessee to indemnify the State under the terms of this Lease shall survive the transfer, assignment, or other disposition of the Lessee's interest in this Lease as well as the expiration, forfeiture, relinquishment, abandonment or other Termination of this Lease to the extent the obligation(s) arose during that Lessee's tenure as the leaseholder.

**10. Lessee's Contractors, Agents and Employees**

(a) Lessee shall require that all of its Contractors conducting Pipeline Activities on the Leasehold:

(1) indemnify the State and extend all its Contractors' indemnities to include the State as an additional named indemnitee;

(2) name the State of Alaska as additional insured on all liability insurance policies maintained under their contracts with Lessee; and

(3) obtain an appropriate waiver of subrogation in favor of the State with respect to all other insurance policies.

(b) Unless clearly inapplicable, the requirements and prohibitions imposed upon the Lessee by this Lease are also imposed upon the company's agents, employees, Contractors, and employees of each of them. The Lessee shall ensure compliance with this Lease by its agents, employees and Contractors, and the employees of each of them.

**11. Guaranty and State as Additional Insured**

(a) The Commissioner shall not issue a Notice To Proceed for the Lessee to initiate any Construction under this Lease prior to the Commissioner's receipt from the Lessee of an unconditional guaranty, meeting all requirements of this section, guaranteeing the performance of all of Lessee's duties and obligations under and by virtue of this Lease; except that the State shall not require a guaranty from a State entity.

(b) The guarantor's unconditional guaranty shall be in a form approved by the Commissioner, and shall be attached to this Lease as Exhibit C. If the Commissioner determines at any time that the guaranty is insufficient to satisfactorily guarantee the performance of all the Lessee's duties, obligations, and potential liabilities under and by virtue of this Lease, the Commissioner may require the substitution and delivery of a supplementary guaranty or other security from Lessee or from a substitute guarantor or insurer, with any provisions the Commissioner reasonably finds necessary. Lessee shall submit, on an annual basis, guarantor's annual financial statement and balance sheet, or such financial documentation of any required substitute guarantor, that the Commissioner requests.

(c) The Lessee shall procure and furnish liability and property damage insurance from a company licensed to do business in the State or furnish other security or undertaking upon the terms and conditions the Commissioner considers necessary if the Commissioner finds that the net assets of the Lessee are insufficient to protect the public from damage for which the Lessee may be liable arising out of the Construction or Operation of the Pipeline. If the Lessee, at its option or as required by the Commissioner under this section, obtains commercially available insurance coverage for the Leasehold and the Lessee's activities in, on or related to the Leasehold, the Lessee shall cause the State to be named as an additional insured on all such insurance policies obtained and maintained by the Lessee, except that such insurance coverage shall not cover or apply where the proximate cause of the injury or damage is the gross negligence or reckless or willful misconduct of the State or anyone acting on behalf of the State. Any commercially available insurance purchased by Lessee under this section shall not be construed to limit in any way the Lessee's liabilities or responsibilities under this Lease.

**12. Conduct of Operations**

(a) The Lessee shall perform all Pipeline Activities under this Lease in a lawful, prudent, and skillful manner in compliance with the terms and conditions of this Lease, its incorporated exhibits and all required permits.

(b) Except as set forth in Section 13, the Lessee shall prevent or, if the procedure, activity, event or condition already exists or has occurred, shall abate, as completely as practicable, any physical or mechanical procedure, activity, event or condition:

- (1) that is susceptible to prevention or abatement;
- (2) that arises out of, or could adversely affect, Pipeline Activities; and
- (3) that causes or threatens to cause
  - a) a hazard to the safety of workers or to the public health or safety (including but not limited to personal injury or loss of life with respect to any person or persons); or
  - b) immediate, serious, or irreparable harm or damage to the environment (including but not limited to soil, sediments, water and air quality, areas of vegetation, fish or other wildlife populations or their habitats, or any other natural resource).

(c) The Lessee shall provide reasonable protection to public or private improvements on State Land, which may be adversely affected by Pipeline Activities. If the Commissioner determines that the Lessee has caused damage to such public or private improvements, and if the owner of such improvements so requires, then the Lessee shall promptly repair or reimburse the owner for reasonable costs in repairing such improvements to a condition which is reasonably satisfactory to the owner, but which does not exceed the improvements' condition prior to damage. This section does not limit in any way the legal or equitable remedies that may be available to a public or private owner of improvements on State Land.

