

### EXTENSION OF LEASE AND LEASE AMENDMENT NO. 3

LEASE AMOUNT FOR FIRST YEAR: \$XXXX

Extension of Lease Under AS 36.30.083; Amendment of Lease; Material Modification of Lease

**THIS EXTENSION OF LEASE AND THIRD AMENDMENT OF LEASE** is made and entered into on the date the Legislative Affairs Executive Director or her designee signs the Lease, is by and between 716 WEST FOURTH AVENUE, LLC, an Alaska limited liability company, whose address is P.O. Box 241826, Anchorage, Alaska 99524, hereinafter referred to as "Lessor," and the LEGISLATIVE AFFAIRS AGENCY, whose address is State Capitol, Room 3, Juneau, Alaska 99801-1182, hereinafter referred to as "Lessee," and hereby amends the Lease dated April 6, 2004, recorded in Book 2004-024411-0, Anchorage Recording District, Third Judicial District, State of Alaska, as previously amended, and renewed through May 31, 2014 by Renewal of Lease No. 5, recorded May 23, 2013 in Book 2013-028824-0, Anchorage Recording District, Third Judicial District, State of Alaska, hereafter referred to as the "Lease".

#### WITNESSETH:

**WHEREAS**, the Lessor is currently leasing to the Lessee the following described Premises, hereinafter "Existing Premises," described as follows:

Approximately 22,834 square feet of office space, which consists of all net usable office space on the second through sixth floors and approximately 811 square feet of storage space in the basement, at the building located at 716 West 4th Avenue in Anchorage, Alaska at Lot 3A, Block 40, of the Original Townsite of Anchorage, according to the official plat thereof, Third Judicial District, State of Alaska, and exclusive use of all parking within the adjacent parking facility.

**WHEREAS**, on June 7, 2013, the Legislative Council (Lessee) authorized its chairman to seek the assistance of Alaska Housing Finance Corporation (AHFC) if needed, and to negotiate material amendments to the Lease;

**WHEREAS**, the existing Premises are not adequate to meet the needs of the Lessee, and the Lessee requires up to approximately 64,000 gross square feet of office space and appropriate off-street parking spaces in order to adequately house the offices of the legislature and legislative staff and to properly accommodate the public;

**WHEREAS**, a property directly adjacent to the existing Premises, located at 712 West 4<sup>th</sup> Avenue, when added to the existing Premises, will be adequate to meet the needs of the Lessee

and, subject to successful negotiation with the property owner, the property may be made available to Lessee;

**WHEREAS**, subject to the provisions of AS 36.30.083 and other applicable authority, the Lessee wishes to incorporate the existing Premises along with the property located at 712 West 4<sup>th</sup> Avenue into this Extension of Lease and Lease Amendment, and further, to reference the combined real property parcels as the “Premises” for the purposes of this Extension of Lease and Lease Amendment;

**WHEREAS**, the Premises must be renovated in order to meet the needs of the Lessee and, subject to successful negotiation between the parties, a renovation plan and renovation schedule will be documented as Exhibit “A” and Exhibit “B” of this Extension of Lease and Lease Agreement;

**WHEREAS**, Alaska Legislative Procurement Procedures designate the chairman of the Legislative Council as procurement officer with respect to contracts of the Legislative Affairs Agency, and the chairman has made a written determination under Procurement Procedures Section 040(d) (Exhibit C) that the Lease may be materially modified without procurement of a new Lease to include the property known as 712 West Fourth Avenue;

**NOW, THEREFORE LESSOR AND LESSEE AGREE** that the current lease term expires on May 31, 2014; the Lease is hereby extended for 10 years until May 31, 2024 pursuant to AS 36.30.083; and the Lease is hereby amended pursuant to Legislative Procurement Procedure Section 040(d) as follows:

Lessor and Lessee further agree that only those sections specifically addressed in this Extension of Lease and Lease Amendment shall be considered amended. All other sections of the original Lease shall not be affected.

**Sec. 1 of the Lease is amended to read as follows:**

1.1 **DESCRIPTION OF PREMISES; LEASE TERM; MONTHLY LEASE RATES:**

- a. The Lessor hereby leases to the Lessee and the Lessee hereby leases from the Lessor the Premises described below:

All space within the office building, all space within the parking garage, and all real property located at 716 West 4<sup>th</sup> Avenue in Anchorage, Alaska further described as Lot 3A, Block 40, of the Original Townsite of Anchorage, according to the official plat thereof, Third Judicial District, State of Alaska; and all space located within the building and all real property located at 712 West 4th Avenue in Anchorage, Alaska further described as Lot 2 W 39.5’ Block 40 Original Townsite of Anchorage.

On the Effective Date as defined in Section 1(b) below, the Lease shall be for the Existing Premises. On the schedule as set forth in Exhibit "B-1" the Premises will be renovated and expanded as described in Exhibit "A" ("LIO Approval Plans") (hereinafter the "Renovations"). Following completion of the Renovations, the Premises will include approximately 64,048 gross square feet of building space and approximately 86 off-street parking spaces with the spaces striped as directed by Lessee.

- b. The term of the Lease is extended for ten (10) years from the termination of the original term on May 31, 2014 until May 31, 2024. The covenants and requirements set forth in this Extension of Lease and Lease Amendment are effective the date it is signed by both parties (the "Effective Date").
- c. Base Monthly Rental. This Lease will have three applicable rental rates.
  - 1. On the Effective Date the Base Monthly Rental shall be \$56,863.05 which is the lease rate under current lease for the Existing Premises.
  - 2. The Lessor will provide the Lessee with interim office space and parking (Interim Space) as defined in Exhibit "B-1" during Lessor's work on the Renovations ("Renovation Period"). Lessee shall move to interim office space ("Interim Space") on the dates set forth in Exhibit "B-1" after 10 days written notice by Lessor.

