

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") is made effective as of the ____ day of ____, 2017, between the CITY OF VALDEZ, a municipal corporation organized under the laws of the State of Alaska ("LESSOR"), and Valdez Terminal, LLC ("LESSEE").

I. RECITALS

A. LESSOR is the owner of certain real property having the following legal description ("Property"):

ATS 564

located in the Valdez Recording District, Third Judicial District, State of Alaska.

B. LESSOR desires to lease to LESSEE, and LESSEE desires to lease from LESSOR the Property, on the terms and conditions set forth in this Lease.

II. AGREEMENT

Based upon the foregoing Recitals which are incorporated herein by reference, and for good and valuable consideration the amount and sufficiency of which is hereby acknowledged, LESSOR and LESSEE agree as follows.

1. PROPERTY

1.1. Subject to Survey. A survey is required to delineate property boundaries and the size of the lease area. LESSEE is responsible for the costs of the survey.

1.2. Property. LESSOR leases to LESSEE and LESSEE leases from LESSOR the Property for the term, the rent, and subject to the terms, covenants and conditions hereinafter provided.

1.3. Quiet Enjoyment, Restrictions, Easements, Etc. LESSOR covenants and agrees that LESSEE, upon paying the rent and other charges herein provided for and observing and keeping the covenants, conditions and terms of this Lease on LESSEE's part to be kept or performed, shall lawfully and quietly hold, occupy and enjoy the Property during the term of this Lease without hindrance or molestation, subject, however, to the rights and reservations expressed in the U.S. Patent to the Property, the State of Alaska Patent to the Property, existing easements for roads, gas, electric, water, sewer and other utility

lines, restrictions of record and to encroachments ascertained by physical inspection of the Property.

1.4. Property Accepted "As Is." LESSEE acknowledges that prior to the execution of this Lease LESSEE has been in possession of the Property under the Prior Lease, has inspected the Property and accepts the same "as is" and without reliance on any representations or warranties of LESSOR, its agents, servants, or employees, as to the physical condition of the Property, including, but not limited to, subsurface and soil conditions, or as to its fitness, habitability or use for any particular purpose, or otherwise.

1.5. No Subsurface Rights. This Lease confers no mineral rights or rights with regard to the subsurface of the land below the level necessary for the use of the Property as stated in this Lease. LESSOR makes no warranty or representation as to whether the Property is subject to, open or closed to mineral claims or leases under state or federal law.

1.6. Appraisal Fee. An appraisal is required to determine the initial fair market appraised value of the property. LESSEE is responsible for the costs of the appraisal.

2. TERM

2.1. Lease Term. The initial term of this Lease shall be twenty-one (21) years, commencing on _____TBD_____ and ending on _____TBD_____.

2.2. Option to Renew. Provided that LESSEE is not in default of LESSEE's obligations under this Lease or the Lease has not be otherwise terminated at the time of exercise, LESSEE shall have rights to extend the initial term of this Lease for six (6) consecutive additional periods (each an "Option") of five (5) years (each an "Extension Period"). To exercise an Option, Tenant must give Landlord notice in writing of Tenant's exercise of an Option not less than ninety (90) days nor more than one hundred and eighty (180) days prior to the end of the upcoming expiring initial Lease term or Extension Period. Rent for an Extension Period shall be the rent set forth in Article 3 of this Lease.

2.3. Preference Rights to Re-Lease. LESSEE shall upon expiration of this Lease, and pursuant to Section 14.04.210 of the Valdez Municipal Code, as may be amended from time-to-time, be allowed a preference right to re-lease the Property, provided the LESSEE is not in breach or default of any of the terms or conditions of the Lease at the time of Lease expiration, unless it shall be determined by LESSOR that the renewal of this Lease is not in the best interests of LESSOR.

2.4. Application to Re-Lease. If, at the expiration of this Lease, the LESSEE desires to re-lease the Property, LESSEE shall, not sooner than ninety calendar days and not later than sixty calendar days prior to the expiration, make application to re-lease the Property.

The re-lease application shall certify the character and value of all improvements placed by LESSEE on the Property, the purpose and lengths for which the re-lease is desired, and any other information that LESSOR may require. Applications to re-lease shall be submitted to the same application review as new applications for lease, pursuant to Sec. 14.04 of the Valdez Municipal Code as may be amended from time-to-time.

2.5. Hold-over. If LESSEE shall hold-over after the expiration of the term of this Lease such tenancy shall be from month to month, subject to all the terms, covenants and conditions of this Lease.

2.6. Surrender of Possession. Upon expiration of the term of this Lease, whether by lapse of time or otherwise, LESSEE shall promptly and peaceably surrender the Property, and all buildings and improvements thereon, except as provided in Article 17 of this Lease, and LESSEE agrees to execute, acknowledge and deliver to LESSOR a proper instrument in writing, releasing and quitclaiming to LESSOR all right, title and interest of LESSEE in and to the Property and all such buildings and improvements thereon.

3. RENT, TAXES, ASSESSMENTS AND UTILITIES

3.1. Rent. The LESSEE agrees to pay to LESSOR an annual rent of ten percent (10%) of the fair market appraised value of the Property, in quarterly installments to be made not later than January 1st, April 1st, July 1st, and October 1st, respectively, during each year of the term of this Lease, including any Extension Period. Rent for the portion of the quarter coinciding with the commencement of the Lease term shall be on the day the term commences. Rent for any partial quarter shall be prorated at the rate of 1/12th of the annual rent per month or portion thereof. For the first five (5) years of the Lease term, the appraised value of the Property is agreed to be _____TBD_____ DOLLARS (\$TBD) resulting in an annual rent of _____TBD_____ DOLLARS (\$TBD) per year, to be paid in quarterly installments of _____TBD_____ DOLLARS (\$TBD). Rent shall be payable at the office of the City Manager, P.O. Box 307, Valdez, Alaska 99686, or at such other place as LESSOR may designate in writing. Delinquent rent shall bear interest at the rate of twelve percent (12%) per annum.