**13. Use of Previously Disturbed Lands**

(a) The Commissioner and the Lessee agree that, where possible, the use of previously disturbed lands is desired to reduce impacts to the environment. Both parties recognize that certain sites authorized for use under the Lease may contain releases or threatened releases of Hazardous Substances that are the result of activities prior to the use of such sites by the Lessee. For the purposes of this section, the term "Site" shall mean a specific area of the Leasehold selected for a particular operation or use by the Lessee in accordance with the terms of this Lease, and the term "Existing Contamination" shall mean Hazardous Substances present at the Site prior to Lessee's initial Field Activity on the Site.

(b) The Lessee, the Department of Natural Resources, and the Department of Environmental Conservation will enter into good faith negotiations to reach an agreement that will limit Lessee's liability for Existing Contamination. That agreement may contain additional conditions governing Lessee's activity on Sites where Existing Contamination may be present and/or provide for alternate Site selection in the event that Existing Contamination makes use of a Site undesirable to the Lessee. If, before the start of Field Activity at a Site, there is Existing

Contamination or there is a reasonable possibility that there is Existing Contamination at a Site, the Lessee, in its sole discretion, may choose to work with the Commissioner to amend the Lease to:

- (1) remove the Site from the Leasehold, without any further obligation or liability to remove, remediate, minimize or control Existing Contamination, and
- (2) identify and add any necessary alternative State Lands to the Leasehold in replacement of the removed Site.

#### **14. Permits**

Before any particular activity requiring any federal, State, or municipal permits or authorizations occurs under this Lease, all required federal, State, and municipal permits and other authorizations for that particular activity must be issued to the Lessee. The Lessee shall maintain any such required permits in good standing for so long as such permits are required for activities carried on pursuant to rights granted under this Lease during the term of this Lease.

#### **15. Orders by the Commissioner**

(a) The Commissioner may issue any order necessary to enforce or implement any provision of this Lease.

(b) Before delivery of any such order, the Commissioner shall confer with Lessee, if practicable to do so, regarding the required action or actions included in the order. Any such order shall state in detail what is demanded of Lessee and the reasons and basis for such demand.

(c) All decisions, determinations, authorizations, approvals, consents, demands or directions that shall be made or given by the Commissioner to Lessee in connection with the enforcement or administration of this Lease, or in connection with any other agreement, permit or authorization relating in whole or in part to all or any part of the Pipeline shall, except as otherwise provided in Subsection (d) of this section, be in the form of a written order or notice.

(d) All orders, approvals, or notices of the Commissioner shall be in writing; provided, however, that if, in the judgment of the Commissioner, there is an emergency that necessitates the immediate issuance to the Lessee of an order, approval, or notice, such order, approval, or notice may be given orally with subsequent confirmation in writing as soon as possible thereafter, but not later than forty-eight (48) hours.

#### **16. Information**

The Commissioner may order the Lessee at any time to furnish any and all information related to Pipeline Activities to the extent necessary to enforce a provision of this Lease or a provision of AS 38.35. If the Lessee desires that records submitted to the State be kept confidential, the Lessee shall submit a request for confidentiality in writing to the Commissioner along with the statutory basis for its claim of confidentiality. The Commissioner shall retain records as confidential to the extent consistent with the Commissioner's authority to do so under applicable State statutes.

**17. Right of the State to Perform**

(a) The Lessee shall carry out, at the Lessee's expense, all lawful orders and requirements of the State relative to the Lessee's occupation and use of the Leasehold within a reasonable time period under the circumstances. If, after thirty (30) days following the making of a demand by the Commissioner in the manner that is provided in this Lease, the Lessee, or its respective agents, employees, or Contractors, shall fail or refuse to perform any action required by this Lease or by the Commissioner under this Lease, the State shall have the right, but not the obligation, to enter the Leasehold and at the Lessee's expense, consistent with all applicable State and federal laws and regulations, perform any or all of the following:

- (1) repair damage;
- (2) prevent imminent harm to workers;
- (3) protect public health or safety; and
- (4) prevent immediate, serious or irreparable harm or damage to the environment.

(b) The Commissioner shall submit to the Lessee a statement of the expenses reasonably incurred by the State of any required action taken pursuant to this section. The Lessee shall pay the amount shown within thirty (30) days of receipt of the statement.