During the Renovation Period and while the Lessee is occupying the Interim Space, the Base Monthly Rental will be reduced to the lesser of the amounts that follow:

- i. To an amount equivalent to the actual costs the Lessor incurs in providing the Lessee with the Interim Space during the Renovation Period, including all costs of moving the Lessee to and from different space throughout the Renovation Period; or
  - ii. The Base Monthly Rental rate paid on November 1, 2013 per the provisions of Renewal of Lease Number 5.
  - iii. Notwithstanding Option #1 and Option #2 above; the Lessee shall not pay rent in any amount for the portion of the Premises located at either 712 W. 4<sup>th</sup> Avenue or 716 W. 4<sup>th</sup> Avenue if the Lessee is not occupying space in the respective building and the Monthly Base Rent shall be adjusted accordingly.
- 3. Upon final acceptance and occupancy of the renovated Premises, then the Base Monthly Rental will increase to \$ \_\_\_\_\_ per month.

d. Base Monthly Rental Adjustments

The Base Monthly Rental set forth in 1(c)(3) above shall be adjusted on July 1 of each year; beginning on July 1, 2016. The adjustment shall be 3% over the amount of the Base Monthly Rental rate paid on June 1 of the applicable year. (Note: Question put to Tim Lowe for a market escalation rate; AHFC and Mr. Pfeffer will work with this section. Representative Hawker requested that the parties develop a flat annual lease rate over the 10 year term as opposed to an escalation rate. )

e. Monthly Lease Payments

The monthly lease payments are due and payable on the 1<sup>st</sup> day of each month. Payments will be made as agreed between the Lessee and Lessor. If the post Renovation Period occupancy date is a date other than the first day of the month, then the Base Monthly Rental shall be prorated and the increased rent paid with the payment of the first full month Base Monthly Rental payment due after the post Renovation occupancy.

1.2. **AS 36.30.083(a) COST SAVINGS:**

The Base Monthly Rental rate paid for the Premises to be paid upon final acceptance and occupancy of the renovated space has been determined to provide a minimum cost savings of at least 10 percent below the market rental value of the Premises. Supporting documentation is attached as Exhibit D (Executive Director's Cost Saving Calculation and Report to the Legislative Budget and Audit Committee per AS 36.30.083(b)).

Under AS 36.30.083(a), notwithstanding any other provision of AS 36.30.083, the Legislative Council may extend a real property lease that is entered into under AS 36.30 for up to 10 years if a minimum cost savings of at least 10 percent below the market rental value of the real property at the time of the extension would be achieved on the rent due under the lease. The market rental value must be established by a real estate broker's opinion of the rental value or by an appraisal of the rental value. Timothy Lowe, MAI, CRE, FRICS of the firm of Waronzoff Associates, Inc. at 999 North Sepulveda Boulevard Suite 440 El Segundo, California has completed an independent analysis of the provisions of this lease extension and amendment and has concluded that the rent due under the terms and conditions of this lease extension and amendment is at least a 10 percent below the market rental value of the real property at the time of the extension for a ten year term.

Under AS 36.30.083(a), Legislative Council has approved the extension of this Lease as legally required. In addition to any other right of the Lessee under this Lease to terminate the Lease, if, in the judgment of the Legislative Affairs Agency Executive Director, sufficient funds are not appropriated in an amount adequate to pay the then annual lease payments and expenses, the Lease will be terminated by the Lessee as of the date appropriated funds are exhausted, or will be amended by mutual agreement of the Parties. To terminate under this section, the Lessee shall provide not less than 90 days advance written notice of the termination to the Lessor.

**Sec. 2 of the Lease is amended to read as follows:**

2. **ADA COMPLIANCE:** On the date of final acceptance and occupancy and throughout the entire occupancy of the Lease, the Lessor shall ensure that the Premises, and any improvements or alterations to the Premises, and all accessible routes shall meet the specifications of the ADA Accessibility Guidelines (ADAAG) for Public Buildings and Facilities per Title II of the Americans with Disabilities Act (ADA), as currently written and as they may be subsequently amended (hereafter referred to as ADA compliance).

Under the previous paragraph, the Premises, and any improvements or alterations to the Premises, and all accessible routes, must meet the ADA compliance requirements as they apply to a public entity.

The Lessee's acceptance of the Premises or of any improvements or alterations to the Premises, or any inspection of the Premises by the Lessee, do not relieve the Lessor of its responsibility for ADA compliance.

If these provisions on ADA compliance conflict with another provision in the Lease, the provisions of this section shall govern.

Prior to the date of final acceptance and occupancy, the Lessor, at its own expense, must furnish the Lessee with an ADA Facility Audit Report prepared by an architect registered to practice in the State of Alaska certifying that the Premises comply with all requirements of the current version of the ADA and this section.

**Sec. 3 of the Lease is amended to read as follows:**

3. **RENOVATION AND DELIVERY OF PREMISES:** The Lessor agrees to renovate the Premises consistent with the specifications as set forth in Exhibit "A", on the schedule as set forth in Exhibit "B", and in accordance with applicable law.

Exhibit "A" describes all terms and conditions of the renovations to be completed by the Lessor and incorporates the drawings, schematics, and deliverables for the same. Exhibit "B" sets forth the milestones for the renovation of the Premises as well as the final completion date. Exhibit B-1 sets forth the schedule for the interim occupancy during the renovation period.

The Lessee shall pay up to \$7,500,000 in direct reimbursement payments to Lessor toward the cost of that portion of the renovation work that represents the tenant improvements to the Premises. All invoices submitted to Lessee by Lessor must be accompanied by appropriate documentation and in addition, must be approved by the Procurement Officer prior to payment. Invoices, unless disapproved, shall be due within thirty days of submission. The balance of the tenant improvement costs at occupancy, if any, shall be added to the Lessor's renovation costs and amortized over the term of the Lease.

The Lessee is responsible for the acquisition of and installation of its own furniture, fixtures and equipment and shall schedule the same in a manner that does not conflict with the progress of the renovation work.