3.2. Adjustment of Rent. The Property will be reappraised and the annual rent accordingly adjusted every five (5) years during the term of this Lease, including any Extension Period. Such appraisal will be based on the value of the Property and shall not include the value of buildings or improvements placed on the Property by LESSEE. The appraised value of the Property for the purposes of determining the annual rental shall be an appraisal done by a State of Alaska licensed appraiser of LESSOR's selection. In no event, however, shall the annual rent be less than the original annual rent set forth in paragraph 3.1. Nothing in this paragraph shall prevent the annual reassessment of the Property and its improvements for tax purposes to determine its true value as provided by law.

3.3. LESSEE to Pay Taxes. LESSEE shall pay prior to delinquency and directly to the taxing authorities in which the Property is located all real property taxes levied or assessed upon or against the Property and improvements thereon during the term of this Lease. LESSEE shall also pay prior to delinquency and directly to the taxing authorities in which the Property is located all personal property taxes levied on personal property situated on the Property and placed thereon by LESSEE, its agents, authorized representatives, or employees. LESSEE shall further pay prior to delinquency any other taxes for which it may be liable. LESSEE shall, within thirty (30) days after any such tax, assessment or other charge, whether or not constituting a lien on the Property, shall become due and payable, produce and exhibit to LESSOR satisfactory evidence or payment thereof.

3.4. LESSEE to Pay Assessments. LESSEE shall pay directly to the public authorities charged with collection thereof any and all assessments levied on the Property for any part or all of the costs of any public work or improvement assessed according to benefit found by the levying authority to accrue therefrom to the Property, provided, however, that if an option is given to pay such assessment(s) in installments, LESSEE may elect to pay the same in installments, and in such case LESSEE shall be liable only for such installments as shall accrue during the term of this Lease. LESSOR makes no warranty or representations regarding any outstanding assessments levied on the Property for any part or all of the cost of any public work or improvement constructed by LESSOR or any public utility company. It is LESSEE's responsibility to verify if there are any assessments against the subject property by any utility provider.

3.5. Proration of Taxes and Assessments. If LESSEE's obligation to pay taxes or assessments commences or ends during a tax year (rather than at the beginning or end of a tax year), such obligation shall be prorated between LESSOR and LESSEE.

3.6. Contest. LESSEE shall have the right to contest any taxes or assessments which LESSEE is obligated to pay under paragraphs 3.3 or 3.4 of this Lease. Such proceedings shall, if instituted, be conducted promptly at LESSEE's own expense and free from all expense to LESSOR. Before instituting any such proceedings, LESSEE shall pay under protest any such taxes or assessments, or shall furnish to LESSOR a surety bond written by a company acceptable to LESSOR or other security acceptable to LESSOR, sufficient to cover the amount of such taxes or assessments, with interest for the period which such proceedings may reasonably be expected to take, and costs, securing the payment of such taxes or assessments, interest and costs in connection therewith when finally determined. Notwithstanding the furnishing of any such bond or security, LESSEE shall pay any such taxes or assessments at least thirty (30) days before the time when the Property or any part thereof, might be forfeited. The proceedings referred to in this paragraph 3.6 shall include appropriate appeals from any order or judgments therein, but all such proceedings shall be begun as soon as reasonably possible after the imposition or assessment of any such taxes or assessments and shall be prosecuted to final adjudication promptly. In the

event of any reduction, cancellation or discharge, LESSEE shall pay the amount that shall be finally levied or assessed against the Property or adjudicated to be due and payable, and, if there shall be any refund payable by the governmental authority with respect thereto, LESSEE shall be entitled to receive and retain the same, subject, however, to apportionment proration provided in paragraph 3.5 of this Lease. LESSOR, at LESSOR's option, may, but shall not be obligated to, at LESSOR's own expense contest any such taxes or assessments, which shall not be contested as set forth above, and, unless LESSEE shall promptly join with LESSOR in such contest and pay all costs and attorneys' fees of LESSOR therein, LESSOR shall be entitled to receive and retain any refund payable by any governmental authority with respect thereof.

3.7. LESSEE to Pay Utility Charges. LESSEE shall pay or cause to be paid all charges for gas, oil, electricity, water, sewer, heat, snow removal, refuse removal and any and all other utilities or services used upon the Property throughout the term of this Lease, including any connection fees.

3.8. Additional Rent and LESSOR's Right to cure LESSEE's Default. All costs and expenses which LESSEE assumes or agrees to pay pursuant to this Lease shall, at LESSOR's election, be treated as additional rent, and, in the event of nonpayment, LESSOR shall have all rights and remedies provided in this Lease in the case of nonpayment of rent or of a breach of condition, at LESSOR's election. If LESSEE shall default in making any payment required to be made by LESSEE or shall default in performance of any term, covenant or condition of this Lease on the part of LESSEE to be kept, performed or observed which shall involve the expenditure of money by LESSEE, LESSOR at LESSOR's option may, but shall not be obligated to, make such payment, or, on behalf of LESSEE, expend such sum as may be necessary to keep, perform or observe such term, covenant or condition, and any and all sums so expended by LESSOR, with interest thereon at the rate of twelve percent (12%) per year from the date of such expenditure until repaid, shall be, and shall be deemed to be, additional rent and shall be repaid by LESSEE to LESSOR, on demand, provided, however, that no such payment or expenditure by LESSOR shall be deemed a waiver of LESSEE's default, nor shall it affect any remedy of LESSOR by reason of such default.

4. USE

4.1. Use. LESSEE shall use the Property for the purpose of yard expansion and operation. LESSEE shall not conduct any illegal activities on the Property or maintain any nuisances on the Property.

