

GROUND LEASE

THIS GROUND LEASE (this "Lease") is made on the day executed by the last signatory hereto, by and between **UNIVERSITY OF ALASKA**, a corporation created and existing under the Constitution and laws of the State of Alaska, whose address is Land Management, 1815 Bragaw Street, Suite 101, Anchorage, Alaska 99508-3438 ("Lessor"), and [NAME OF LESSEE], whose address is [Address], [City], [State] [Zip Code] ("Lessee"), collectively the "Parties."

RECITALS

- I. Lessor owns that certain unimproved real property located in the _____ Recording District, _____ Judicial District, State of Alaska (the "Property"), and more particularly described as:

[Legal Description]
- II. Lessee desires to lease the Property for the purposes of the construction, operation, and use by Lessee of [enter purpose of lease] and related uses permitted hereunder and Lessor has agreed to enter into a Lease with Lessee on the terms and conditions set forth herein.

AGREEMENT

NOW, THEREFORE, it is hereby agreed as follows:

1. LEASED PREMISES.

- A. Description of Leased Premises. Lessor does hereby lease to Lessee, and Lessee hereby leases from Lessor, the Property (the "Leased Premises"), as more particularly described on Exhibit "A." Lessee expressly acknowledges and agrees that Lessor has not made and is not making, and Lessee, in executing and delivering this Lease, is not relying upon, any warranties or representations, except to the extent that the same are expressly set forth in this Lease. Lessee is taking the Leased Premises and accepting the condition of the Leased Premises "AS-IS."
- B. Improvements Owned by Lessor. The following described improvements ("Lessor's Improvements") are situated on and are a part of the Leased Premises and are and shall remain throughout the term of this Lease the property of the Lessor:

All fill, retaining walls, berms, earth contours, and all other below surface improvements situated on the Leased Premises on the date of this Lease; excepting however, any utility service connections and any underground storage tank(s) on the Leased Premises or appurtenances to such tank(s).

Any subsurface improvements to the Leased Premises during the Lease Term shall become the property of Lessor (and included within the term "Lessor's Improvements") immediately upon installation, except underground storage tank(s) (and their appurtenances) and utility service connections, which shall be and remain the sole property of Lessee.

- C. Improvements Owned by Lessee. The following described improvements ("Lessee's Improvements") are situated on and are a part of the Leased Premises and shall remain throughout the term of this Lease the property of the Lessee. Building Structure: Address - #,### square feet. Lessee's improvements shall consist

University of Alaska

of any above-surface improvements constructed or placed on the Leased Premises by Lessee during the term of this Lease, subject to the terms outlined in Section 5 of this Lease.

- D. Reservation of Minerals. All oil, gas, coal, geothermal resources and minerals of whatever nature in or under the above described land are excluded from the Leased Premises and reserved to Lessor. Notwithstanding the foregoing, Lessee shall have the right, subject to the terms of this Lease, to use earth materials on or in the above described land to a depth not to exceed twenty (20) feet below the surface, and to move and recontour such materials on the Leased Premises. During the term of this Lease, Lessor shall not have the right to enter on the surface of the Leased Premises, without Lessee's prior consent, for the purpose of mining and/or extracting such oil, gas, coal, geothermal resources, or other minerals and shall not mine and/or extract the same by any means at a depth less than twenty five (25) feet below the surface of the Leased Premises. If Lessor mines and/or extracts such oil, gas, coal, geothermal resources, or other minerals, the mining and/or extraction shall not interfere with Lessee's business and activities on the Leased Premises, parking or access to the Leased Premises.
2. USE. Lessee shall use the Leased Premises for [enter description of use] and no other throughout the term of the Lease, other than for construction uses during construction of Lessee's Improvements. Any change in use will require prior written approval of Lessor.
3. TERM OF LEASE.
- A. Term. This Lease shall be for [TERM] (xx) months/years (the "Term") commencing on [DATE], and expiring [DATE], unless earlier terminated as provided in this Lease.
- B. Holdover. At the end of the Term, Lessee may hold over on a month-to-month basis, subject to all the terms, covenants and conditions of this Lease, except that rent for each holdover month or part thereof will be two hundred percent (200%) of the annual rental provided herein for the last year of the term of this Lease, in monthly installments, provided:
- i. Lessee gives the University a NINETY (90) day written notice before the end of the Term; and
 - ii. University agrees to the holdover period in writing. University shall provide a written response to Lessee's holdover request within THIRTY (30) days of receipt of the Lessee's written notice.
4. RENT.
- A. Base Rent. Lessee agrees to pay to the University the sum of [enter dollar amount] (\$_____) annually as rent, payable upon execution of this Lease with the first payment due [Month DD, Year] and on [Month DD] of each year thereafter, without deduction and without notice or demand. Payment shall be submitted to the University at the address listed on page 1 of this Lease or at such other place as the University may designate. In no event shall any adjustment in the Base Rent under the following conditions listed below in Section 3.B., 3.C. reduce the Base Rent below that which was payable hereunder prior to such adjustment.
- B. Consumer Price Index Adjustments.
- i. Adjustments to the Rent shall be made annually commencing DATE and each Month 1st thereafter during the Term of the Lease, provided, however, that the Rent due to the University from the Tenant in any one year shall not be less than the Rent due from the Tenant in any preceding year. Notice shall be provided to Tenant a minimum of thirty (30) days before rent is due. The Rent shall be adjusted in an amount equal to the percentage change in the Consumer Price Index for All Urban Consumers

University of Alaska

("CPI-U"), Urban Alaska, All Items, 1982-84=100, Not Seasonally Adjusted, published by the U.S. Bureau of Labor Statistics, issued in Month of each year. Each annual Rent increase shall be computed by multiplying the Current Base Rent times the percentage change in CPI.

