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EXXON VALDEZ OIL SPILL  
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ADMINISTRATIVE RECORD

**AGREEMENT**

**FOR THE**

**SALE AND PURCHASE**

**OF**

**LANDS AND INTERESTS IN LANDS**

**BETWEEN**

**KONIAG, INC.**

**AND THE**

**UNITED STATES OF AMERICA**

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FOR THE  
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## SUMMARY OF THE CONTENTS

	PAGE
(1) Definitions	7
(2) Koniag Selections	9
(3) First Closing	10
(4) Second Closing	11
(5) Third Closing	12
(6) Fourth Closing	13
(7) Conditions Precedent	14
(8) General Closing Provisions	15
(9) Warranties and Disclosures	17
(10) Acquisition of Lands Subject to the Koniag Non-Development Easement	18
(11) Termination	19
(12) Claims Arising from the <i>Exxon Valdez Oil Spill</i>	20
(13) Section 22(g)	20
(14) Recordation	20
(15) Effective Date	20
(16) Execution in Separate Counterparts	21
(17) Other Agreements and Actions	21
(18) Signature Authority	21

(19)	Unanticipated Events	21
(20)	Third Party Use Rights	22
(21)	Miscellaneous	22

#### INDEX OF EXHIBITS

Exhibit I	Conservation Agreement Form	28
Exhibit II	Koniag Non-Development Easement Form	35
Exhibit III	State Access Easement Form	44
Exhibit IV	State Conservation Easement Form	49
Exhibit V	Warranty Deed Form	54

#### INDEX OF APPENDICES

Appendix A	Koniag Easement Lands	60
Appendix B	Koniag Fee Lands	64
Appendix C	Koniag Selection Lands--Easement	68
Appendix D	Koniag Selection Lands--Fee	69
Appendix E	Phase 1 Acquisition Lands	70
Appendix F	Phase 2 Acquisition Lands	73
Appendix G	Phase 3 Acquisition Lands	74
Appendix H	Phase 4 Acquisition Lands	75
Appendix I	Third Party Commercial Use Rights	77

**AGREEMENT FOR THE SALE AND PURCHASE  
OF LANDS AND INTERESTS IN LANDS BETWEEN  
KONIAG, INC. AND THE UNITED STATES OF AMERICA**

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

**W I T N E S S E T H :**

WHEREAS, in 1980, pursuant to that certain merger under the laws of the State of Alaska and in accordance with the provisions of ANCSA, 43 U.S.C. § 1627, the Karluk Native Corporation and Nu-Nachk Pit, Inc. were merged into Koniag. Accordingly, Koniag became the successor-in-interests to the rights and obligations of the Karluk Native Corporation and Nu-Nachk Pit, Inc., including, but not limited to, the ownership of those lands previously conveyed to each such Village Corporation pursuant to the provisions of ANCSA, as well as the rights of each such Village Corporation to receive title to such other lands which had been previously validly selected but not yet conveyed to them up to their remaining ANCSA entitlement (hereinafter, references to Koniag shall include Koniag as well as its predecessors in interest where appropriate).

WHEREAS, as the result of such merger, Koniag owns the surface estate of, or has valid prioritized selections under ANCSA on lands on Kodiak Island, including approximately 116,771 acres within the boundaries of the Kodiak National Wildlife Refuge ("KNWR"). The subsurface rights associated with these lands within KNWR are held by the United States.

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

WHEREAS, Koniag is desirous of selling and conveying certain of these lands or interests in these lands to the United States as part of the Trustee Council program to restore the natural resources and services that were injured by the *Exxon Valdez* Oil Spill ("EVOS").

WHEREAS, these lands include important habitat for various species of fish and wildlife for which significant injury resulting from the spill has been documented through the Trustee Council's habitat acquisition analysis. This analysis has indicated that these lands generally have high value for the restoration of such injured natural resources as pink salmon, sockeye salmon, dolly varden, Pacific herring, black oystercatcher, harbor seal, harlequin duck, bald eagle, the intertidal/subtidal biota, marbled murrelet, pigeon guillemot, river otter, sea otter and cultural and archeological resources. This analysis has also indicated that these lands generally have high value for the restoration of injured services that rely on these natural resources, including commercial fishing, wilderness, recreation, tourism and subsistence. Restoration of the injured species will benefit from acquisition and protection of this important habitat through the elimination of activities and disturbances which may adversely affect their recovery.