4.2. Radio Interference. At the LESSOR's request, the LESSEE shall discontinue the use of any machine or device which interferes with any government operated transmitter, receiver, or navigation aid until the cause of the interference is eliminated provided that such a request is based upon a reasonable belief that LESSEE's machine or device is the source of the interference.

5. IMPROVEMENTS

5.1. Alterations and Additions. LESSEE may not make alterations, improvements, additions, or changes to the Property, or any part thereof, without the prior written consent of LESSOR, which consent may be withheld for any reason. To the extent LESSOR obtains such consent, and undertakes any such alteration, improvement, addition, or change to the Property, LESSEE shall ensure that the same complies with all applicable local, state, and federal laws and shall indemnify LESSOR, and hold LESSOR harmless, from any and all liability that may arise from the same. All costs of any such alteration, improvement, addition and/or change shall be at LESSEE's sole cost and expense, unless otherwise agreed in writing. LESSOR shall keep the Property free from liens or encumbrances of any nature. Upon the termination of this Lease, all such alterations, improvements, additions, and changes with the exception of trade fixtures as set forth in Section 6.1 shall belong to Landlord, unless LESSOR elects to have LESSEE remove the same and reinstate the PROPERTY to its condition prior to such alteration, improvement, addition or change, all at LESSOR's sole expense. LESSOR may post the Property with notices of non-responsibility for labor and materials supplied thereto.

5.2. Notice of Construction. LESSEE shall give LESSOR no less than ten days written notice prior to the commencement of any LESSOR approved construction, alteration or repair of any improvements constructed or made by LESSEE on the Property so that LESSOR may, if it so elects, give notice of nonresponsibility pursuant to AS 34.35, as now enacted or hereafter amended.

5.3. Landscaping. LESSEE shall landscape the areas surrounding any buildings or improvements constructed or maintained on the Property in a pleasing and aesthetic manner consistent with the scenic nature and natural vegetation of the Property and the surrounding land, and shall maintain such landscaping in good condition.

5.4. Workers Compensation Insurance. No construction shall commence or continue without satisfactory proof that workers compensation insurance has been procured to cover all persons employed in connection with the construction. Upon request by LESSOR, LESSEE shall make such proof available to LESSOR for inspection. Any deficiency with regard to such insurance requirement shall be cured immediately by LESSEE and no work will be performed on any such construction project until the LESSOR has satisfactory proof that required workers compensation insurance is in place.

6. TRADE FIXTURES

6.1. LESSEE's Ownership of Trade Fixtures, Machinery and Equipment. Any and all trade fixtures (including electrical fixtures), machinery, equipment of any nature whatsoever and other personal property of LESSEE at any time placed or maintained upon the Property by LESSEE shall be and remain property of the LESSEE and may be removed or replaced at any time during the term or at the termination of this Lease.

7. ASSIGNMENT AND SUBLETTING

7.1. Assignment Without Consent Generally Prohibited. LESSEE shall not voluntarily assign or encumber its interest in this Lease or in the Property, or sublet all or any part of the Property, or allow any other person or entity (except LESSEE's authorized representatives) to occupy or use all or any part of the Property without first obtaining LESSOR's written consent. Any assignment, encumbrance or sublease without LESSOR's consent shall be voidable and, at LESSOR's election, shall constitute a default. No consent to any assignment, encumbrance, or sublease shall constitute a further waiver of the provisions of this paragraph. If LESSEE is a partnership, a withdrawal or change, voluntary, involuntary or by operation of law, of any partner or partners owning fifty percent (50%) or more of the partnership, or the dissolution of the partnership, shall be deemed a voluntary assignment. If LESSEE is a corporation, any dissolution, merger, consolidation or other reorganization of LESSEE, or the sale or other transfer of a controlling percentage of the capital stock of LESSEE or the sale of fifty-one percent (51%) of the value of the assets of LESSEE, shall be deemed a voluntary assignment. The phrase "controlling percentage" means the ownership of, and the right to vote, stock possessing at least fifty-one percent (51%) of the total combined voting power of all classes of LESSEE's capital stock issued, outstanding and entitled to vote for the election of directors. As to a corporation the stock of which is traded through an exchange or over the counter, a sale or other transfer of a controlling percentage of the capital stock of such a LESSEE corporation will not be deemed to be a voluntary assignment. Any assignment affected pursuant to this paragraph 7.2 shall require the assignee to assume the LESSEE's obligations hereunder. LESSEE shall promptly deliver to LESSOR a copy of any assignment instrument. Any assignment shall not release the LESSEE from liability hereunder.

7.2. Assignment of Rents to LESSOR. LESSEE immediately and irrevocably assigns to LESSOR, as security for LESSEE's obligations under this Lease, all rent from any approved subletting of all or a part of the Property as permitted by this Lease, and LESSOR, as assignee and attorney-in-fact for LESSEE or a receiver for LESSEE appointed on LESSOR's application, may collect such rent and apply it toward LESSEE's obligations under this Lease, except that, until the occurrence of an act of default by LESSEE, LESSEE shall have the right to collect such rent.

7.3. Costs of LESSOR's Consent to Be Borne by LESSEE. LESSEE shall pay to LESSOR, on demand, reasonable costs, including attorney's fees, incurred by LESSOR in connection with any request by LESSEE for LESSOR's consent to any assignment or subletting by LESSEE.

8. LIENS

8.1. Prohibition of Liens. LESSEE shall not suffer or permit any liens, including without limitation, mechanic's or materialman's liens, to be recorded against the

Property. If any such liens shall be recorded against the Property, LESSEE shall cause the same to be removed, or, in the alternative, if LESSEE in good faith desires to contest the same, LESSEE shall be privileged to do so, but in such case LESSEE hereby agrees to indemnify and save LESSOR harmless from all liability for damages occasioned thereby and shall, in the event of a judgment or foreclosure of such liens, cause the same to be discharged and removed prior to any attempt at execution of such judgment. Nothing contained in this Lease shall be construed to be a waiver of the provisions of AS 09.38.015(c), as may be amended from time to time.