The formula is expressed as:

Percentage Change in CPI = ((Current CPI-Previous CPI))/(Previous CPI) x100

Adjusted Rent = (Current Rent x Percentage Change in CPI)+Current Rent

- ii. If the index is discontinued or revised during the term of the lease, such other governmental indices or computations with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the index had not been discontinued or revised.
 - C. Interest on Unpaid Rent, Late Charges. Rent shall be considered late if not received by the 5th day after the date due. A late fee in the amount of _____ shall be due and payable by Lessee to Lessor for any Rent payments received after such date. In addition to the Late Fee, all Rent and other amounts owing Lessor by Lessee pursuant to the provisions of this Lease and not paid within the applicable notice period provided under Section 16, shall accrue interest at the prime rate then prevailing at the Corporate Headquarters of the Wells Fargo Bank or its successor, plus four percent (4%), from the date of delinquency until the date payment is received by Lessor, provided that such interest rate shall not exceed the maximum rate allowed by law.
5. LEASEHOLD IMPROVEMENTS.
- A. Lessee's Construction Obligations. Lessee shall diligently cause the Lessee's Improvements to be constructed in material conformity and compliance with the Plans and Specifications, attached hereto and incorporated herein as Exhibit "B". Any amendments to the Plans and Specifications must be approved in writing by the Lessor before additional improvements may be placed on the Property, but such approval shall not be unreasonably withheld. Lessee shall prosecute construction of the Lessee's Improvements in such a manner as to reasonably minimize any inconvenience in or disruption to the construction or operation of any improvements on Lessor's property that are situated adjacent to the Leased Premises. Lessee shall keep Lessor reasonably advised on a regular basis with respect to the design, permitting, scheduling, development and construction of the Lessee's Improvements. Lessee shall be solely responsible for paying any traffic mitigation, school or park fees, or other assessments or charges incurred as a result of the development of the Leased Premises by Lessee.
 - B. Effect of Lessor's Approval. The approval by Lessor of the Plans and Specifications or any modifications thereto or of any act herein referred to, or any suggestions with respect thereto, shall not constitute an opinion or representation with respect to the sufficiency thereof or impose any present or future liability or responsibility upon Lessor.
 - C. Subsequent Construction; Compliance with Laws. Following completion of the Lessee's Improvements, subject to the terms and provisions of Section 4 hereof and further subject to Lessor's right of approval as more particularly set forth in Section 5.A, 5.B, and 6.J hereof, Lessee may, at Lessee's sole cost and expense, make further alterations, renovations, replacements, improvements, demolitions, or additions in, upon or to the Leased Premises, including without limitation, to the Lessee's Improvements. Without limiting the foregoing, any alterations, renovations, improvements or additions to, or maintenance of, the Leased Premises, shall be performed expeditiously and diligently to completion in a workmanlike and professional manner and in material conformance with all applicable laws, statutes, ordinances, rules, regulations and codes.

University of Alaska

- D. Ownership of Improvements to Leased Premises. Throughout the Term of this Lease, the Lessee's Improvements and any other improvements constructed upon the Leased Premises, including any alterations, renovations, replacements or additions thereof, shall be the sole property of Lessee, and Lessor shall have no interest therein. Upon the expiration or sooner termination of this Lease, all of the improvements constructed upon the Leased Premises shall become the property of the Lessor.

6. LESSEE'S COVENANTS.

- A. Utilities and Services. Lessee shall be responsible for and shall pay, prior to the delinquency date, all charges for utilities supplied to the Leased Premises for Lessee's activities. Lessor shall not be responsible for constructing or maintaining any utilities needed to service the Leased Premises for Lessee's activities and further makes no representation or warranty as to availability of such services.
- B. No Lessor Security Measures. Lessor shall have no duty, obligation or responsibility whatsoever to provide guard service or other security measures for the benefit of Lessee in connection with Lessee's use and possession of the Leased Premises, and Lessee hereby releases Lessor from any and all responsibility for the security of Lessee and its agents, contractors, employees, and invitees on the Leased Premises from acts of third parties.
- C. Taxes and Assessments. Lessee shall be responsible for the payment of any and all taxes and assessments, including but not limited to property taxes levied upon the property and improvements, as a result of Lessee's activities, and shall cause said taxes and assessments to be paid prior to the delinquency date. Lessor shall not be responsible for payment of any assessments or special assessments for provision of utilities to the Leased Premises for Lessee's activities.
- D. Liens. Lessee shall be solely responsible for paying for all labor performed upon or materials furnished to the Premises at the request of Lessee. Lessee shall keep the Premises free and clear of any and all mechanic's, labor or materialmen's liens arising from the performance labor upon or the furnishing of materials to the Premises. Lessee shall post and record notices of non-responsibility for the benefit of Lessor pursuant to AS 34.35.065, AS 34.35.150 and any other applicable laws.
- E. Maintenance and Repair.
- i. Lessee shall during the term of this Lease, at its sole cost and expense, maintain and keep all improvements now or hereafter built on the Leased Premises (including but not limited to fences, signs, landscaping and yard areas, refuse disposal equipment and facilities pavement, curbs, gutters, exterior lighting and drainage facilities), in a clean, safe and first class condition and repair and in material conformance with applicable laws, statutes, ordinances, rules, regulations and codes.
 - ii. Lessee shall immediately notify Lessor of any defects in the Leased Premises which become known to the Lessee.
- F. Accident Hazard. Lessee shall maintain the Leased Premises free of structural or mechanical hazards. If any accident hazards relative to the Lessee's Improvements are detected through inspections of the Leased Premises, the hazards shall be corrected by Lessee promptly, and at no expense to the Lessor, unless Lessor has caused the hazard through Lessor's negligence, or willful misconduct, in which case Lessor shall make corrections at Lessor's expense.