**18. Temporary Suspension**

(a) The Commissioner may, consistent with applicable State and federal law, order the temporary suspension of any or all Pipeline Activities, if:

- (1) an immediate temporary suspension of the activity or the activities is necessary to protect:
  - a) public health or safety (including but not limited to personal injury or loss of life with respect to any Person or Persons); or
  - b) the environment from immediate, serious or irreparable harm or damage (including, but not limited to harm or damage to soil, sediments, water and air quality, areas of vegetation, fish or other wildlife population or their habitats, or any other natural resource); or

(2) the Lessee, its agents, employees, or Contractors are failing or refusing, or have failed or refused to comply with or observe:

- a) any provision of this Lease intended to protect public health, safety or the environment; or
- b) any order of the Commissioner implementing any provision of this Lease or any Notice to Proceed, plan or agreement approved, issued or granted by the Commissioner in connection with all or any part of the Pipeline.

(b) A temporary suspension order shall specify:

- (1) the specific activity or activities which must be stopped and the site of such activities;
- (2) the reason for the issuance of the order, including a description of the immediate, serious or irreparable harm sought to be avoided that requires suspension of the specific activity or activities;
- (3) any Notice to Proceed or other Written Authorizations affected by the order;
- (4) the name of the Person issuing the order;
- (5) the name of the Lessee's representative to whom the order is issued; and
- (6) the time and date of the order.

(c) When a temporary suspension order is issued by any delegate of the Commissioner a copy of the written delegation of authority from the Commissioner must accompany the order. A copy of the temporary suspension order must be provided to the Lessee in a manner specified by Section 26 herein.

(d) A temporary suspension order is effective as of the date and time given, unless it specifies otherwise. A written temporary suspension order shall remain in full force and effect until modified or revoked in writing by the Commissioner.

(e) If the Commissioner finds that an emergency exists, a temporary suspension order may be given orally to the Lessee or a field representative of Lessee. If an oral temporary suspension order is given, a written order consistent with the requirements of Subsection (b) shall be issued as soon as possible, but no later than seventy-two (72) hours, after the oral order is given. An oral temporary suspension order that is not confirmed with a written order within the specified time is vacated.

(f) To the extent practicable, the Commissioner shall give the Lessee prior notice of any temporary suspension order. If circumstances permit, the Commissioner shall discuss with the Lessee before issuing the order measures that would:

- (1) immediately abate or avoid the harm or threatened harm that is the reason for the issuance of the order; or
- (2) effect compliance with the provision or order, whichever is applicable.

(g) After a temporary suspension order has been given by the Commissioner, the Lessee shall promptly comply with all of the provisions of the order and shall not resume any activity suspended or curtailed thereby except as provided in this Lease, a subsequent order of the Commissioner, or a court order.

(h) When the Commissioner is satisfied that:

(1) the harm or threatened harm has been abated or remedied,

(2) the Lessee has effected, or is ready, willing and able to effect, compliance with the provisions of the temporary suspension order, or

(3) the Lessee has implemented, or is ready, willing and able to implement, mitigating, corrective, or alternative measures approved by the Commissioner, the Commissioner shall promptly authorize in writing the resumption of the suspended activity or activities. The Commissioner shall render a decision within three (3) days of the date that the request from the Lessee to resume suspended activities is received by the Commissioner. The decision shall state whether the request is granted or denied, and the basis for the decision.

(i) Without limiting any other rights available under 11 AAC 02 or any other law, the Lessee may bring to the Commissioner appeals from temporary suspension orders of the Commissioner's delegates, requests for reconsideration of temporary suspension orders of the Commissioner, and requests for reconsideration of denials of requests to resume suspended activities under the provisions of this section. The Lessee may:

(1) appeal directly to the Commissioner for review of any temporary suspension order issued by a Commissioner's delegate under this section; or

(2) request reconsideration from the Commissioner of

a) any temporary suspension order issued by the Commissioner; or

b) any denial by the Commissioner of a request for resumption of activities suspended under such temporary suspension order.