**Sec. 4 of the Lease is amended to read as follows:**

4. The Lease shall be what is described as a "modified triple net lease".

a. **LESSOR'S RESPONSIBILITY AND COSTS:**

1. The installation and maintenance of all structural components, core components, roof membrane/surface, and building systems that are incorporated into the Premises, including but not limited to: HVAC, elevators, plumbing, electrical, and fire suppression systems.
2. Providing connections to city water and sewer, electric service, and other public utility service to the Premises.
3. Parking lot repair, striping, work required to maintain conformance with ADA or other accessibility issues.
4. Any/all work required to maintain conformance with ADA or other accessibility issues.
5. Extraordinary maintenance – replacing worn carpeting, painting interior walls, replacing damaged casework, every 10 years, or sooner if reasonably required.
6. Exterior light fixture repair/replacement.
7. Interior light fixture repair/replacement.
8. Plumbing fixture repair/replacement.
9. Elevator inspection/repair/replacement.
10. HVAC inspection/maintenance/repair/replacement.
11. Fire suppression system inspection/maintenance/replacement.
12. The payment of any/all pending or levied assessments.

13. Other services or maintenance as may be agreed by the parties.

b. **LESSEE'S RESPONSIBILITY AND COSTS:**

1. Building janitorial service and supplies.
2. Landscaping and grounds maintenance.
3. Interior and exterior window washing.
4. Parking lot sweeping, sanding and snow removal.
5. Interior and exterior light bulb replacement.
6. Hallway and entrance walk-off mats.
7. Carpet cleaning on a commercially reasonable regular schedule.
8. Professional property management services.
9. Real property taxes (reimburse Lessor).
10. Downtown business district assessments (reimburse Lessor).
11. Monthly utility service: water, gas, electric, sewer (either established in Lessee's name or reimburse Lessor).
12. Post renovation/following final acceptance and occupancy installation and maintenance of all data cables and systems. Initial installation is described in Exhibit "A" .
13. Post Renovation and following the final acceptance and occupancy installation and maintenance of internet service to the Premises. Initial installation is described in Exhibit "A".
14. Property casualty insurance coverage only (reimburse Lessor). All other insurance required under the Lease shall be at the sole expense of Lessor.
15. Security guards or other security services.
16. Post Renovation and following final acceptance and occupancy, the installation and maintenance of key-card or other access system. Initial installation is described in Exhibit "A".
17. Installation, maintenance, and use of a flagpole.

**Sec. 5 of the Lease is amended to read as follows:**

5. **ELECTRICAL REQUIREMENTS:**

- a. The electrical requirements of the Premises are described in Exhibit "A".
- b. The Lessor shall post a schematic at each circuit breaker panel with labeling to correspond to individual circuit breaker labels and shall keep the posted plan up to date.

**Sec. 6 of the Lease is amended to read as follows:**

6. **PLUMBING REQUIREMENTS:**

- a. The plumbing requirements of the Premises are described in Exhibit "A" .

**Sec. 7 of the Lease is amended to read as follows:**

7. **HEATING, COOLING AND VENTILATION (HVAC) REQUIREMENTS:**

- a. The HVAC installation requirements of the Premises are described in Exhibit "A" .
- b. Facilities shall be provided to maintain the temperature in all the offices and similar type space uniformly within 68 degrees F to 78 degrees F range.

If the temperature is not maintained within the 68 degrees F to 78 degrees F range for a period of more than two consecutive working days, the Lessor shall, upon receipt of a written complaint from the Lessee, provide suitable temporary auxiliary heating or cooling equipment, as appropriate, to maintain the temperature in the specified range. If such temporary auxiliary equipment is necessary to meet normal weather contingencies for more than 21 consecutive working days, the Lessor shall, not later than the 21st working day, initiate a continuing and diligently applied effort to rectify the deficiency causing the failure in order to uniformly maintain the temperature range required. If after 42 consecutive working days the temporary auxiliary equipment is still necessary to meet normal weather contingencies, the Lessee shall be free to hold the Lessor in default, it being considered that the Lessee has proffered a reasonable amount of time for the Lessor to effect suitable modification or repair to the building in order to maintain the specified temperature range without resort to temporary auxiliary devices. "Working days" for the purpose of this section shall be defined as days normally scheduled by the Lessee as open for the conduct of its normal operations.

- c. Adequate ventilation shall be provided in accordance with the mechanical code adopted by the Department of Public Safety for the State or ventilation may be provided by windows with screens that open.



**Sec. 8 of the Lease is amended to read as follows:**

8. **WINDOW COVERING REQUIREMENTS:** Window covering requirements are described in Exhibit "A".

**Sec. 9 of the Lease is amended to read as follows:**

9. **FLOOR COVERING REQUIREMENTS:** Floor covering requirements are described in Exhibit "A". In addition, the Lessor is responsible for replacing floor coverings at least once every ten (10) years or sooner if reasonably required, provided the sooner replacement is not required due to extraordinary wear and tear or other fault of Lessee.

The Lessee shall use grating, runners, rubber finger mats or other aggressive methods at the front entrance to the building and the Premises to minimize tracking dirt, snow or ice into the space.

**Sec. 10 of the Lease is amended to read as follows:**

10. **ACOUSTICAL REQUIREMENTS:** Acoustical requirements are described in Exhibit "A".

**Sec. 11 of the Lease is amended to read as follows:**

11. **PARTITION REQUIREMENTS:** Partition requirements are described in Exhibit "A"..

**Sec. 12 of the Lease is amended to read as follows:**

12. **PAINTING REQUIREMENTS:** Painting requirements related to the renovation are described in Exhibit "A". In addition, the Lessor is responsible for repainting at least once every ten (10) years or sooner if reasonably required, provided the sooner repaint is not required due to extraordinary wear and tear or other fault of Lessee. All surfaces which normally would be painted shall be finished with a minimum of two coats of interior latex paint on walls and suitable semi-gloss enamel on woodwork and bare metal. The Lessee reserves the right to select the colors for areas to be newly painted.