University of Alaska

- G. Setback. Lessee shall observe all setback lines applicable to the Leased Premises and shall not construct or maintain any building or other structure whatever between any street boundary of the Leased Premises and any setback along such boundary, except for fences or walls approved by Lessor.
- H. Compliance with Laws. All Lessee site improvements and other Lessee improvements to the Leased Premises shall conform to all applicable federal, state, and local laws, ordinances, codes and regulations including but not limited to occupational health and safety regulations, prevailing wages as determined by the Alaska Department of Labor and Work Force Development and the Americans with Disabilities Act.
- I. Water Rights. All water rights applied for and secured during the Term of the Lease shall be in the name of Lessor and shall remain appurtenant to the property during the Term, and such water and water rights shall not be severed or transferred from the property or any part thereof without the prior written consent of Lessor which, at Lessor's sole discretion, may be withheld for any reason. Lessee shall assign all rights under any permit or certificate of appropriation to Lessor upon termination of this Lease.
- J. Alterations by Lessee. Except for construction of Lessee's Improvements in accordance with Exhibit B, Lessee shall not commence any material alterations, renovations, replacements, renewals, improvements or additions in or to the design of the exterior of the improvements upon the Leased Premises, including the design and location of all landscaping, lighting and signage for the improvements upon the Leased Premises, without the prior written consent of Lessor, which consent shall not unreasonably be withheld, conditioned or delayed. Notwithstanding anything contained herein to the contrary, all alterations, renovations, improvements or additions to the Leased Premises shall be made by Lessee at Lessee's sole cost and expense. If any improvement is made or commenced without Lessor's written consent, and Lessor does not give subsequent approval thereof, the Lessee shall, upon receiving written notice from Lessor, restore that portion of the Leased Premises affected by the improvements to its preexisting condition at Lessee's expense.
- K. Waste. Lessee shall not commit any act of waste upon the Leased Premises.
7. NON-SUBORDINATION OF LESSOR'S INTEREST. Lessor's interest in this Lease, as the same may be modified, amended or renewed, will not be subject or subordinate to: (a) any mortgage now or hereafter placed upon Lessee's interest in this Lease or the Premises; or (b) any other liens or encumbrances hereafter affecting Lessee's interest in this Lease or the Premises.
8. QUIET ENJOYMENT. Lessor covenants and agrees with Lessee that, so long as there shall not be any material default by Lessee which shall remain uncured beyond any applicable cure period hereunder, Lessee shall and may peaceably and quietly have, hold, and enjoy the Leased Premises during the Term.
9. EMINENT DOMAIN. In the event the whole or any part of the Property is condemned by a public entity in the lawful exercise of its power of eminent domain, this Lease shall terminate as to the part so condemned. The date of such termination shall be the effective date of possession of the whole or part of the Leased Premises by the condemning public entity. If only a part of the Leased Premises is condemned and the condemnation of that part, in the mutual agreement of the Parties, does not substantially impair the capacity of the remainder to be used for the purposes allowed in this Lease, Lessor and Lessee shall continue to be bound by this Lease. If, in the mutual agreement of the Parties, the condemnation of a part of the Premises does substantially impair the capacity of the remainder to be used for the purposes in this Lease, Lessee may:
- A. Terminate this Lease and thereby be absolved of all obligations thereunder which have not accrued as of the date of possession by the condemning public entity; or

- B. Continue to occupy the remaining Leased Premises and thereby continue to be bound by this Lease.