9. INDEMNITY

9.1. Indemnity. Except for claims arising solely out of acts or omissions of LESSOR, its agents, servants, employees or contractors, LESSEE agrees to protect, defend, indemnify and hold LESSOR harmless from and against any and all liability arising from acts or omissions of LESSEE, its agents, servants, employees or contractors occurring on or relating to the Property or relating to the operation of LESSEE's business, causing injury to, or death of persons, or loss of, or damage to, property, and from any expense, including reasonable attorneys' fees, incident to the defense of and by LESSOR therefrom. If any action or proceeding is brought against LESSOR by reason of any such occurrences, LESSOR shall promptly notify LESSEE in writing of such action or proceeding.

10. INSURANCE

10.1. Liability Insurance. LESSEE, during the term of this Lease, shall carry at its expense commercial general liability insurance covering the Property in an amount of not less than ONE MILLION DOLLARS (\$1,000,000.00) combined single limit to protect against liability for personal injury, death or property damage, including without limitation damage caused by the release or threatened release of hazardous material or substance (as defined in paragraph 18.5 below), which might arise from the construction on, occupancy of, or use of the Property and the operations conducted on it. Said insurance shall insure performance by LESSEE of the indemnity provisions of paragraph 9.1. At LESSOR's sole and reasonable discretion, LESSOR may increase the amount of insurance required at five (5) year intervals.

10.2. Named Insured, Notice to LESSOR, and Waiver of Subrogation. All insurance policies required to be maintained by LESSEE under paragraph 10.1 shall name LESSOR, and its officers, employees and agents, as additional insureds. All policies issued under paragraph 10.1 shall contain an agreement by the insurers that such policies shall not be canceled without at least twenty (20) days prior written notice to LESSOR, and certificates or copies of all such insurance policies shall be furnished to LESSOR promptly after the issuance thereof. All policies issued under paragraph 10.1 shall contain a waiver of any subrogation rights any insurer might have against LESSOR.

10.3. Fire and Extended Coverage Insurance. LESSEE shall at its own expense and in its own name obtain insurance against loss or damage by fire and such other risks as it determines to cover buildings, equipment, inventory, fixtures, personal property and improvements made to the Property by LESSEE subsequent to LESSEE's taking possession of the Property under this Lease.

11. CARE OF PROPERTY

11.1. LESSEES's Maintenance and Repair Obligations. LESSEE shall at its own cost and expense keep the Property, and every part thereof including without limitations all improvements situated on the Property and all structural, mechanical, plumbing and electrical improvements to the Property, in good condition and repair. LESSEE shall upon the expiration or sooner termination of this Lease, quit and peacefully surrender the Premises to Landlord in good condition, broom clean, ordinary wear and tear excepted. The Property shall always be kept by LESSEE neat, clean and free of litter.

11.2. Restoration or Removal of Damaged Buildings and Improvements. In the event any buildings or improvements situated on the Property by LESSEE are damaged or destroyed by fire or other casualty, LESSEE shall at LESSEE's expense restore the same to good and tenantable condition or shall remove the same as soon as is reasonably possible, but in no event shall the period of restoration exceed twenty-four (24) months nor shall the period of removal exceed one hundred eighty days (180) days.

11.3. Access Rights of LESSOR. LESSOR, its agents, servants or employees, shall have the right to enter into and upon the Property and all buildings or improvements situated thereon upon reasonable notice to LESSEE and during normal business hours (defined as 9:00 a.m. to 5:00 p.m. Monday through Friday except for holidays as defined in paragraph 15.5 of this Lease) for the purpose of inspecting the Property and all buildings and improvements situated thereon for compliance with the terms of this Lease.

11.4. Nuisances Prohibited. LESSEE shall immediately remove from the Property any abandoned or junk vehicles, buildings, improvements, equipment, machinery or fixtures. LESSEE shall not permit any nuisance or public nuisance to exist or to be created or maintained on the Property. LESSEE agrees that any nuisance or public nuisance as defined by the Valdez City Code, or any other code or regulations incorporated therein or otherwise adopted by ordinance or resolution of the City of Valdez, may, after five days written notice to LESSEE, be removed by LESSOR without LESSEE's further permission, with use of force if necessary, and without incurring any civil or criminal liability therefore, all the costs of such removal to be paid by LESSEE to LESSOR as additional rent under the terms of this Lease. This paragraph shall not be construed as any limitation on any other legal rights or remedies available to the City of Valdez to abate any nuisance or to prosecute any violation of the Valdez City Code.

12. LAWS

12.1. Compliance with Laws. LESSEE shall comply with all applicable laws, ordinances and regulations of duly constituted public authorities now or hereafter in any manner affecting LESSEE's activities on the Property or any buildings or other improvements which may be situated thereon, 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. In the event of a conflict between the provisions of this Lease and the City of Valdez Municipal Code, the latter shall control.

13. CONDEMNATION

13.1. Condemnation. In the event the Property, or any part thereof or interest therein, shall be taken for public purposes by condemnation as a result of any action or proceeding in eminent domain, or shall be transferred in lieu of condemnation to any authority entitled to exercise the power of eminent domain, the interests of LESSOR and LESSEE in the award or consideration for such transfer and the effect of the taking or transfer upon this Lease shall be as provided in this Article 13.

13.2. Total Taking. If all of the Property is taken or so transferred, this Lease and all the right, title and interest thereunder of LESSEE shall cease on the date title to the Property vests in the condemning authority.

13.3. Partial Taking - Termination of Lease. In the event the taking or transfer of part of the Property leaves the remainder of the Property in such location, or in such form, shape or reduced size, or so inaccessible as to be not effectively and practicably usable in the reasonable opinion of LESSEE for the purpose of operation thereon of LESSEE's business, then this Lease and all of the right, title and interest thereunder of LESSEE shall cease on the date title to the Property vests in the condemning authority, and the condemning authority enters into possession.