**Sec. 13 of the Lease is amended to read as follows:**

13. **DOOR HARDWARE REQUIREMENTS:** Door hardware requirements related to the renovation are described in Exhibit "A" . The Lessee is responsible for any subsequent (post-renovation - after final acceptance and occupancy) modification to door hardware that may be necessary to install additional components of a key card or other security system. The Lessee is responsible for the security and safekeeping of all keys to the Premises.

**Sec. 14 of the Lease is amended to read as follows:**

14. **VOICE AND DATA REQUIREMENTS:** Voice and data requirements are described in Exhibit "A" . The Lessee is responsible for the installation and maintenance of all voice, data, and internet service to the Premises post-renovation; following final acceptance and occupancy.

**Sec. 15 of the Lease is amended to read as follows:**

15. **PARKING REQUIREMENTS:** Parking requirements are described in Exhibit "A" .

If additional parking is constructed, it shall be of sufficient size to allow proper and easy parking, and have a hard and well-drained surface. All parking locations must be well lit and have good accessibility in and out of the parking area.

Lessee shall be responsible to maintain the parking areas and to provide that the above grade/surface parking lot is available to the public between the hours of 5:00pm and 6:00am Monday thru Friday and full time on Saturdays and Sundays. Any revenue rates for public parking shall be as determined by Lessee and any collected revenue for public parking shall be the property of the Lessee or its vendors as Lessee may so choose. Lessee shall direct the initial signage installation requirements for the parking areas which Lessor shall install as provided in Exhibit "A" . Thereafter the Lessee shall be responsible for signage installation, maintenance and changes.

**Sec. 16 of the Lease is amended to read as follows:**

16. **FIRE PREVENTION:** The Lessor shall ensure that the Premises are at all times compliant with local fire code or other authority and shall inspect and maintain all fire suppression equipment and systems as necessary. The Lessee shall maintain the premises in keeping with good housekeeping and fire prevention practices. The Lessor reserves the right at reasonable times to enter and make fire prevention and fire protection inspections of the Premises.

**Sec. 17 of the Lease is amended to read as follows:**

17. **HAZARDS:** Both the Lessor and Lessee shall endeavor to keep the Premises free from environmental and other hazards.

**Sec. 18 of the Lease is amended to read as follows:**

18. **JANITORIAL SERVICES:** The Lessee shall be responsible for janitorial services for the entire Premises including common areas, parking areas and exterior areas.

**Sec. 19 of the Lease is NOT amended except for the addition of the following provisions:**

The last sentence of section 19 A is amended to read:

The Lessor shall be responsible for completing the Renovations described in Exhibit "A" prior to the Lessee accepting and taking occupancy of the Premises. After the Renovations have been completed and the Lessee has accepted and taken occupancy of the Premises, any subsequent alterations to the Premises agreed by the parties will be documented by separate agreement.

**Sec. 20 of the Lease is deleted in its entirety.**

**Sec. 21 of the Lease is amended to read as follows:**

21. **SIGNS:** The installation of signage as part of the renovation is described in Exhibit "A". After renovation is complete, Lessee reserves the right to erect or affix signs at the Premises, including the parking areas, so long as such installation does not cause damage to the roof, elevators or structural components of the buildings. The placement of signs at or upon the Premises shall be coordinated with the Lessor to avoid injury to the Premises and to comply with applicable law.

**Sec. 22 of the Lease is amended to read as follows:**

22. **ELEVATORS:** The Lessor shall ensure that all floors of the Premises under this Lease are served by elevators that comply with the current applicable editions of the rules, regulations and codes of the State and the Municipality of Anchorage. Prior to occupancy by the Lessee, the Lessor shall provide the Lessee with documentation from a licensed elevator maintenance organization stating that the elevator is in good working order and meets all the minimum standards.

**Sec. 23 of the Lease is amended to read as follows:**

23. **RENOVATION AFTER FINAL ACCEPTANCE OF PREMISES BY LESSEE:** After final acceptance and occupancy, at the reasonable request of the Lessee, the Lessor shall renovate the Premises at Lessee's expense by refinishing all damaged or worn walls, ceilings, floors, or built-in fixtures or replacing damaged or worn wall, floor, or window coverings and paint that are not the responsibility of Lessor. For any renovation, the Lessee reserves the right to make on-site inspections and to determine if and when the renovation is complete and satisfactory. The Lessee reserves the right to work with the Lessor on selecting colors and finishes. If the Lessor does not perform a renovation requested by the Lessee that is allowed by this Section 23 ("Renovation"), the failure to respond is a default under Section 32 ("Remedies on Default").

**Sec. 24 of the Lease is amended to read as follows:**

24. **WAGE-RELATED REQUIREMENTS:** If construction, alteration, repair, renovation, or redecorating work by the Lessor that is over \$25,000 is required in order for the Premises to be ready for occupancy or if work that is over \$25,000 is performed by Lessor, that directly relates to the Lessee's Premises, while the Lessee is occupying the Premises, the Lessor is advised that the Lease will be considered by the Lessee to be subject to the minimum wage and other requirements of AS 36.05.010 - 36.05.110; the current minimum wages for various classes of laborers, mechanics, and field surveyors (as these terms are defined in AS 36.95.010) and the rate of wages paid during the contract must be adjusted to the wage rate indicated under AS 36.05.010; the Lessor and Lessor's contractors must pay all employees unconditionally and not less than once a week; the scale of wages must be posted in a prominent and easily accessible place at the site of the work; the Lessee shall withhold as much of its payments under this Lease as necessary to pay to laborers, mechanics, and field surveyors employed by the Lessor or the Lessor's contractors the difference between (A) the rates of wages required by the contract to be paid laborers, mechanics, or field surveyors on the work, and (B) the rates of wages in fact received by the laborers, mechanics, or field surveyors that are less than the required wages. The Lessor is encouraged to contact the Department of Labor and Workforce Development for more information about these and other related requirements.