10. SURRENDER OF PREMISES AND REMOVAL OF IMPROVEMENTS.

- A. Surrender of Premises. Upon the expiration or other termination of the Term, Lessee shall surrender to Lessor the possession of the Leased Premises. Lessee shall leave the surrendered Leased Premises and any improvements in a broom clean condition, as noted in paragraph 10.B of this Lease. If Lessee fails to surrender the Leased Premises at expiration or termination, Lessee shall defend and indemnify Lessor from all liability and expense resulting from the delay or failure to surrender, including but not limited to claims made by any succeeding Lessee founded on or resulting from Lessee's failure to surrender. In the event of failure or refusal of Lessee to surrender possession of the Leased Premises, Lessor shall have the right to reenter the Leased Premises and remove therefrom Lessee or any person, firm or corporation claiming by, through or under Lessee and to obtain damages for trespass from Lessee.
- B. Removal of Improvements Upon Termination.
 - i. Upon the expiration or termination of this Lease or any extension thereof, including termination resulting from Lessee's breach ("termination"), and subject to subparagraph 10.B.iii. below, Lessee shall leave the Leased Premises in a broom clean and leasable condition, which shall include removal of all improvements, buildings, foundations and footings to buildings, personal property, trash, vehicles, and equipment, except as noted in subparagraphs 10.B.i. to 10.B.iv of this Lease. Any excavation on the property, including excavation to remove Lessee's Improvements, shall be filled and compacted with material approved by Lessor.
 - ii. Lessor may, at its option, allow Lessee at Lessee's request to remove some or all of Lessee's Improvements from the Leased Premises upon termination. If Lessor so elects, such improvements shall become the property of Lessee upon removal.
 - iii. Pursuant to Section 5.D of this Lease, and subject to any exceptions allowed under paragraph 10.B.ii above, the Parties hereby agree that Lessee shall leave the improvements constructed for the Lessee's Improvements and any other improvements constructed upon the Leased Premises on the Leased Premises upon termination, with Lessor becoming the owner of such improvements.
 - iv. Any improvements owned by Lessor and identified in paragraph 1.B of this Lease, or added to the Leased Premises by Lessor after execution of this Lease, shall not be removed by Lessee.
- C. Abandonment of Lessee's Property. All property that Lessee is not required or allowed to leave on the Leased Premises shall, on the tenth (10th) day following termination, be conclusively deemed abandoned. Abandoned property shall, at the election of Lessor, become the property of the Lessor or be destroyed or removed by Lessor.
- D. Liability for Cleanup Expenses. Lessee shall be liable for all costs and expenses incurred by Lessor to remove or destroy abandoned property and improvements not required or expressly allowed by Lessor in writing to be left on the Leased Premises, and for the removal of trash or other debris left thereon. In addition, nothing in this Lease shall relieve Lessee of any obligation or liability for removal of hazardous substances (including wastes) or inappropriate fill material placed on the Leased Premises during the term of the Lease, regardless of when such hazardous substance (including waste) or inappropriate fill material is discovered.

11. HAZARDOUS MATERIAL AND FUEL.

- A. As used in this Lease, the term "Hazardous Material" means any hazardous or toxic substance, material, or waste that is or becomes regulated by any local governmental authority, the State of Alaska, or the United States. Hazardous Material also includes petroleum products and petroleum by-products.
 - B. Lessee, its employees, agents, representatives, contractors, subcontractors or invitees, may not cause or permit any Hazardous Material, except as noted in subpart C of this Section, to be brought upon, kept, used, or permitted in or about the Property or adjoining property owned by the Lessor. If (i.) Lessee, its employees, agents, representatives, contractors, subcontractors or invitees, breach these obligations, or (ii.) the presence or release of Hazardous Material on the Property or adjoining property owned by the Lessor caused or negligently permitted by Lessee, its employees, agents, representatives, contractors, subcontractors or invitees, results in injury, illness, death or contamination of the Property, or (iii.) contamination of the Property, or adjoining property owned by the Lessor, by Hazardous Material otherwise occurs by the acts of Lessee, its employees, agents, representatives, contractors, subcontractors or invitees, then Lessee shall indemnify, defend, and hold the Lessor, its Board of Regents, officers, employees, agents and representatives harmless from all claims, judgments, damages, penalties, fees, costs, liabilities, or losses (including, without limitation, diminution in value of the Property or adjoining property, damages for the loss or restriction of usable space or of any amenity of the Property or adjoining property, and sums paid in settlement of claims, attorney fees, consultant fees, and expert fees) which arise during or after the period in which this Lease is in effect as a result of such contamination so long as the acts or omissions occur during the Term, extensions, or holdover period of the Lease. This indemnification of the Lessor by Lessee includes, without limitation, costs incurred in connection with defense, enforcement, or substantiation of any provisions of this Lease, any investigation of site conditions or any clean-up, remedial, removal, or restoration work required by any federal, state, or local government agency or political subdivision because of Hazardous Material present in the soil or groundwater on or under the Property and adjoining properties. Additionally, if the presence of any Hazardous Material on the Property or adjoining property owned by the Lessor which was caused or negligently permitted by Lessee results in any contamination of the Property or adjoining property owned by the Lessor, Lessee shall promptly take all actions at its sole expense as are necessary to return the Property and adjoining property to the condition existing prior to the introduction of any such Hazardous Material to the Property or the adjoining property. Lessor's approval of such remedial actions shall first be obtained, but approval shall not be unreasonably withheld so long as such actions would not potentially have any material adverse long-term or short-term effect on the Property or the adjoining property owned by Lessor.
 - C. Lessee, its employees, agents, representatives, contractors, subcontractors and invitees may bring, keep, or use fuel, oil, grease, and other materials that are necessary for transportation to and from the Property.
 - D. The obligations arising under this Section shall survive expiration or earlier termination of this Lease.
 - E. Nothing in this Section is intended to relieve Lessee, its employees, agents, representatives, contractors, subcontractors or invitees from any responsibility imposed by any government agency dealing with Hazardous Materials.
12. **ASSIGNMENT AND SUBLETTING.** Lessee shall not assign this Lease, in whole or in part, or sublet all or any part of the Property without the prior written consent of the Lessor, which consent shall not be unreasonably withheld. The consent by one party to any assignment or subletting shall not constitute a waiver of the necessity for such consent to any subsequent assignment or subletting.
13. **LIABILITY AND INDEMNITY.** Lessee assumes all responsibility, risk and liability for all activities of Lessee, its employees, agents, representatives, contractors, subcontractors, invitees or licensees, directly or indirectly conducted in connection with its use, performance, activities or operations on or surrounding the Leased Premises, including environmental or hazardous materials risks and liabilities whether occurring during or after the term of

this Lease. Lessee shall indemnify, defend and hold the Lessor, its Board of Regents, officers, employees, agents and representatives harmless from and against any and all loss, expense, including attorney's fees and litigation costs, damage, claim, demand, judgment, fee, charge, lien, liability, action, cause of action or proceedings of any kind whatsoever on account of damage to or loss of property, or personal injury, emotional distress or death arising directly or indirectly in connection with the use, performance, activities or operations of Lessee, its employees, agents, representatives, contractors, subcontractors and invitees. This indemnification does not apply where the injury is caused by the Lessor's sole negligence or intentional misconduct. This indemnification applies before and after Lessee's activities and operations on the Leased Premises and shall survive any termination or expiration of this Lease. In the event any part of this indemnification clause is determined to be contrary to law or public policy, Lessee agrees to provide the Lessor with the maximum indemnification allowed by law.