13.4. Partial Taking - Continuation of Lease. In the event the taking or transfer of a part of the Property leaves the remainder of the Property in such location and in such form, shape or size, or so accessible as to be effectively and practicably usable in the reasonable opinion of LESSEE for the purpose of operation thereon of LESSEE's business, this Lease shall terminate and end as to the portion of the Property so taken or transferred as of the date title to such portion vests in the condemning authority and the condemning authority enters into possession, but shall continue in full force and effect as to the portion of the Property not so taken or transferred. If there is a partial taking and this Lease is not terminated, then the annual rent payable under this Lease shall abate for the portion of the Property taken in the proportion that such portion bears to all of the Property.

13.5. Compensation. Any compensation received or payable as a result of eminent domain proceedings or a transfer in lieu thereof shall be apportioned to LESSOR and LESSEE as follows: (a) LESSOR shall be entitled to such portion of the compensation

attributable to LESSOR's interest in this Lease, LESSOR's ownership interest in the Property, and LESSOR's interest in any improvements to the Property; and (b) LESSEE shall be entitled to such portion of the compensation attributable to LESSEE's interest in this Lease, and LESSEE's interest in an improvements to the Property. LESSEE shall have the right to claim and recover from the condemning authority compensation for any loss to which LESSEE may be entitled for LESSEE's moving expenses, interference with LESSEE's business, and damages relating to any trade fixtures, machinery or equipment owned by LESSEE, provided, however, that such compensation can be claimed only if separately awarded in the eminent domain proceeding or transfer in lieu thereof agreed to by LESSOR, and not as a part of the compensation recoverable by LESSOR.

14. DEFAULT

14.1. Default. Each of the following events shall be deemed an event of default by the LESSEE under this Lease and a breach of the terms, covenants and conditions of this Lease:

14.1.1. A default in the payment of the rent and additional sums due under this Lease, or any part thereof, for a period of fifteen (15) days from the due date for the payment of such rent or additional sums.

14.1.2. A default in the performance of any other term, covenant or condition on the part of the LESSEE to be kept, performed or observed for a period of thirty (30) days after LESSOR gives to LESSEE a written notice specifying the particular default or defaults; provided, however, that any default on the part of LESSEE in the performance of work or acts required by him to be done, or conditions to be modified, shall be deemed to be cured if steps shall have been taken promptly by LESSEE to rectify the same and shall be prosecuted to completion with diligence and continuity.

14.1.3. The filing of a petition by or against LESSEE for adjudication as a bankrupt under the Federal Bankruptcy Code, as now enacted or hereafter amended, or for arrangement pursuant to Chapter XI of the Bankruptcy Code.

14.1.4. The making by LESSEE of an assignment of this Lease or the Property as set forth in Section 7.1 for the benefit of creditors.

14.1.5. The appointment of a receiver by a court of competent jurisdiction for LESSEE's business.

14.1.6. The levy upon execution or attachment by process of law of the leasehold interest of LESSEE in the Property.

14.1.7. The use of the Property or buildings and improvements thereon for purposes other than those enumerated herein, to which LESSOR has not given its written consent.

14.1.8. The abandonment of the Property by LESSEE.

14.2. LESSOR's Remedies. In the event of any default by LESSEE as recited in paragraph 14.1 of this Lease, LESSOR shall have all of the below enumerated rights and remedies, all in addition to any rights and remedies that LESSOR may be given by statute, common law or otherwise. All rights of LESSOR shall be cumulative, and none shall exclude any other right or remedy. LESSOR's rights and remedies include the following:

14.2.1. LESSOR may declare the term of this Lease ended by written notice to LESSEE. Upon termination of this Lease, LESSEE shall surrender possession and vacate the Property immediately and deliver possession thereof to LESSOR, and LESSEE hereby grants to LESSOR full and free license to enter into and upon the Property in such event with or without process of law and to repossess LESSOR of the Property and to expel or remove LESSEE and any others who may be occupying or within the Property and to remove any and all property therefrom, using such force as may be necessary, without being deemed in any manner guilty of trespass, eviction or forcible entry or detainer, and without relinquishing LESSOR's right to rent or any other right given to LESSOR hereunder or by operation of law.

14.2.2. LESSOR may by written notice declare LESSEE's right to possession of the Property terminated without terminating this Lease. Upon such termination of LESSEE's right to possession, LESSOR shall have all the rights to repossess the Property and remove LESSEE and LESSEE's property that are enumerated in paragraph 14.2.1..

14.2.3. LESSOR may relet the Property 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 sum which LESSOR may deem reasonable, except as provided in paragraph 14.2.5.2.

14.2.4. LESSOR may collect any and all rents due or to become due from subtenants or other occupants of the Property.

14.2.5. LESSOR may recover, whether this Lease be terminated or not, from LESSEE, damages provided for below consisting of that referenced in subparagraphs 14.2.5.1.1, and 14.2.5.1.2, or, in lieu of that referenced in subparagraph 14.2.5.1.2, those referenced in subparagraph 14.2.5.1.3:

14.2.5.1.1. reasonable attorney's fees and other expenses incurred by LESSOR by reason of the breach or default by LESSEE; and

14.2.5.1.2. an amount equal to the amount of all rent and additional sums reserved under this Lease, less the net rent, if any, collected by LESSOR on reletting the Property, which shall be due and payable by LESSEE to LESSOR on the several days on which the rent and additional sums reserved in this Lease would have become due and

payable; that is to say, upon each of such days LESSEE shall pay to LESSOR the amount of deficiency then existing such net rent collected on reletting by LESSOR shall be computed by deducting from the gross rent collected all expenses incurred by LESSOR in connection with the reletting of the Property, or any part thereof, including broker's commission and the cost of renovating or remodeling the Property or the buildings or improvements thereon, provided, however, LESSOR must take diligent effort in reletting the Property to obtain a rental rate as close to or above that required of LESSEE under this Lease or else LESSOR will not have access to the remedy set out in this subparagraph 14.2.5.1.2, or

14.2.5.1.3. an amount to be due immediately on breach, equal to the difference between the rent and the fair and reasonable rental value of the Property for the same period. In the computation of such damages the difference between any installment of rent thereafter becoming due and the fair and reasonable value of the Property for the period for which such installment was payable shall be discounted to the date of such breach at the rate of eight percent (8%) per year.