If it is found that a laborer, mechanic, or field surveyor employed by the Lessor or the Lessor's contractor has been or is being paid a rate of wages less than the rate of wages required by the Lease to be paid, the Lessee may, by written notice to the Lessor, terminate the Lessor's right to proceed with the work or the part of the work for which there is a failure to pay the required wages and to prosecute the work to completion by contract or otherwise, and the Lessor and the Lessor's sureties are liable to the Lessee for excess costs for completing the work.

**Sec. 25 of the Lease is amended to read as follows:**

25. **INGRESS AND EGRESS:** All space shall be available on a 24-hour day, seven days a week basis to the Lessee and its invitees. The Lessee shall have full access to and use of all common areas of the building including elevators, lobbies, stairwells, and restrooms. The Lessor shall install and the Lessee shall maintain a security camera system which covers all of the common areas of the building but not limited to hallways, stairwells, and elevators and the upper and lower parking areas, and provide monitors for the Lessee to operate and monitor.

**Sec. 30 of the Lease is amended to read as follows:**

30. **LESSEE-INSTALLED ITEMS:** All fixtures and/or equipment of whatever nature that are installed in the Premises by the Lessee, whether permanently affixed or otherwise, shall continue to be the property of the Lessee and may be removed by the Lessee at any time, provided however, that the Lessee shall, at its own expense, repair any injury to the Premises resulting from such removal. However any conduit or wiring installed by the Lessee shall remain. Notwithstanding the foregoing, Lessee may not raze and replace the improvements or make any alterations whose cost exceeds \$5,000 without the prior

written consent of the Lessor, which consent shall not be unreasonably withheld, conditioned, or delayed.

**Sec. 31 of the Lease is amended to read as follows:**

31. **RESTORATION LIABILITIES:** Lessee agrees to leave the Premises at the expiration or termination of this Lease in as good a condition as when first occupied under this Lease, except for reasonable wear and tear and loss or damage caused by fire, explosions, earthquakes, acts of God, or other casualty. At the termination of the Lease, the Lessee is not required to restore the Premises to their condition before the Lessor or Lessee made the improvements required for the Lessee to occupy the Premises under the Lease.

**Sec. 33 of the Lease is amended to read as follows:**

33. **REMEDIES ON DEFAULT:** If the Lessee shall at any time be in default in the payment of rent, or in the performance of any of the terms of the Lease and shall fail to remedy such default within thirty (30) days after written notice of the default from the Lessor, the Lessor may retake possession of the Premises by an unlawful detainer action or other lawful means, and the Lease will terminate, without prejudice, however, to the right of the Lessor to recover from the Lessee all rent due up to the time of such entry. In case of any default and entry by the Lessor, the Lessor shall relet the Premises for the remainder of the term for the highest rent obtainable and may recover from the Lessee any deficiency between the amount obtained by reletting and the rent specified by the Lease.

If the Lessor shall at any time be in default in the performance of any of the terms or obligations of the Lessor under this Lease, the Lessee may fix the problem involved and deduct the cost, including administrative costs, from the rent, if the Lessor fails to fix the problem after Lessee notifies the Lessor in writing of the default. Upon such notice, Lessor shall cure the default within a reasonable time as defined in Section 49, or if the default cannot reasonably be cured within a reasonable time, then Lessor shall commence the cure within such reasonable time and prosecute it diligently until completion. If Lessor fails to so act, then it shall be in default and Lessee may elect its remedies for default. If the Lessee chooses not to fix the problem or cannot fix the problem, the Lessee may deduct from the rent the Lessee's damages, which are to be determined by the Lessee's Supply Officer. When deducting damages under this sentence, "damages" means either (1) the costs (including administrative costs) of alleviating or adjusting to the problem, or (2) the diminution of the value of the Lease to the Lessee caused by the Lessor's default. Instead of pursuing the other remedies provided by this paragraph, if the Lessor fails to correct a default within the time set forth herein after receiving written notification of the default from the Lessee, the Lessee may terminate the Lease by giving 30 days written notice of the termination to the Lessor and may recover damages from the Lessor. This paragraph does not apply to a situation covered by Section 28 ("Untenantability") or to the termination allowed under Section 20 ("Wage-Related Requirements").

**Sec. 34 of the Lease is amended to read as follows:**

34. **INDEMNIFICATION:** The Lessor shall indemnify, save harmless, and defend the Lessee, and its officers, agents and employees from liability of any nature or kind, including costs, attorney fees, and other expenses, for or on account of any and all legal actions or claims of any character whatsoever resulting from injuries or damages sustained by any person or persons or property as a result of any error, omission, or negligence, of the Lessor that occurs on or about the rental Premises or that relates to the Lessor's performance of its lease obligations.

**Sec. 35 of the Lease is amended to read as follows:**

Without limiting Lessor's indemnification, it is agreed that Lessor will purchase at its own expense and maintain in force at all times during the Lease the following policies of insurance:

The requirements contained herein, as well as Lessee's review or acceptance of insurance maintained by Lessor is not intended to, and shall not in any manner, limit or qualify the liabilities or obligations assumed by Lessor under this Lease.

Insurance policies required to be maintained by Lessor will name Lessee as additional insured for all coverage except Workers' Compensation and Professional Liability/E&O insurance.

Lessor and its subcontractors agree to obtain a waiver, where applicable, of all subrogation rights against Lessee, its officers, officials, employees and volunteers for losses arising from work performed by the Lessor and its subcontractors for Lessee. However, this waiver shall be inoperative if its effect is to invalidate in any way the insurance coverage of either party.

Where specific limits are shown, it is understood that they will be the minimum acceptable limits. If the Lessor's policy contains higher limits, Lessee will be entitled to coverage to the extent of such higher limits. The coverages and/or limits required are intended to protect the primary interests of Lessee, and the Lessor agrees that in no way will the required coverages and/or limits be relied upon as a reflection of the appropriate types and limits of coverage to protect Lessor against any loss exposure whether a result of this Agreement or otherwise.

Failure to furnish satisfactory evidence of insurance or lapse of any required insurance policy is a material breach and grounds for termination of the Lease.