(j) The Lessee shall file with the Commissioner a notice of appeal or a request for reconsideration brought pursuant to this subsection within ten (10) days after the effective date of the order or denial being appealed or being asked to be reconsidered. The notice must set forth with particularity the order or denial being appealed or being asked to be reconsidered and must contain a statement of facts and points of law the Lessee wishes to present to justify modification or reversal of the order or denial. All statements of fact must be under oath.

(k) The Commissioner shall decide an appeal or a request for reconsideration within ten (10) days from the date the Commissioner received the notice of appeal or request for reconsideration from the Lessee. If the Commissioner does not render a decision within that time, the appeal or request for reconsideration shall be considered to have been denied by the Commissioner, and that denial shall constitute a final decision appealable in accordance with the rules of the court, and to the extent permitted by applicable law.

**19. Commissioner's Decisions**

(a) Except as set forth in Subsection (b) of this section, any decision of the Commissioner as to any matter arising out of this Lease shall constitute the final agency decision appealable in accordance with the rules of the court. The Commissioner shall act in writing upon each required submission for approval of an action by the Lessee. The absence of any comment by the Commissioner on any plan, design, specification, or other document that may be filed by the Lessee with the Commissioner shall not represent in any way whatsoever any assent to, approval of, or concurrence in such plan, design, specification, or other document, or any action proposed therein. Any written approval, instruction or order remains in effect unless and until written notice of the withdrawal or modification of the approval, instruction or order is provided to Lessee. Any written approval or instruction by the Commissioner may be relied upon by the Lessee unless and until rescinded in writing. Any disapproval by the Commissioner, including any requests for additional information, shall state what additional action is necessary to gain approval.

(b) Decisions of a Commissioner's delegate shall not constitute final agency decisions and are subject to the procedures for appeal and reconsideration as set forth in 11 AAC 02, except as otherwise provided in Section 18(i).

**20. Reimbursement of State Expenses**

(a) Lessee shall reimburse the State for all reasonable costs incurred by the State in the oversight of Pipeline Activities in compliance with AS 38.35.140. The Commissioner shall administer this Lease to reasonably assure that unnecessary employment of personnel and needless expenditure of funds by the State are avoided. The Commissioner shall provide Lessee with an annual estimate of the projected costs and scope of the work.

(b) Reimbursement provided for in this section must be made for each quarter ending on the last day of March, June, September, and December. On or before the ninetieth (90th) day after the close of each quarter, the Commissioner shall submit to the Lessee a written statement describing any reimbursable costs incurred by the State during that quarter. This statement may be supplemented within ninety (90) days after the end of a fiscal year for costs incurred in the State's fiscal year but which, because of reasonable mistake, inadvertence, or unavailability, were not previously submitted. The State shall submit invoices to Lessee in accordance with Section 26.

(c) The Lessee shall pay to the State the total amount shown on each statement submitted under Subsection (b), within thirty (30) days of receipt. If the Lessee disputes any item of a statement for reimbursement, the Lessee shall, on or before the date on which the statement is due and payable, deliver to the Commissioner written notice of each item that is disputed, accompanied by a detailed explanation of its objection. The Commissioner shall provide a written decision regarding the Lessee's objections within thirty (30) days of receipt of the Lessee's objections, and any items determined by the Commissioner to have been in error, improper, unnecessary, or needless shall be reimbursed within thirty (30) days after the date of the Commissioner's written decision.

(d) The Lessee may conduct, at its own expense, and by auditors or accountants designated by the Lessee, reasonable audits of the books, records and documents of the State relating to a statement submitted under Subsection (b) of this section, at the places where such

books, records and documents are usually maintained and at reasonable times. Written notice of intent to conduct an audit must be given to the Commissioner:

(1) at least fifteen (15) days prior to the audit and

(2) not later than the ninetieth (90th) day after the date that the State submits the statement, or supplemental statement, as applicable, under Subsection (b) of this section.

(e) An audit under this subsection must be completed within one hundred eighty (180) days after receipt by the Commissioner of the notice of intent to conduct an audit; provided, however, that if the Commissioner fails to provide the Lessee with reasonably timely access to the relevant books, records and documents necessary to complete the audit, such period shall be extended by an appropriate number of days to be mutually agreed to in writing by the Commissioner and the Lessee. The Lessee may present the results of an audit to the Commissioner in a written notice requesting a timely review by the Commissioner of errors, omissions, or discrepancies noted in the audit, including unnecessary employment of personnel or needless expenditures of funds. The Commissioner shall meet with the Lessee within thirty (30) days of receipt of the notice of results of the audit to discuss and attempt to resolve all items listed in the notice of results. The Commissioner shall promptly provide a written decision to the Lessee setting forth the results of the meeting between the Lessee and the Commissioner. Any items previously reimbursed to the State but found during the audit and concurred in by the Commissioner in the written decision setting forth the results of the meeting to have been in error, improper, unnecessary, or needless shall be reimbursed within thirty (30) days after the date of the Commissioner's written decision.