14.2.6. Reentry or reletting of the Property, or any part thereof, shall not be deemed a termination of this Lease, unless expressly declared to be so by LESSOR.

14.2.7. If this Lease shall be deemed terminated, LESSEE's liabilities shall survive and LESSEE shall be liable for damages as provided in paragraph 14.2 and its sub-parts.

15. GENERAL PROVISIONS

15.1. Estoppel Certificates. Either party shall at any time and from time to time upon not less than thirty (30) days prior written request by the other party, execute, acknowledge and deliver to such party, or to its designee, a statement in writing certifying that this Lease is unamended and in full force and effect (or, if there has been any amendment thereof, that the same is in full force and effect as amended and stating the amendment or amendments), that there are no defaults existing, (or, if there is any claimed default, stating the nature and extent thereof); and stating the dates to which the rent and other charges have been paid in advance.

15.2. Conditions and Covenants. All the provisions of this Lease shall be deemed as running with the land, and shall be construed to be "conditions" as well as "covenants," as though the words specifically expressing or imparting covenants and conditions were used in each separate provision.

15.3. No Waiver of Breach. No failure by either LESSOR or LESSEE to insist upon the strict performance by the other of any term, covenant or condition of this Lease or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or of such terms, covenants or conditions. No waiver of any breach

shall affect or alter this Lease, but each and every term, covenant and condition of this Lease shall continue in full force and effect with respect to any other then existing or subsequent breach.

15.4. Time of Essence. Time is of the essence of this Lease and of each provision.

15.5. Computation of Time. The time in which any act provided by this Lease is to be done is computed by excluding the first (1st) day and including the last, unless the last day is a Saturday, Sunday or a holiday, and then it is also excluded. The term "holiday" shall mean all holidays as defined by the statutes of Alaska.

15.6. Successors in Interest. Each and all of the terms, covenants and conditions in this Lease shall inure to the benefit of and shall be binding upon the successors in interest of LESSOR and LESSEE.

15.7. Entire Agreement. This Lease contains the entire agreement of the parties with respect to the matters covered by this Lease, and no other agreement, statement or promise made by any party which is not contained in this Lease shall be binding or valid.

15.8. Governing Law/Jurisdiction/Venue. This Lease shall be governed by, construed and enforced in accordance with the laws of the state of Alaska. Any litigation arising out of the enforcement of rights or performance of the parties under this Lease, or its interpretation, shall be brought in the courts of the State of Alaska, Third Judicial District at Valdez.

15.9. Partial Invalidity. If any provision of this Lease is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated, unless such provisions are considered by LESSEE to be integral to LESSEE's use of the Property for the purposes stated herein in which case LESSEE will have the authority to terminate this Lease upon thirty (30) days' written notice to LESSOR.

15.10. Relationship of Parties. Nothing contained in this Lease shall be deemed or construed by the parties or by any third person to create the relationship of principal and agent or of partnership or of joint venture or of any association between LESSOR and LESSEE; and neither the method of computation of rent, nor any other provision contained in this Lease nor any acts of the parties, shall be deemed to create any relationship between LESSOR and LESSEE other than the relationship of LESSOR and LESSEE.

15.11. Interpretation. The language in all parts of this Lease shall in all cases be simply construed according to its fair meaning and not for or against LESSOR or LESSEE as both LESSOR and LESSEE have had opportunity for the assistance of attorneys in drafting and reviewing this Lease.

15.12. Number and Gender. In this Lease, the neuter gender includes the masculine and the feminine, and the singular number includes the plural; the word “person” includes corporation, partnership, firm or association wherever the context so requires.

15.13. Mandatory and Permissive. “Shall,” “will,” and “agrees” are mandatory; “may” is permissive.

15.14. Captions. Captions of the paragraphs of this Lease are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Lease.

15.15. Amendment. This Lease is not subject to amendment except in writing executed by all parties hereto.

15.16. Delivery of Notices - Method and Time. All notices, demands or requests from one party to another shall be delivered in person or be sent by mail, certified or registered, postage prepaid, to the addresses stated in paragraph 15.17 and shall be deemed to have been given at the time of delivery or, if mailed, three (3) days after the date of mailing.

15.17. Notices. All notices, demands and requests from LESSEE to LESSOR shall be given to LESSOR at the following address:

City Manager
City of Valdez
P.O. Box 307
Valdez, Alaska 99686

All notices, demands or requests from LESSOR to LESSEE shall be given to LESSEE at the following address:

Valdez Terminal, LLC
Attn: Everett Billingslea
1800 International Blvd, Suite 800
Seattle, WA 98188

15.18. Change of Address or Agent. Each party shall have the right, from time to time, to designate a different address or different agent for service of process by notice given in conformity with paragraph 15.16.

15.19. Furnishing of Information. Upon LESSOR’s written request, LESSEE shall provide LESSOR with copies of articles of incorporation and bylaws, partnership agreements, joint venture agreements or other reasonably related documents which shall

define the manner of organization and the ownership of any business or activities to be conducted upon the Property, together with all future amendments thereto. LESSOR shall treat such information as confidential and not release it to a third party unless legally compelled to do so. LESSEE and LESSEE's assignee or sublessee shall also provide the same information regarding any assignee or sublessee of LESSEE.