- a. **Property Insurance:** The Lessor will provide and maintain (with Lessee reimbursement as per Section 4(b)(14):
1. Property insurance in an amount of not less than 100% of the replacement cost of the building(s) and contents, including improvements made on behalf of Lessee. Coverage shall be written on an "all risk" replacement cost basis and include an endorsement for ordinance and law coverage.

2. If the property is located in a floodplain, flood insurance in an amount of not less than 100% of the replacement cost of the building(s) and contents, including improvements made on behalf of Lessee; or the maximum amount available from the National Flood Insurance Program, whichever is less.
- b. Workers' Compensation Insurance: The Lessor will provide and maintain, for all employees of the Lessor engaged in work under the Contract, Workers' Compensation Insurance as required by AS 23.30.045. The Lessor shall be responsible for ensuring that any subcontractor that directly or indirectly provides services under this Lease has Workers' Compensation Insurance for its employees. This coverage must include statutory coverage for all States in which employees are engaging in work and employer's liability protection for not less than \$100,000 per occurrence. Where applicable, coverage for all federal acts (i.e., USL & H and Jones Acts) must also be included.
- c. Commercial General Liability Insurance: The Lessor will provide and maintain Commercial General Liability Insurance with not less than \$1,000,000 per occurrence limit, and will include premises-operation, products/completed operation, broad form property damage, blanket contractual and personal injury coverage. Coverage shall not contain any endorsement(s) excluding or limiting contractual liability nor providing for cross liability.
- d. Automobile Liability Insurance: The Lessor will provide and maintain Automobile Liability Insurance covering all owned, hired and non-owned vehicles with coverage limits not less than \$1,000,000 per occurrence bodily injury and property damages. In the event Lessor does not own automobiles, Lessor agrees to maintain coverage for hired and non-owned liability which may be satisfied by endorsement to the CGL policy or by separate Business Auto Liability policy.
- e. Umbrella or Excess Liability: Lessor may satisfy the minimum liability limits required above for CGL and Business Auto under an umbrella or excess Liability policy. There is no minimum per occurrence limit under the umbrella or excess policy; however the annual aggregate limit shall not be less than the highest per occurrence limit stated above. Lessor agrees to endorse Lessee as an additional insured on the umbrella or excess policy unless the certificate of insurance states that the umbrella or excess policy provides coverage on a pure "true follow form" basis above the CGL and Business Auto policy.
- f. Professional Liability Insurance: The Lessor will provide and maintain Professional Liability Insurance covering all errors, omissions or negligent acts of the Lessor, its property managers, subcontractors or anyone directly or indirectly employed by them, made in the performance of this Lease which results in financial loss to the State. Limits required are \$500,000.
- g. Fidelity Bond: The Lessor will provide and maintain a Fidelity Bond in the amount of \$250,000 covering all acts of the Lessor, its property managers, or subcontractors who shall have access or perform work upon the Premises.

- h. Certificates of Insurance Lessor agrees to provide Lessee with certificates of insurance evidencing that all coverages, limits and endorsements as described above are in full force and effect and will remain in full force and effect as required by this Lease. Certificates shall include a minimum thirty (30) day notice to Lessee cancellation or non-renewal. The Certificate Holder address shall read:

Legislative Affairs Agency  
State Capitol, Room 3  
Juneau, Alaska 99801-1182  
Fax (907) 465-2918

**Sec. 36 of the Lease is amended to read as follows:**

36. **DELAYS IN PERFORMANCE:** If the Lessor delays in providing the Premises to the Lessee in a condition the Lessee determines satisfactorily meets the descriptions provided in the attached Exhibit "A", by the deadline set forth in section 3 and Exhibit "B", the Lessor shall provide a written explanation for the delay in performance. The Lessor may be excused from performance due to unforeseeable causes beyond the control and without fault or neglect of the Lessor. Unforeseeable causes may include, but are not limited to: (1) acts of God, (2) public enemy, (3) acts of the state in its sovereign capacity, (4) acts of another contractor in the performance of a contract with the Lessee, (5) fires, (6) floods, (7) quarantine restrictions for epidemics, (8) strikes, (9) freight embargoes, (10) unusually severe weather conditions, and (11) delays unusual in nature by subcontractors or suppliers. Notification of such delays must be made to the Lessee's Procurement Officer in writing within ten (10) days of the commencement of the unforeseeable cause. The Procurement Officer shall ascertain the facts and the extent of delay and the extent of the time for completing the project. The Procurement Officer may approve up to four (4) thirty (30) day extensions if, in the Procurement Officer's judgement, the findings of fact justify an extension. The cause of the extension need not be unforeseeable to justify an extension. The Lessor shall provide written explanation for the delay in performance after the exhaustion of each extension. The Procurement Officer may terminate the Lease at any time after the four (4) thirty (30) day extensions if the Lessor has not provided the Premises to the Lessee in a condition the Lessee determines satisfactorily meets the descriptions provided in the attached Exhibit "A" by the deadline set in Exhibit "B". Pending final decision on an extension of time under this section, the Lessor shall proceed diligently with the performance of the Lease. Inability to comply with state or municipal construction or zoning laws or ordinances or restrictive covenants shall not be regarded as an unforeseeable cause. To terminate the Lease under this section, the Procurement Officer shall provide notice by e-mail or delivery of hard copy to the Lessor, whichever method is selected in the sole discretion of the Procurement Officer. The Procurement Officer shall provide thirty (30) days notice before terminating this Lease.

**Sec. 37 of the Lease is amended to read as follows:**

37. **HOLDING OVER:** At the Lessee's sole discretion, prior to the Lease expiration, the Lessee may provide a one hundred eighty (180) day written notice to the Lessor informing the Lessor that the Lessee wishes to hold over following the end of the Lease Term. Such election for a holdover shall be not less than six months in duration and not more than one year in duration following the end of the Lease Term. Base Monthly Rental for the Holdover Period shall be as was in effect at the end of the Lease Term plus the



applicable Base Monthly Rental adjustment set forth in Section 1(d). Only one holdover election shall be allowed. All other terms and conditions specified by the Lease remain the same.