(f) Nothing herein requires the State to maintain books, records or documents other than those usually maintained by it, provided such books, records and documents reasonably segregate and identify the costs for which reimbursement is required by this section. Such books, records and documents must be preserved for a period of at least two (2) years after the Commissioner submits a statement for reimbursement based on such books, records and documents. The Lessee and auditors or accountants designated by the Lessee shall be given reasonable access to, and the right to copy, at the Lessee's expense, all such books, records and documents.

## **21. Liability of the State**

The Lessee agrees that neither the State nor any of its officials, employees, agents or Contractors shall be liable for money damages for any loss caused to the Lessee, its agents or Contractors, by reason of decisions made in respect to the application and administration of this Lease; provided, however, this section does not excuse the State, its officials, employees, agents or Contractors from liability for damages or injuries resulting from acts (or omissions) of the State officials, employees, agents or Contractors that are negligent, grossly negligent, reckless or willful.

## **22. Transfer, Assignment, or Other Disposition**

(a) The State may convey all or a portion of its ownership of the Leasehold at any time to any entity allowed by law. Any conveyance, transfer or other disposition, subsequent to the execution of this Lease, of any right, title, or interest in any of the Leasehold shall be subject

to this Lease and the Lessee's rights hereunder, including the Lessee's right to renew the Lease under Section 2(b) herein.

(b) Except as set forth in Section 8(i) herein, the Lessee may assign, sublease, or transfer this Lease, or any interest in or rights under this Lease only upon a written finding by the Commissioner that the transferee meets the requirements of AS 38.35.100.

(c) In making the determination whether the proposed transferee is fit, willing, and able under this paragraph, the Commissioner shall not consider the existence of the guaranty by the guarantor, unless specifically requested by the Lessee in the Lessee's request for transfer or assignment. If the Commissioner determines that a guaranty or other security is required to guarantee the performance of all of the duties, obligations, and potential liabilities under and by virtue of this Lease by the proposed assignee, transferee, or other receiving party, the proposed assignee, transferee, or other receiving party shall secure a guaranty or other security satisfactory to the Commissioner, in substantially such form as the Commissioner required from the Lessee under Section 11 of this Lease, as a condition to the Commissioner's approval of the transfer, assignment, or other disposal.

### **23. Release of Interest**

(a) In connection with the relinquishment, abandonment or other Termination before the expiration of this Lease, of any right or interest in the Leasehold, or in the use of all or any part of the Leasehold, the Lessee shall promptly execute and deliver to the State, through the Commissioner, a valid instrument of release in recordable form, which must be executed and acknowledged with the same formalities as a deed. The instrument of release must contain, among other things, appropriate recitals, a description of the pertinent rights and interests, and for the benefit of the State and its grantees or assigns, express representations and warranties by the Lessee that it is the sole owner and holder of the Lease rights or interests described therein and that such Lease rights or interests are free and clear of all liens, equities or claims of any kind, except for such liens, equities or claims that arose before the Effective Date of this Lease. The form and substantive content of each instrument of release must be approved by the Commissioner, but except as otherwise provided for in this subsection; in no event shall any such instrument operate to increase the then-existing liabilities and obligations of the Lessee furnishing the release.

(b) A release under this section must be accompanied by such resolutions and certifications as the Commissioner may reasonably require, including the power or the authority of the Lessee, or of any officer or agent acting on its behalf, to execute, acknowledge or deliver the release.

(c) Notwithstanding any language or provision in the release that operates or could operate to the contrary, neither the tender, nor approval and acceptance, of any such release shall operate as an estoppel or waiver of any claim or judgment against the Lessee or as a relief or discharge, in whole or in part, of the Lessee from any of its then existing liabilities or obligations which accrued during that Lessee's tenure as the leaseholder.