15.20. Recordation. This Lease or a memorandum thereof may be recorded by LESSOR, or by LESSEE at LESSEE's expense with the State of Alaska designated Recorder's Office for the recording of documents related to the Property.

15.20.1. LESSOR's Lien and Security Interest. LESSOR shall have a lien on, and LESSEE hereby grants LESSOR a security interest on, improvements, equipment and fixtures, which are or may be put on the premises by LESSEE, to secure the payment of the rent and additional sums reserved under this Lease. If LESSEE shall default in the payment of such rent, LESSOR may, at its option, without notice or demand, take possession of and sell such property in accordance with the Uniform Commercial Code of Alaska or other applicable law. LESSOR shall apply the proceeds of sale as follows:

- (a) To the expense of sale, including all costs, fees and expenses of LESSOR and LESSOR's reasonable attorney's fees in connection with such sale;
- (b) To the payment of such rent; and
- (c) The surplus, if any, to LESSEE.

16. OWNERSHIP OF IMPROVEMENTS AND FIXTURES ON TERMINATION

16.1. Permanent Improvements. Upon the termination of this Lease, except as provided in paragraph 17.2 below, all buildings and structures, alterations, improvements, additions, and changes to the Property shall be owned by and be property of LESSOR, unless LESSOR elects to have LESSEE remove the same or any part thereof and reinstate the Property to its condition prior to such the construction of such building, structure, alteration, improvement, addition or change, all at LESSEE's sole expense.

16.2. LESSEE May Remove Trade Fixtures, Machinery and Equipment. Subject to other provisions of this Lease, trade fixtures, machinery and equipment owned by LESSEE may be removed by LESSEE from the Property within sixty (60) days after the expiration or termination of this Lease; provided that such removal will not cause injury or damage to the Property, or if it does, LESSEE shall indemnify LESSOR for the full amount of such damage; and further provided that any buildings, improvements, fixtures, machinery or equipment left on the Property by LESSEE shall be in good, safe and tenantable or operable condition; and further provided that LESSEE shall not commit, create, leave or allow to exist on the Property any nuisance or public nuisance. LESSOR

may extend the time for such removal in case hardship is shown to LESSOR's satisfaction, provided application for extension has been made in writing and received by LESSOR within said sixty (60) day period.

16.3. Property Not Removed. Any trade fixtures, machinery, equipment or other items of property, which are not removed from the Property within the time allowed in paragraph 17.2 of this Lease, shall immediately become the property of LESSOR and title thereto shall vest in LESSOR without further action on the part of LESSEE or LESSOR. LESSOR may use, sell, destroy, or otherwise dispose of any such property in any matter which it sees fit, without further obligation to LESSEE and subject to LESSEE's indemnification obligations under paragraph 17.2.

17. NONDISCRIMINATION

17.1. LESSEE Will Not Discriminate. LESSEE agrees that in its use and occupancy of the Property it will not, on the grounds of race, color, religion, national origin, ancestry, age, or sex, discriminate or permit discrimination against any prospective occupant, patron, customer, employee, applicant for employment or other person or group of persons in any manner prohibited by federal, state or local law or regulations promulgated thereunder.

18. HAZARQOUS MATERIALS

18.1. Condition of Property. LESSEE has had full opportunity to examine the Property for the presence of any Hazardous Material and accepts the Property in "as is" condition. LESSEE acknowledges that LESSOR, its agents, authorized representatives or employees have made no representations as to the physical conditions of the Property, including but not limited to the subsurface and soil conditions. LESSEE accepts the Property in an "as is" condition. LESSEE does not accept or assume responsibility or liability for pre-existing subsurface and/or soil conditions, including, but not limited to Hazardous Materials and/or Environmental contamination that is unknown and/or undisclosed to LESSEE at the time of execution of this Lease.

18.2. Release of LESSOR. Any other provision of this Lease to the contrary notwithstanding, LESSEE releases LESSOR from any and all claims, demands, penalties, fines, judgments, liabilities, settlements, damages, costs or expenses (including, without limitation, a decrease in the value of the Property, damages due to loss or restriction of usable space, and attorneys' fees, court costs, litigation expenses, and consultant and expert fees) arising before, during or after the term of this Lease, and resulting from the use, keeping, storage or disposal of Hazardous Material on the Property provided that such Hazardous Material did not arise solely out of acts or omissions of LESSOR. This release includes, without limitation, any and all costs incurred due to any investigation of the site or any cleanup, removal or restoration mandated by a federal, state or local agency or political subdivision or by law.

18.3. Use of Hazardous Materials on the Property.

18.3.1. LESSEE shall not cause or permit any Hazardous Material to be brought upon, kept or used in or about the Property by LESSEE or its authorized representatives or invitees, except for such Hazardous Material as is necessary or useful to LESSEE's permitted use of the Property.

18.3.2. Any Hazardous Material permitted on the Property as provided in this paragraph, and all containers therefore, shall be used, kept, stored and disposed of in a manner that complies with all laws or regulations applicable to any such Hazardous Material.

18.3.3. LESSEE shall not discharge, leak or emit, or permit to be discharged, leaked or emitted, any material into the atmosphere, ground, sewer system or any body of water, if such material (as reasonably determined by the LESSOR, or any governmental authority) does or may, pollute or contaminate the same, or may adversely affect (a) the health, welfare or safety of persons, whether located on the Property or elsewhere, or (b) the condition, use or enjoyment of the Property or any other real or personal property.

18.3.4. LESSEE hereby agrees that it shall be fully liable for all costs and expenses related to the use, storage and disposal of Hazardous Material kept on the Property by the LESSEE, its authorized representatives and invitees, and the LESSEE shall give immediate notice to the LESSOR of any violation or potential violation of the provisions of subparagraphs 19.3 and its subparagraphs.