14. INSURANCE.

A. General Requirements.

- i. Lessee and its contractor and subcontractor(s) of any tier are required to carry the types and limits of insurance shown in this insurance clause, Section 13, and to provide the Lessor with a Certificate of Insurance ("certificate"). The Lessee and its contractor and subcontractor(s) shall not commence work under this contract until satisfactory evidence has been provided to the Lessor that the Contractor can cover the requirements set forth in this provision with regard to the Contractor and all subcontractors when engaged in any work performed under this contract. All certificates shall be coordinated by the Lessee and provided to the Lessor prior to signing of the contract by the Lessee. Certificates shall be executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth below. All certificates shall provide for THIRTY (30) DAYS' written notice to the Lessor prior to cancellation, non-renewal, or other material change of any insurance referred to therein as evidenced by return receipt of United States certified mail.
- ii. Additionally and at its option, Lessor may request certified copies of required policies and endorsements. Such copies shall be provided within (10) TEN DAYS of the Lessor's request.
- iii. All insurance required hereunder shall be maintained in full force and effect with insurers with Best's rating of AV or better and be licensed and admitted in Alaska. All policies required shall be written as primary policies and not contributing to nor in excess of any coverage the Lessor may choose to maintain. Failure to maintain the required insurance may result in termination of this Lease at the Lessor's option.
- iv. All policies shall name the Lessor as Additional Insured. On the certificate, Lessor shall be stated as: "University of Alaska." Certificates shall be mailed to:

University of Alaska
Land Management
1815 Bragaw Street, Suite 101
Anchorage, Alaska 99508
- v. Failure of Lessor to demand such certificate or other evidence of full compliance with these insurance requirements or failure of Lessor to identify a deficiency from evidence that is provided shall not be construed as a waiver of the obligation of Lessee and its contractor and subcontractor(s) of any tier to maintain such insurance.
- vi. No Representation of Coverage Adequacy. By requiring insurance herein, Lessor does not represent that coverage and limits will necessarily be adequate to protect Lessee and its contractor and

- subcontractor(s) of any tier, and such coverage and limits shall not be deemed as a limitation on the liability of the Lessee and its contractor and subcontractor(s) of any tier under the indemnities granted to the Lessor in this Lease].
- vii. Lessee is responsible for coordinating the reporting of claims and for the following: (a) notifying Lessor in writing as soon as practicable after notice of an injury or a claim is received; (b) cooperating completely with Lessor in the defense of such injury or claim; and (c) taking no steps (such as admission of liability) which will prejudice the defense or otherwise prevent the Lessor from protecting its interests.
 - viii. Failure to comply with this provision may preclude other contracts and agreements between the Lessee and Lessor. Where specific limits are shown, it is understood that they shall be the minimum acceptable limits. If the Lessee's policy contains higher limits, the Lessor shall be entitled to coverage to the extent of such higher limits. Certificates of Insurance must be furnished to the Lessor prior to beginning work and must provide for a 30-day prior notice to the Lessor of cancellation, non-renewal, or material change. Failure to furnish satisfactory evidence of insurance or lapse of the policy is a material breach and grounds for termination of the Lease and its contractor and subcontractor's services.
- B. Required Insurance Coverage. Without limiting Lessee's indemnification, it is agreed that Lessee and its contractor and subcontractor(s) shall purchase at its own expense and maintain in force at all times during the performance of services under this agreement policies of insurance covering the following types and limits:
- i. **Commercial General Liability Insurance.** Lessee and its contractor and subcontractor(s) of any tier shall maintain Commercial General Liability ("CGL") written on an occurrence basis and with a limit of not less than TEN MILLION DOLLARS (\$10,000,000) each occurrence and TEN MILLION DOLLARS (\$10,000,000) aggregate. If such CGL insurance contains a general aggregate limit, it shall apply separately by location and shall not be less than FIVE MILLION DOLLARS (\$5,000,000). CGL insurance shall be written on standard ISO occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, broad form property damage, independent contractors, products-completed operations, personal injury and advertising injury, explosion, collapse, underground hazards, and liability assumed under a contract including the tort liability of another assumed in a business contract. If necessary to provide the required limits, the Commercial General Liability policy's limits may be layered with a Commercial Umbrella or Excess Liability policy. This policy shall name the Lessor as Additional Insured and waiver of subrogation language shall be included.
 - ii. **Commercial Auto Insurance.** Lessee and its contractor and subcontractor(s) of any tier shall maintain a Commercial Auto policy with a Combined Single Limit of not less than ONE MILLION DOLLARS (\$1,000,000); Underinsured and Uninsured Motorists limit of not less than \$1,000,000; Comprehensive; Collision; and a Medical Payments limit of not less than \$10,000. Coverage shall include Non-Owned and Hired Car coverage. This policy shall name the Lessor as Additional Insured and waiver of subrogation language shall be included.
 - iii. **Workers' Compensation.** Lessee and its contractor and subcontractor(s) of any tier shall provide and maintain, for all of its employees engaged in work under this contract, Workers' Compensation Insurance in accordance with the laws of the State of Alaska. The Lessee and its contractor shall be responsible for Workers' Compensation Insurance for any subcontractor(s) who directly or indirectly provides services under this contract. This coverage must include statutory coverage for states in which employees are engaging in work and employer's liability protection not less than ONE MILLION DOLLARS (\$1,000,000) each accident, ONE MILLION DOLLARS (\$1,000,000) each person and ONE MILLION DOLLARS (\$1,000,000) policy limit. Where applicable, coverage for all federal acts (i.e., U.S.L. & H and Jones Act) must also be included.