**Sec. 39 of the lease (as amended by Lease Amendment #2 and Renewal # 1 (2009-2010) signed 3/11/2009) is amended as follows:**

Delete all content beginning with the second paragraph which begins "The Lessor consents to the Lessee's assignment...."

**Sec. 41 of the Lease is amended to read as follows:**

41. **USE OF LOCAL FOREST PRODUCTS:** AS 36.15.010 requires that in a project financed by State money in which the use of timber, lumber, and manufactured lumber projects is required, only timber, lumber, and manufactured lumber products originating in this State from local forests shall be used wherever practicable. Therefore, if construction, repair, renovation, redecoration, or other alteration is to be performed by the Lessor to satisfy this Lease, the Lessor must use, wherever practical, timber, lumber, and manufactured lumber products originating in the State from local forests and only products manufactured, produced, or harvested in the state may be purchased if the supplies are competitively priced, available, and of like quality compared with products manufactured, produced, or harvested outside the state.

**Sec. 42 of the Lease is amended to read as follows:**

42. **LEASE AMENDMENTS:** In addition to any other amendment the parties may be allowed to make under the Lease, the terms of the Lease entered into may be amended by mutual agreement of the parties, if the Lessee determines that the amendment is in the best interests of the Lessee.

**Sec. 43 of the Lease is amended to read as follows:**

43. **AUTHORIZATION; CERTIFICATION:** Authority for the Chairman of Legislative Council to execute this Lease was authorized by a majority of the members of the Alaska Legislative Council at a meeting on June 7, 2013.

Funds are available in an appropriation to pay for the Lessee's monetary obligations under the Lease through June 30, 2015. The availability of funds to pay for the Lessee's monetary obligations under the Lease after June 30, 2015, is contingent upon appropriation of funds for the particular fiscal year involved. In addition to any other right of the Lessee under this Lease to terminate the Lease, if, in the judgment of the Legislative Affairs Agency Executive Director, sufficient funds are not appropriated by the Legislature, the Lease will be terminated by the Lessee or amended. To terminate under this section, the Lessee shall provide written notice of the termination to the Lessor. The Executive Director will include a budget request to cover the obligations of Lessee in the proposed budget as presented to the Legislative Council for each lease year as a component of Lessee's normal annual budget request and approval process.

**The Lease is amended by adding new sections to read as follows:**

46. **HUMAN TRAFFICKING:** By the Lessor's signature on this Lease, the Lessor certifies that the Lessor is not headquartered in a country recognized as Tier 3 in the most recent United States Department of State's Trafficking in Persons Report.

In addition, if the Lessor conducts business in, but is not headquartered in, a country recognized as Tier 3 in the most recent United States Department of State's Trafficking in Persons Report, a certified copy of the Lessor's policy against human trafficking must be submitted to the Agency prior to contract award.

The most recent United States Department of State's Trafficking in Persons Report can be found at the following website: <http://www.state.gov/g/tip/rls/tiprpt>.

If the Lessor is or becomes headquartered in a Tier 3 country, or fails to comply with this Section 46 ("Human Trafficking"), the Lessee may terminate the Lease.

47. **OPTION TO EXTEND LEASE:** The Lessee may exercise an option under this section 47 to extend, as provided by AS 36.30.083, the Lease for up to 10 years following the end of the expiring lease term. To exercise this option, the Lessee shall give notice to the Lessor at least six (6) months before the end of the Lease of the Lessee's intent to negotiate with the Lessor to extend the Lease under AS 36.30.083. The Lessor shall respond within thirty (30) days to the Lessee stating whether the Lessor intends to negotiate an extension under AS 36.30.083 with the Lessee.

48. **SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT (SNDA):**

- a. **Mortgages.** This Lease is subordinate to prior or subsequent mortgages covering the Premises. Lessor shall obtain from Lessor's mortgage lender for the Premises an agreement that in the event of a foreclosure by Lessor's lender, this Lease shall stay in effect and Lessee's quiet enjoyment shall not be disturbed so long as it is not in default.
- b. **Foreclosures.** If any mortgage is foreclosed, then:
1. This Lease shall continue; and Lessee's quiet possession shall not be disturbed if Lessee is not in default;
  2. Lessee will attorn to and recognize the mortgagee or purchaser at a foreclosure sale ("Successor Lessor") as Lessee's lessor for the remaining Term; and
  3. The Successor Lessor shall not be bound by:
    - i. any payment of Rent or Additional Rent for more than one month in advance, except as specified in the Lease;
    - ii. any amendment, modification, or ending of this Lease without Successor Lessor's consent after the Successor Lessor's name is given to Lessee unless the amendment, modification, or ending is specifically authorized by the original Lease and does not require Lessor's prior agreement or consent; and

- iii. any liability for any act or omission of a prior Lessor.
- c. **Notice.** Lessee shall give notice to mortgagee of any claim of default under the Lease and allow mortgagee at least thirty (30) days to cure the default prior to terminating the Lease. Lessor and such mortgagee shall provide Lessee with a notice address for this purpose.
- d. **Self-Operating.** These provisions are self-operating. However, Lessee shall promptly execute and deliver any documents needed to confirm this arrangement and such other commercially reasonable terms as required by a mortgagee provided such document also confirms Lessee's right of non-disturbance so long as it is not in default.
- e. **Estoppel Certificate.**
  - 1. **Obligation.** Either party ("**Answering Party**") shall from time to time, within ten (10) business days after receiving a written request by the other party (Asking Party), execute and deliver to the Asking Party a written statement. This written statement, which may be relied upon by the Asking Party and any third party with whom the Asking Party is dealing shall certify: (i) the accuracy of the Lease document; (ii) the Beginning and Ending Dates of the Lease; (iii) that the Lease is unmodified and in full effect or in full effect as modified, stating the date and nature of the modification; (iv) whether to the answering Party's knowledge the Asking Party is in default or whether the Answering Party has any claims or demands against the Asking Party and, if so, specifying the default, claim, or demand; and (v) to other correct and reasonably ascertainable facts that are covered by the Lease terms.
  - 2. **Remedy.** The Answering Party's failure to comply with its obligation shall be a default. The cure period for this Default shall be ten (10) business days after the Answering Party receives notice of the default.