(d) Lessee may relinquish to the State at any time any or all of the Leasehold that the Lessee determines are no longer necessary for the Lessee's Pipeline Activities by filing a release as provided for above. The release shall be effective as of the date the release is approved by the Commissioner, subject to the continued obligations of the Lessee to fulfill all obligations

and resolve all liabilities that arose under this Lease during that Lessee's tenure as the leaseholder.

(e) No later than one year following the date that Natural Gas is first transported through the Pipeline, the Lessee shall execute and deliver to the State a release of interest for all of the Lessee's interest in the Leasehold other than the Operation and Maintenance Leasehold, which is fully described in Exhibit B.

(f) Within one-hundred eighty (180) days of delivery of the release required by Subsection (e) of this section, Lessee shall:

(1) complete the installation of monumentation of the Pipeline to standards required by the Department of Natural Resources for the purposes of locating and describing rights-of-way on State Lands; and

(2) provide a final survey, approved by the Commissioner, showing the final "as built" location of the completed Pipeline, including the final locations and elevations of all buried and above-ground improvements, the centerline of the Operation and Maintenance Leasehold, the boundaries of the Operation and Maintenance Leasehold, and its relationship to existing pipelines and other structures pursuant to survey instructions issued by the Department of Natural Resources.

(g) The State shall have ninety (90) calendar days after delivery of the final survey required by Subsection (f)(2) of this section to record the survey and reduce the rental amount as set forth in Section 3 for that year and all subsequent years by the same proportion as the released acreage bears to the original Lease acreage.

#### **24. Default, Remedies and Forfeiture**

(a) Failure of the Lessee to substantially comply with the terms of this Lease shall be grounds for forfeiture of the right-of-way interest of the Lessee in an action brought by the Commissioner in the Anchorage Superior Court. Before the commencement of any action for forfeiture of an interest in the right-of-way under this section, the Commissioner shall give the Lessee notice in writing of the alleged default and shall not commence the proceeding unless the Lessee has failed to initiate good faith efforts to cure the default within sixty (60) days of the notice of the alleged default or fails to diligently continue the same until cured.

(b) No items on the Leasehold, including but not limited to, improvements, structures, machinery, equipment, tools, or materials, may be removed from it by the Lessee while the Lessee is in default except with the Commissioner's prior approval.

(c) After forfeiture, any new right-of-way lease for the Leasehold shall have no effect on the Lessee's rights or on any obligations under this Lease which accrued prior to or as a result of the forfeiture.

#### **25. Lessee's Obligations Upon Termination Not Resulting From Forfeiture**

(a) This section shall apply to all terminations of this Lease, whether from expiration, relinquishment, abandonment or otherwise, with the exception of a forfeiture under Section 24.

(b) The deadlines provided for in this section apply only when the Lessee has provided the three hundred and sixty five (365) day notice required by Section 2(c) of this Lease. If the Lessee fails to provide the notice required by Section 2(c), the Commissioner may reasonably alter the deadlines in this section.

(c) Prior to the expiration, relinquishment, abandonment or Termination of this Lease, the Commissioner shall determine in writing whether a public interest exists which requires that all or a portion of the Pipeline be left in place following the expiration, relinquishment, abandonment or Termination of this Lease. The Commissioner's written determination shall:

- (1) describe which components of the Pipeline, if any, must remain on the Leasehold following the expiration, relinquishment, abandonment or Termination of this Lease, and,
- (2) resolve issues pertaining to title to such components of the Pipeline.

(d) No later than sixty (60) days after receipt of the Commissioner's determination under Subsection (c), the Lessee shall submit the following to the Commissioner for the Commissioner's approval:

- (1) A plan for the removal of all items found on the Leasehold, including but not limited to, improvements, structures, machinery, equipment, tools and materials, but excluding those components of the Pipeline described in the Commissioner's determination under Subsection (c); and
- (2) A plan to Restore and Revegetate the Leasehold.

(e) The Commissioner shall set a reasonable time, which may be extended, during which the Lessee shall implement the plans in Subsection (d). The Lessee shall be responsible for all costs of implementation of the plans required by this section.