- iv. **Personal Property.** If applicable, Lessee and its contractor and subcontractor(s) of any tier shall purchase insurance to cover personal property of Lessee and its contractor and subcontractor(s) of any tier. In no event shall Lessor be liable for any damage to or loss of personal property sustained by Lessee and its contractor and subcontractor(s) of any tier, even if such loss is caused by the negligence of Lessor, its Board of Regents, officers, employees, agents and representatives.
- v. **Professional Liability.** If available generally to members of the professions of Lessee and its contractor and subcontractor(s) of any tier, Lessee and its contractor and subcontractor(s) of any tier shall maintain Professional Liability (Errors & Omissions) insurance on a claims made basis, covering claims made during the policy period and reported within three years of the date of occurrence. Professional Liability shall include all errors, omissions, or negligent or wrongful acts of the Lessee, contractor, subcontractor, or anyone directly or indirectly employed by them, made in the performance of this contract which results in financial loss to the Lessor. Limits of liability shall be not less than ONE MILLION DOLLARS (\$1,000,000). Coverage shall be maintained for the duration of this contract plus THREE (3) YEARS following the date of final payment.
- vi. **Pollution Liability Insurance.** If applicable, Lessee and its contractor and subcontractor(s) of any tier, shall maintain Pollution Liability Insurance covering pollution legal liability arising from sudden and accidental and gradual pollution, and applicable to bodily injury, property damage, including natural resource damage, loss of use of damaged property or of property that has not been physically injured or destroyed; cleanup costs, removal, storage, disposal and or use of the pollutant; and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims. Coverage shall be maintained in an amount of at least TWO MILLION DOLLARS (\$2,000,000) per loss. Coverage shall apply to sudden and gradual pollution conditions resulting in the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or gases natural gas, waste materials, or other irritants, contaminants or pollutants. If coverage is written on a claims-made basis, the Lessee and its contractor and subcontractor(s) warrants that any prior acts or retroactive date applicable to coverage under the policy precedes the effective date of this contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of THREE (3) YEARS beginning from the time that work under this contract is completed. This policy shall name the Lessor as Additional Insured and waiver of subrogation language shall be included.
- vii. **Aircraft.** If aircraft are used in the operations to be performed hereunder, aviation liability insurance with limits of TWENTY-FIVE MILLION (\$25M) per occurrence combined single limit for bodily injury and property damage liability. This coverage shall include all owned, hired and non-owned aircraft. If Lessee and its contractor and subcontractor(s) operates an airstrip, airfield or other airport facilities in the operations to be performed hereunder, the coverage shall include airport liability. This policy shall name the Lessor as Additional Insured and waiver of subrogation language shall be included.
- viii. **Watercraft.** If watercraft are used in the operations to be performed hereunder, watercraft liability insurance with limits of TWENTY-FIVE MILLION (\$25M) per occurrence, combined single limit for bodily injury and property damage liability. This coverage shall include owned and non-owned watercraft. This policy shall name the Lessor as Additional Insured and waiver of subrogation language shall be included.
- ix. **Well Control.** If new or existing wells are coordinated or used in the operations to be performed hereunder, coverage for the cost of bringing a well under control in the event of blowout, including resultant pollution, seepage or contamination and resultant clean-up, cost to restore or re-drill a well due to blowout, crater or fire, and the cost of extinguishing an oil and gas well fire, shall be included. Limit

University of Alaska

shall be TWO HUNDRED MILLION (\$200M). This policy shall name the Lessor as Additional Insured and waiver of subrogation language shall be included.

- x. Excess Liability. If necessary to provide the required limits, required policy limits may be layered with a Commercial Umbrella or Excess Liability policy or policies. This policy shall name the Lessor as Additional Insured and waiver of subrogation language shall be included.

15. RIGHTS OF ACCESS.

- A. Lessor Access. Lessor and its officers, directors, agents, employees and contractors shall have the right to enter upon the Leased Premises at any time upon reasonable notice for the purpose of inspecting the same, provided that such access shall not materially and unreasonably interfere with Lessee's use of the Leased Premises.
B. Lessee Access. Lessor shall provide Lessee at all times with convenient and unimpeded vehicular and pedestrian access to the Leased Premises, except temporarily during times of emergency or required repair or as may otherwise be ordered by any governmental authority.
C. Lessor's Right of Access for Environmental Purposes. In addition to any right of access described elsewhere in this Lease, Lessee hereby agrees to provide Lessor access to the Premises at all reasonable times for the purposes of assessing, sampling, or otherwise determining the current environmental condition of the Premises and, if deemed necessary or prudent by Lessor in its sole discretion, conducting or implementing any interim or final cleanup measures or other action protective of human health and the environment, whether or not such action is required by a regulatory agency with jurisdiction in the matter.