49. **DEFINITIONS:**

"commercially reasonable regular schedule" per Section 4 (a) 7 is defined as professional carpet cleaning performed at least once every six (6) months or sooner if the carpeting and walk-off mats show excessive soiling or staining.

"final acceptance and occupancy" is defined as the date that the Lessee takes occupancy of the renovated Premises. This date is related to the lease agreement only and shall not be confused with terms such as substantial completion, partial completion, or other terminology that is directly related to Exhibit "A" and Exhibit "B".

"reasonable time" per Section 33 is defined as follows with respect to the Lessor's obligations as described under Section 4 and more specifically, to the Lessor's responsibility to ensure uninterrupted service to the Premises:

- a. any interruption in a critical building service that immediately and substantially interferes with the Lessee's ability to use the Premises and that is under the

control of Lessor including but not limited to items in Section 4 (a) 1 and 2 or any failure or interruption in HVAC, plumbing, water, sewer, electricity, elevators, or fire safety; the Lessor shall commence repairs/restoration as soon as notified and shall endeavor to restore services or temporary substitute services within a “reasonable time” of 24 hours.

- b. ordinary maintenance requests per Sections 4 (a) 3, 4, 6, 7, 8, 9, 10, and 11; the Lessor shall commence work as soon as possible and shall complete the work within a “reasonable time” of thirty (30) days.
- c. extraordinary maintenance requests per Section 4 (a) 5; the Lessor shall commence work within ninety (90) days and shall diligently pursue the work to completion.

“reasonably required” per Section 4 (a) 5, Section 9, and Section 12 – is defined as the time the carpeting or other floor coverings, paint, or casework is no longer in good condition or repair and in the Lessee’s opinion is in need of repair or replacement.

50. **INCORPORATION:**

The following documents are incorporated by reference and form a material part of this into this Extension of Lease and Lease Amendment No. 3:

Exhibit “A” LIO Approval Plans (plans, drawings, technical specifications).

Exhibit “B” Project Schedule

Exhibit B-1 Interim Occupancy Schedule

Exhibit “C” Written determination by the Procurement Officer regarding the procurement process leading to this Extension of Lease and Lease Amendment No. 3.

Exhibit “D” Executive Director’s Cost Saving Calculation and Report to the Legislative Budget and Audit Committee per AS 36.30.083(b).

51. **AGREEMENT IN ITS ENTIRETY:**

This Extension of Lease and Lease Amendment No. 3 represents the entire understanding between the parties. No prior oral or written understandings shall have any force or effect with respect to any matter covered in this Lease or in interpreting this Lease. This Lease shall only be modified or amended in writing.

**IN WITNESS WHEREOF**, the Lessor and Lessee have executed this Lease on the day, month, and year indicated below.

LESSOR:  
716 WEST FOURTH AVENUE, LLC

LESSEE:  
STATE OF ALASKA  
LEGISLATIVE AFFAIRS AGENCY

\_\_\_\_\_  
Mark E. Pfeffer Date  
Managing Member  
Tax Identification No.:  
Business License No.: 423463

\_\_\_\_\_  
Representative Mike Hawker Date  
Chair  
Alaska Legislative Council  
Procurement Officer

CERTIFYING AUTHORITY

APPROVED AS TO FORM:

\_\_\_\_\_  
Pamela A. Varni Date  
Executive Director  
Legislative Affairs Agency

\_\_\_\_\_  
Legal Counsel Date

STATE OF ALASKA   )  
   ) ss.  
THIRD JUDICIAL DISTRICT   )

THIS IS TO CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, 2013, before me the undersigned Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared, MARK E. PFEFFER, known to me and to me known to be the individual named in and who executed the above and foregoing Lease on behalf of 716 WEST FOURTH AVENUE, LLC, and who acknowledged to me that they had full power and authority to, and did execute the above and foregoing Lease on behalf of and as the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned.

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

\_\_\_\_\_  
Notary Public in and for Alaska  
My commission expires: \_\_\_\_\_

STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DISTRICT )

THIS IS TO CERTIFY that on the \_\_\_\_\_ day of \_\_\_\_\_, 2013, before me, the undersigned Notary Public in and for Alaska, duly commissioned and sworn as such, personally appeared REPRESENTATIVE MIKE HAWKER, known to me and to me known to be the individual named in and who executed the above and foregoing Lease as the CHAIR OF THE ALASKA LEGISLATIVE COUNCIL, and he acknowledged to me that he executed the foregoing Lease as the free and voluntary act and deed of his principal for the uses and purposes therein set forth.

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

\_\_\_\_\_  
Notary Public in and for Alaska  
My commission expires:\_\_\_\_\_

STATE OF ALASKA )  
 ) ss.  
FIRST JUDICIAL DISTRICT )

THIS IS TO CERTIFY that on the \_\_\_\_\_ day of \_\_\_\_\_, 2013, before me, the undersigned Notary Public in and for Alaska, duly commissioned and sworn as such, personally appeared PAMELA A. VARNI, known to me and to me known to be the individual named in and who executed the above and foregoing Lease as the EXECUTIVE DIRECTOR of the STATE OF ALASKA LEGISLATIVE AFFAIRS AGENCY, and she acknowledged to me that she executed the foregoing instrument as the free and voluntary act and deed of her principal for the uses and purposes therein set forth.

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

\_\_\_\_\_  
Notary Public in and for Alaska  
My commission expires:\_\_\_\_\_

**FOR RECORDING DISTRICT OFFICE USE ONLY:**

No Charge - State Business

After recording return to:  
Tina Strong, Supply Officer  
Legislative Affairs Agency  
State Capitol, RM 3  
Juneau, AK 99801-1182

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