(f) Following completion of the time period for plan implementation under Subsection (e) and any extensions, the Commissioner shall order the disposition of all improvements, structures, machinery, equipment, tools, and materials, if any, that the Lessee failed to remove. The Commissioner's options with respect to any disposition under this subsection include, but are not limited to: sale, transfer, lease, auction, destruction, repair and abandonment in place, retention in State ownership for a public or State use, and removal. The Commissioner may order the Lessee to perform disposition work required under this subsection. The Lessee is responsible for all disposition costs incurred by the State under this subsection.

(g) If the Lessee fails to submit or fully implement the plans required by this section, the State's options include any of the following:

- (1) The Commissioner may order the Lessee to submit and fully implement the plans required by this subsection.
- (2) The Commissioner may develop the plans required under this section and order the Lessee to fully implement them. The Lessee shall be responsible for all costs incurred by the State in developing such plans.

(3) The State may complete the required work under such plans. The Lessee shall be responsible for all costs incurred by the State for such work.

(h) In the event the Commissioner makes a determination under Subsection (b) that all or a portion of the Pipeline shall remain on the Leasehold following the expiration, relinquishment, abandonment or Termination of this Lease, then Lessee shall be released from all future obligation or liability for the portion of the Pipeline the Commissioner determined shall remain on the Leasehold, including but not limited to, abandonment or removal liability, and from any obligation to Restore and Revegetate the Leasehold after completion of the plan approved under Subsection (c) herein. Upon release, the State or its assignee shall immediately assume all responsibility and obligation for the Pipeline or any part thereof remaining on the State Lands formerly subject to this Lease. Such release shall not discharge Lessee from performance of obligations and other liabilities which arose during that Lessee's tenure as the leaseholder and which accrued prior to the expiration, relinquishment, abandonment or Termination of this Lease.

**26. Correspondence**

(a) Any notice or demand by the Lessee to the State shall be made in writing and must be given by hand delivery, by email or facsimile during normal business hours, or by registered or certified mail, postage paid, return receipt requested, addressed as follows (or to any new address that the Commissioner designates in writing):

State Pipeline Coordinator's Office  
411 W. 4th Avenue, Suite 2  
Anchorage, Alaska 99501-2343  
Facsimile Number: (907) 272-0690  
mike.thompson@alaska.gov

(b) Delivery to the State occurs:

(1) if by hand delivery, email or facsimile, when received by the addressee,  
and

(2) if by registered or certified mail, when the notice or demand is signed for  
by the State or State's agent.

(c) Any order, notice or demand by the Commissioner to the Lessee shall be made in writing and must be given by hand delivery, by email or by facsimile during normal business hours with the original to follow in the mail, or by registered or certified mail, postage paid, return receipt requested, addressed as follows (or to any new address that the Lessee designates in writing):

Alaska Gasline Development Corporation  
P.O. Box 101020  
Anchorage, AK 99510  
Facsimile Number: (907) 277-4484  
dfauske@ahfc.us

(d) Delivery to the Lessee occurs:

(1) if by hand delivery, email or facsimile, when received by the addressee,  
and

(2) if by registered or certified mail, when the notice or demand is signed for  
by the Lessee or Lessee's agent.

(e) Other correspondence may be made by email, mail, hand delivery or facsimile  
during normal business hours.

(f) The Commissioner or Lessee, by written notice to the other, may change the  
office address to which written notices, orders, or other written communications may be  
addressed and delivered thereafter, subject, however, to the provisions of this Lease.

**27. Authorized Representatives**

The State Pipeline Coordinator and the person executing this Lease on behalf of the  
Lessee shall be the authorized representatives for their respective principals for the purposes of  
administering this Lease. This authorized representative is in addition to the registered agent  
required to be appointed pursuant to Section 8(j) herein. The Commissioner or the Lessee may  
change the designation of its authorized representative or the address to which notices to that  
representative are to be sent by a notice given in accordance with Section 26.

**28. Waiver not Continuing**

The waiver by the State of any breach of any provision of this Lease, whether express or  
implied, shall not be construed to be a continuing waiver or a waiver of, or consent to, any  
subsequent or prior breach by the Lessee. The waiver by the Lessee of any breach of any  
provision of this Lease, whether express or implied, shall not be construed to be a continuing  
waiver or a waiver of, or consent to, any subsequent or prior breach by the State.

**29. No Third Party Beneficiaries**

The parties to this Lease do not intend to create any rights under this Lease that may be  
enforced by third parties for their own benefit or for the benefit of others.