16. NOTICES. Unless otherwise provided herein, all notices or other communications required or permitted by this Lease shall be in writing and shall be deemed to have been duly given on the date of delivery if delivered personally to the party to whom notice is given or if sent by confirmed facsimile transmission, by e-mail with delivery confirmation or read receipts requested, or on the date of actual delivery if sent by overnight commercial courier or by first class mail, registered or certified, with postage prepaid and properly addressed to the party at its address set forth below, or at any other address that any party may from time to time designate by written notice to the other:

LESSOR:
University of Alaska
Land Management Office
1815 Bragaw Street, Suite 101
Anchorage, Alaska 99508
Phone: (907) 786-7766
E-mail: _____

LESSEE:
[Name of Lessee]
[Address]
[City], [State] [Zip Code]
Phone: _____
E-mail: _____

17. DEFAULT AND REMEDIES.

- A. Default of Lessee. Each of the following, but not limited thereto, shall be deemed a default by Lessee and a breach of this Lease:
i. A default in the performance of any covenants or condition on the part of Lessee to be performed, for a period of TEN (10) business days after the service of notice by Lessor, provided, however, that no default on the part of Lessee in the performance of work required to be performed or acts to be done or conditions to be modified shall be deemed to exist if before the end of such TEN (10) business day period, Lessee

University of Alaska

has begun to rectify the same, and thereafter prosecutes the curing to completion with diligence and continuity.

- ii. The taking possession of the property of Lessee by any governmental office or agency pursuant to statutory authority for the dissolution or liquidation of the Lessee.
 - iii. The vacation or abandonment of the Leased Premises by Lessee for more than SIXTY (60) days.
- B. Remedies of Lessor. In the event of any default of Lessee as above provided, the Lessor shall have the following rights or remedies, in addition to any rights or remedies that may be given to Lessor by statute, law, equity or otherwise:
- i. Re-enter the Leased Premises and take possession.
 - ii. Re-let the Premises in whole or in part for any period equal to, or greater or less than, the remainder, of the Term of this Lease, for any reasonable sum.
 - iii. Declare the Lease term ended.
 - iv. Recover from Lessee such damages attributable to its default.
 - v. Re-entry or re-letting of part or all of the Leased Premises shall be deemed a termination of this Lease. The enumeration of the Lessor's remedies is not intended to imply they are mutually exclusive nor that they are in lieu of any or all other statutory common law or other rights.
- C. Default of University. Each of the following, but not limited thereto, shall be deemed a default by Lessor and a breach of this Lease: A default in the performance of any other covenants or condition on the part of Lessor to be performed, for a period of TEN (10) business days after the service of notice by Lessee, provided, however, that no default on the part of Lessor in the performance of work required to be performed or acts to be done or conditions to be modified shall be deemed to exist if before the end of such TEN (10) business day period, Lessor has begun to rectify the same, and thereafter prosecutes the curing to completion with diligence and continuity.
- D. Remedies of Lessee. In the event of any default of Lessor as above provided, the Lessee shall have any rights or remedies that may be given to Lessee by statute, law, equity or otherwise and may terminate this Lease.

18. SUBORDINATION AND ATTORNMENT.

- A. Lessee accepts this Lease subject and subordinate to all the underlying leases, leasehold mortgages, deeds of trust, or other mortgages now or hereafter a lien upon or affecting the land and building of which the Leased Premises are a part. Lessee shall, at any time hereafter, on demand, execute any instruments, releases, or other documents that may be required (i) by any beneficiary, mortgagee or mortgagor, of the purpose of subjecting and subordinating this Lease to the lien of any such deed of trust, mortgage or mortgages, or underlying lease; or (ii) alternative, if any such beneficiary, mortgagee or mortgagor elects to have this Lease made a prior lien to its mortgage or deed of trust. The failure of Lessee to execute any such instruments, releases, or documents, shall constitute a default hereunder.
- B. In the case of the failure of Lessee to execute said documents on demand, Lessor is hereby authorized, as the attorney and agent of Lessee, to execute such releases, instruments, or other documents, and in such

event Lessee hereby confirms and ratifies any such instruments so executed by virtue of this power of attorney.