WHEREAS, these lands are located wholly within the boundaries of the KNWR and their protection will ensure the preservation of a significant portion of one of the nation's most productive and unique ecosystems.

WHEREAS, recently, on private lands within the KNWR, development and construction have included lodges, private residences and recreational cabins. Many of the sites are located near key water bodies. The development of these sites can have a significant impact, particularly on a cumulative basis, on water quality and the injured natural resources and services.

WHEREAS, the Department of the Interior (hereinafter "Department"), through the U.S. Fish and Wildlife Service (hereinafter "Service"), desires to purchase for the United States certain private inholdings in KNWR currently owned by Koniag, as well as certain of Koniag's remaining prioritized ANCSA land selection entitlement within KNWR, and which, upon purchase by the United States, would become, and be administered as, a part of KNWR.

WHEREAS, the Department has determined that the acquisition of certain lands owned by Koniag and of certain of its prioritized selections within KNWR, will enhance the protection of the outstanding natural values of the areas as a part of KNWR and will further the purposes set forth in the Alaska National Interests Lands Conservation Act (hereinafter, "ANILCA"), 16 U.S.C. § 3101.

WHEREAS, representatives of the Department, for itself and on behalf of the Trustee Council, and Koniag met and reached a tentative agreement pursuant to which the United States would purchase certain of the lands which Koniag holds in fee, as well as certain other lands which Koniag is entitled to receive in fee, and Koniag would

grant an easement to the United States running through December 2, 2001, which would limit Koniag's right to develop certain other lands now held in fee or later to be received in fee and would provide, by mutual consent, access to personnel from the Department and the State of Alaska to conduct wildlife population surveys, research on fish and wildlife resources and to document salmon escapement.

WHEREAS, the Trustee Council, by resolution entered on December 2, 1994, has agreed to provide substantial funding for such acquisition of lands and interests in lands owned by Koniag.

WHEREAS, the federal trustees for the natural resources injured by EVOS have authorized the expenditure of a portion of the federal EVOS restitution funds to assist in the funding of the acquisition of lands and interests in lands held by Koniag.

WHEREAS, the Department is authorized by statute to obligate and expend EVOS settlement funds for restoration purposes upon distribution to it from the United States District Court for the District of Alaska (hereinafter "District Court").

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

WHEREAS, the lands to be conveyed to the United States pursuant to this Agreement were acquired by Koniag pursuant to the provisions of ANCSA and, except as noted otherwise in departmental records, remain generally undeveloped and unchanged in character and condition from that which existed at conveyance to Koniag by the United States.

WHEREAS, Koniag herein confirms that the lands to be conveyed to the United States under this Agreement have been held by Koniag for productive use in its trade or business or for investment, and have not increased significantly in value since the date of conveyance of the lands from the United States to Koniag.

WHEREAS, the lands are of particular value to meet the restoration goals and objectives of the Trustee Council, as well as the conservation objectives established for the National Wildlife Refuge System.

WHEREAS, the Parties desire to complete the entirety of the acquisitions herein described as soon as funds are received in the Registry of the District Court and disbursed by the District Court to the Service for this purpose.

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

(1) Definitions.

(a) Agreement. The term "Agreement" as used herein shall mean this "Agreement for the Sale and Purchase of Lands and Interests in Lands Between Koniag, Inc. and the United States of America," and all appendices and exhibits attached hereto or incorporated by reference herein.

(b) Conservation Agreement. The term "Conservation Agreement" as used herein shall mean an agreement between Koniag and the Service in the form set forth in attached Exhibit I, which provides for preservation by Koniag in accordance with its terms of certain lands prior to their subsequent purchase by the United States under this Agreement, as well as for use of such lands by the Service and the State of Alaska for the purposes of wildlife management and restoration.

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

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

(e) Koniag Easement Lands. The term "Koniag Easement Lands" as used herein shall mean the surface estate of certain lands in KNWR owned in fee by Koniag and more fully described in attached Appendix A for which Koniag herein proposes to convey a limited term non-development easement to the United States.

(f) Koniag Fee Lands. The term "Koniag Fee Lands" as used herein shall mean the surface estate of certain lands in KNWR owned in fee by Koniag and more fully described in attached Appendix B which Koniag herein proposes to sell to the United States.