**30. Local Hire**

The Lessee shall, in the Construction and Operation of the Pipeline, comply with, and  
require its Contractors to comply with, applicable and valid laws and regulations regarding the  
hiring of residents of the State then in effect or that take effect subsequently.

**31. Nondiscrimination**

The Lessee and its Contractors may not discriminate against any employee or applicant  
for employment because of race, religion, marital status, change in marital status, pregnancy,  
parenthood, physical handicap, color, sex, age, or national origin as set out in AS 18.80.220. The  
Lessee and its Contractors, on beginning any Pipeline Activities, must post in a conspicuous place  
notices setting out this nondiscrimination provision.

**32. Rights and Remedies Cumulative**

No right or remedy conferred by this Lease upon or reserved to the State or the Lessee is intended to be exclusive of any other right or remedy provided for by this Lease or by law, and each and every right and remedy set forth herein shall be cumulative.

**33. Authority to Enter into Lease**

The Lessee represents and warrants to the State that:

(a) it is authorized and empowered under the applicable laws of the State and its jurisdiction of formation to enter into and perform this Lease in accordance with the Lease and its provisions;

(b) the Lessee has approved and authorized the execution, delivery and performance of this Lease insofar as it pertains to the obligations of the Lessee;

(c) all action that may be necessary to the approval, execution, and delivery of this Lease by the Lessee, has been taken; and

(d) all of the required and necessary approvals, authorizations, and actions are in effect at the time of the execution and delivery of the Lease.

**34. Delegation of Authority**

The Commissioner may make delegations of authority and changes to delegations of authority to administer all or a portion of the provisions of this Lease, consistent with AS 38.35.210, at any time. The Commissioner shall notify Lessee in writing of any such delegation of authority or change in delegation of authority that affects this Lease.

**35. Interpretation of Lease**

(a) The parties acknowledge that this Lease is an “arm’s length” agreement, and that each party has had an adequate opportunity to consult with counsel, and has consulted with counsel with respect to this Lease. The parties agree that ambiguities in this Lease shall not be construed either for or against any party.

(b) The language of the terms and conditions of any other pipeline lease may not be used to assist in resolving any disputes arising from the interpretation of this Lease.

**36. Compliance with Law and Regulation**

Lessee shall conduct all Pipeline Activities in compliance with all applicable federal, State and local laws and regulations.

**37. Venue**

The venue for any appeal or civil action relating to this Lease shall be in the Third Judicial District, State of Alaska.

**38. Recording**

Upon execution, acknowledgment, and delivery of this Lease, the Lessee shall at its sole expense cause this Lease to be recorded in all applicable Recording Districts.

**39. Severability**

A judicial finding that any term or condition of this Lease is unlawful or invalid may not operate to invalidate this Lease or any other term or condition of the Lease.

**40. Amendments in Writing**

No amendment to this Lease is effective until agreed to in writing by the parties.

**41. Exhibits**

The following exhibits are attached to this Lease and are, by this reference, incorporated into this Lease as if they were set out in their entirety:

(a) Stipulations for this Lease attached hereto as Exhibit A included pursuant to AS 38.35.120(c) and (d);

(b) a description of the land included in the Construction Leasehold and the Operation and Maintenance Leasehold attached as Exhibit B;

(c) parental guaranty attached as Exhibit C (only for non-State entities); and

(d) definitions attached as Exhibit D.

**42. Merger Clause**

This Lease, including all exhibits hereto, contains the entire agreement between the parties, and is binding upon the parties.

**43. Section Headings**

The section headings in this Lease are for convenience only and have no other significance.



**MARY KAY RYCKMAN**  
**COMM. #113030**  
**Notary Public - State of Alaska**  
**My Comm. Expires "with office"**

STATE OF ALASKA            )  
                                          ) ss.  
THIRD JUDICIAL DISTRICT )

*25th MKR*

THIS IS TO CERTIFY that on this 1<sup>st</sup> day of July, 2011, before me personally appeared Daniel S. Sullivan, the Commissioner of the Department of Natural Resources of the State of Alaska, who executed the foregoing on behalf of the Department of Natural Resources of the State of Alaska and acknowledged voluntarily signing the same.

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

*Mary Kay Ryckman*  
\_\_\_\_\_  
Notary Public in and for the State of Alaska  
My Commission Expires: with office