19. COVENANT AGAINST LIENS AGAINST LESSOR'S FEE INTEREST. Lessee agrees to use its best efforts to prevent the filing of any lien or claim caused or permitted solely by Lessee against Lessor's fee interest in the Leased Premises and to promptly release or bond around any such lien or claim caused or permitted solely by Lessee that may be filed against Lessor's fee interest in the Leased Premises, and Lessee shall indemnify, hold harmless and defend Lessor for, from and against any such liens and encumbrances and for any actual costs and expenses incurred by Lessor in connection therewith or arising as a result thereof. If Lessee shall, in good faith, contest the validity of any such claim or demand, then Lessee shall, at its sole expense, defend itself and Lessor against the same and shall pay and satisfy any adverse judgment that may be rendered thereon before the enforcement thereof against the Lessor or the Leased Premises. The obligations contained in this paragraph shall survive the termination or expiration of this Lease.
20. COOPERATION. Parties shall at all times cooperate, in good faith, with each other and shall promptly furnish (and/or sign) all documents and other information reasonably necessary in order to (a) establish the Leased Premises as a separate tax parcel and as a parcel property subdivided and legally transferable under Alaska statutes; and (b) obtain any such licenses, approvals, permits and entitlements as may be required to effect the purposes of and carry out the intent of this Lease. Without limiting the foregoing, to the extent any lender of Lessor or Lessee shall reasonably require any modifications or amendments to this Lease, then Lessor and Lessee agree to cooperate, in good faith, to prepare and execute any such modifications or amendments to this Lease in form and substance acceptable to Lessor and Lessee.
21. GENERAL PROVISIONS.
 - A. Waiver of Breach. No failure by either Lessor or Lessee to insist upon the strict performance by the other of any term or condition of this Lease, or to exercise any right or remedies upon a breach, shall constitute a waiver of any breach or term or condition. No waiver of any breach shall affect or alter this Lease, but all terms of this Lease shall continue in full force and effect with respect to any other then existing or subsequent breach.
 - B. Compliance with Laws. The Parties shall comply with all applicable laws, ordinances and regulations of duly constituted public authorities now or hereafter in any manner affecting the Premises, whether or not any such laws, ordinances or regulations which may be hereafter enacted involve a change of policy on the part of the governmental body enacting the same. Lessee further agrees it will not permit any unlawful occupations, business or trade to be conducted on the Premises or any use to be made thereof contrary to any law, ordinance or regulation.
 - C. Entire Agreement – Changes, Waivers. This Lease supersedes all or any other prior agreements and understandings between the Parties regarding the Leased Premises and may not be changed or terminated orally; and no change, termination or attempted waiver of any of the provisions shall be binding unless in writing and signed by the Parties.
 - D. Construction of Lease. Words of any gender used in this Lease shall be held to include any other gender; and words of the singular number shall be held to include the plural, when the sense requires. Captions used in this Lease are for convenience only and do not in any way limit or amplify the terms and provisions hereof.
 - E. Broker. Lessor and Lessee represent they have not had any dealings with any realtor, broker, agent or finder, in connection with the negotiation of this Lease.

University of Alaska

- F. Binding Effect. The terms, conditions, covenants and agreements of this Lease shall be binding upon the successors and assigns of the Parties.
- G. Survival of Indemnities. The obligations of an indemnifying party and rights of each indemnified party under each and every defense, indemnification, and hold harmless provision contained in this Lease shall survive the expiration or earlier termination of this Lease.
- H. Attorney Fees. If by reason of any default by either party in the performance of the terms and conditions of this Lease, a party deems it necessary to employ an attorney, the prevailing party shall receive all costs, expenses, and attorney's fees expended or incurred by the prevailing party.
- I. Rule of Construction. The rule of strict construction of a document against the drafter is waived in partial consideration for the other covenants contained in this Lease, and all Parties to this Lease recognize that they have been afforded the opportunity to be represented by separate counsel in this transaction, and all terms and conditions have been negotiated at arm's length.
- J. Memorandum of Lease. Parties agree that Lessor will not record this Lease. At the request of either Lessor or Lessee, the Parties shall execute a Memorandum of Lease for recording purposes in lieu of recording this Lease.
- K. Time of Essence. Time is of the essence in the performance of the Parties' respective obligations under this Lease.
- L. Severability. If any term or condition of this Lease or the application of any term or condition to any person or under any circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and each term and condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.
- M. Surrender of Lease Not Merger. Neither the voluntary or other surrender of the Lease by Lessee, nor the mutual termination of this Lease shall cause a merger of the titles or estates of Lessor and Lessee, but such surrender or cancellation shall, at the option of Lessor, either terminate all or any existing subleases or operate as an assignment to Lessor of any such subleases.
- N. No Partnership. Nothing contained in this Lease shall be deemed or construed by the parties hereto, nor by any third party, to create a relationship of principal and agent, or a partnership or joint venture between Lessor and Lessee, it being understood and agreed that neither the method of computation of rent, nor any other provision contained herein, nor any acts of the parties hereto, shall be deemed to create any relationship between the parties hereto other than the relationship of Lessor and Lessee with respect to this Lease.
- O. Governing Law and Venue. This Lease and the rights, remedies, liabilities and obligations of the Parties shall be interpreted, construed and enforced in accordance with the laws of the State of Alaska. Venue for any action regarding this Lease shall be filed in the state courts in the Third Judicial District at Anchorage, Alaska.
- P. Force Majeure. Neither party shall be in default or responsible for any delay damages for failure to perform any of its obligations hereunder during periods in which performance is prevented by any cause reasonably beyond the party's control which shall include, but is not limited to, fires, floods, windstorms, other damage from the elements, or acts of God; strikes, terrorism or war (declared or undeclared), insurrection, mob violence, riots, or acts of public enemies; interference, action, administrative proceedings, legislation and

University of Alaska

regulation by any governmental or military authority; litigation; and non-availability of construction materials from suppliers.

- Q. Authority. Lessee and Lessor represent and warrant to each other that each is fully authorized to enter into this Lease without the joining of any other person or entity, and the person executing this Lease on behalf of such party has full authority to do so and any and all corporate, partnership, or limited liability company action required has been taken.

IN WITNESS WHEREOF, the parties hereto have executed this Lease.

LESSEE:

[Name], [Title]
[COMPANY NAME]

Date

LESSOR:

Adrienne K. Stolpe
Director of Land Management
UNIVERSITY OF ALASKA

Date

Exhibits: Exhibit A – Legal Description of Leased Premises
Exhibit B – Construction Plans and Specifications

EXHIBIT A
LEGAL DESCRIPTIONS AND SITE PLAN OF LEASED PREMISES
AND ACCESS AREA

Property:

[Legal Description]

Leased Premises contain approximately [number of square feet/acres].

Access Area: [number of square feet/acres]

Site Plan:

DRAFT

EXHIBIT B
PLANS AND SPECIFICATIONS

[Insert project plans and specifications]

DRAFT