18.4. Indemnification of LESSOR by LESSEE for Environmental Contamination. Lessee agrees to forever protect, defend, indemnify and hold harmless LESSOR from and against any and all losses, claims, investigations, assertions, liens, demands and causes of action of every kind and character (including without limitation any assertions or claims made against LESSOR, LESSEE or third parties, by government agencies or third parties, alleging the release or threatened release of hazardous substances or environmental contamination of any kind on or in connection with the Property) and all costs thereof (including without limitation costs of removal action, remedial action, other "response costs" as that term is defined under applicable federal and state law, attorney's fees, penalties, damages, interest and administrative/court costs incurred by Lessor in response to and defense of same) arising in favor of any party, including LESSOR, and arising from or connected with LESSEE's activities under this Lease or LESSEE's use of or presence on the Property, whether such activities, use or presence are those of LESSEE or LESSEE's agents, subcontractors or other representatives. LESSEE acknowledges that this indemnification clause shall survive termination of this Lease, and that it applies regardless of the basis of liability alleged by or against any party, including strict liability under AS 46.03.822 or federal law. LESSEE's obligations under this section may be discharged, however, by performance of whatever degree of site investigation for environmental contamination (in LESSOR's sole discretion) is

necessary to render the Property suitable for LESSOR to release LESSEE from these obligations, which release must be granted in writing by LESSOR.

18.5. Hazardous Material Defined. Hazardous Material/Substance is any substance which is toxic, ignitable, reactive, or corrosive and which is regulated by any local government, the state of Alaska, or the United States government. Hazardous Material includes any and all material or substances which are defined as “hazardous waste,” “extremely hazardous waste” or a “hazardous substance” pursuant to local, state or federal law, including without limitation, the Resource Conservation and Recovery Act of 1976, as amended from time to time, and regulations promulgated thereunder, and the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended from time to time, and regulations promulgated thereunder. “Hazardous Material” includes but is not restricted to asbestos, polychlorobiphenyls (“PCB’s”) and petroleum and petroleum products.

18.6. Liability of Releases/Threatened Releases of Hazardous Materials. LESSEE agrees that at all times while this Lease is in effect, for purposes of potential liability under AS 46.03.822 or any similar law:

18.6.1. LESSEE, not LESSOR, shall be deemed the owner of and person having control over any hazardous substances used by LESSEE or on the property for business reasons of LESSEE; and

18.6.2. LESSEE, not LESSOR, shall be deemed the owner of the possessory interest under this Lease, and the operator of the property as a facility under AS 46.03.822(a)(2); and

18.6.3. LESSEE, not LESSOR, shall be deemed the generator, transporter, or both, of any hazardous substances generated or transported by LESSEE in connection with the enjoyment of its rights under this Lease.

For purposes of this section, “LESSEE” shall include LESSEE’s agents, employees, subcontractors, subsidiaries, affiliates and representatives of any kind.

18.7. Compliance with Environmental Laws. Lessee covenants full compliance with any applicable federal, state or local environmental statute, regulation, or ordinance presently in effect or that may be amended or effective in the future.

19.8 Due Diligence. At LESSOR’s recommendation, LESSEE has investigated the Property for potential environmental contamination which may have occurred before the date of the Prior Lease or this Lease; LESSEE accepts the Property in its current environmental condition. After such investigation, LESSEE, based upon its current knowledge, agrees that the Property has not been subject to the use, generation, manufacture, storage, treatment, disposal, release or threatened release of hazardous

substances; and has not been subject to any actual or threatened assertions, claims or litigation of any kind by government agencies or other persons relating to such matters.

19.9 Access to Property. LESSEE authorizes LESSOR to enter upon the Property to make such reasonable inspections and tests as LESSOR may deem appropriate to determine compliance with this Lease; any such investigations or tests shall be for LESSOR's purposes only, and shall not be construed to create any responsibility or liability on LESSOR's part to LESSEE or any person.

19.10 Release from Future Claims. LESSEE hereby releases and freely waives any future claims against LESSOR for contribution or indemnity (whether under AS 46.03.822, other state law, or federal law) in the event LESSEE incurs or becomes liable for response costs, damages or costs of any kind because of the release, threatened release or presence of hazardous substances on or about the Property except to the extent that such presence predated this Lease or LESSEE's use of the Property under the Prior Lease.

19.11 Report of Events. LESSEE specifically agrees to report all releases, threatened releases, discharges, spills or disposal of hazardous substances, in whatever quantity, immediately to the appropriate regulatory authorities and simultaneously to LESSOR, and to keep LESSOR fully informed of any communication between LESSEE and any person or agency concerning potential environmental contamination and hazardous substances.

19. PORT OF VALDEZ

19.1. LESSEE to Use the Port of Valdez. LESSEE agrees that LESSEE will use all reasonable efforts to have all materials and equipment which LESSEE or LESSEE's contractors ship by water from points of origin outside of the State of Alaska, and which are incorporated into or used in the construction or operations on the Property, shipped by water directly to Valdez and unloaded in the Port of Valdez.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the dates herein below set forth, with the effective date of this Lease as set forth in the initial paragraph hereof.

LESSOR:

CITY OF VALDEZ

Date: _____

By: _____
_____, Mayor

Attest: _____

Sheri L. Pierce, MMC, City Clerk

LESSEE:

Date: _____

By: _____

Print name and representative capacity

APPROVED AS TO FORM:

BRENA, BELL & CLARKSON, P.C.

Attorneys for City of Valdez

By: _____

Anthony S. Guerriero

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this _____, day of _____, 2015, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared _____, known to me and to me known to be the _____ of Silver Bay Seafoods, LLC, on the behalf of which he/she executed the foregoing document, and he/she acknowledged to me that he/she signed the same as his/her free and voluntary act for the uses and purposes therein set forth.

WITNESS my hand and notarial seal the day and year first hereinabove written.

Notary Public in and for Alaska
My Commission Expires: _____