(g) Koniag Non-Development Easement. The term "Koniag Non-Development Easement" as used herein shall mean a limited term easement(s) to be granted to the United States by Koniag with respect to the Koniag Easement Lands or the Koniag Selection Lands--Easement, in the form set forth at attached Exhibit II.

(h) Koniag Selection Lands--Easement. The term "Koniag Selection Lands--Easement" shall mean the surface estate of those lands which are validly selected and prioritized up to Koniag's remaining ANCSA entitlement within KNWR and which after conveyance to Koniag by the United States will be subject to the Non-Development Easement; such lands are more fully described in attached Appendix C.

(i) Koniag Selection Lands--Fee. The term "Koniag Selection Lands--Fee" as used herein shall mean the surface estate of those lands which are validly selected and prioritized up to Koniag's remaining ANCSA entitlement within KNWR and which Koniag intends to sell in fee to the United States under this Agreement following conveyance to Koniag by the United States; such lands are more fully described in attached Appendix D.

(j) Phase 1 Acquisition Lands. The term "Phase 1 Acquisition Lands" as used herein shall mean those Koniag Fee Lands described in attached Appendix E.

(k) Phase 2 Acquisition Lands. The term "Phase 2 Acquisition Lands" as used herein shall mean those Koniag Fee Lands described in attached Appendix F.

(l) Phase 3 Acquisition Lands. The term "Phase 3 Acquisition Lands" as used herein shall mean those Koniag Fee Lands and those Koniag Selection Lands--Fee described in attached Appendix G.

(m) Phase 4 Acquisition Lands. The term "Phase 4 Acquisition Lands" as used herein shall mean those Koniag Fee Lands and those Koniag Selection Lands--Fee described in attached Appendix H.

(n) State Access Easement. The term "State Access Easement" as used herein shall mean a limited term easement providing for access and use to be granted to the State of Alaska by Koniag with respect to certain of the Koniag Non-Development Easement Lands and in the form set forth at attached Exhibit III.

(o) State Conservation Easement. The term "State Conservation Easement" as used herein shall mean an easement(s) to be granted by Koniag to the State of Alaska with respect to the Phase 1, Phase 2, Phase 3 and Phase 4 Acquisition Lands and in the form set forth at attached Exhibit IV.

(p) Subsistence Access Easement. The term "Subsistence Access Easement" as used herein shall mean the interest to be reserved to the rural residents of the Villages of Larsen Bay and Karluk and which is contained within the Warranty Deed form at attached Exhibit V.

(q) Third Party Commercial Use Rights. The term "Third Party Commercial Use Rights" as used herein shall mean those certain rights to use the Koniag Fee Lands and the Koniag Easement Lands which were granted by Koniag to those persons, corporations and other entities identified at attached Appendix I, and which are in effect as of the date of this Agreement.

(r) Third Party Individual Use Rights. The term "Third Party Individual Use Rights" as used herein shall mean those certain rights to use the Koniag Fee Lands and the Koniag Easement Lands which were granted by Koniag to certain individuals, and which are in effect as of the date of this Agreement.

(s) Warranty Deed. The term "Warranty Deed" as used herein shall mean a deed by which Koniag shall convey to the United States, and warrant that it has so conveyed, all the rights, title and interests it received from the United States pursuant to ANCSA, except for those exceptions and reservations specifically provided for in this Agreement, and which shall be in the form set forth at attached Exhibit V.

(2) Koniag Selections.

The United States shall endeavor in good faith to use its best efforts to convey promptly the Koniag Selection Lands--Fee and the Koniag Selection Lands--Easement in the priority order set forth in the letter from Koniag to the Bureau of Land Management ("BLM") dated August 24, 1995. The United States also shall endeavor in good faith to use its best efforts to effectuate conveyances of the Koniag Selection Lands--Fee prior to the relevant closings under this Agreement. Such prioritization by Koniag is irrevocable, except that if this Agreement is terminated pursuant to Section 11 hereof, only that portion of such prioritization which prioritizes those Koniag Selection Lands--Fee which have not yet been conveyed to Koniag by the United States may be revoked. To the extent that Koniag has received conveyances or has selections of lands which are in conflict with any pending Native allotments located within the boundaries of lands otherwise to be sold in fee to the United States under this Agreement, and should any such allotments be determined to be invalid after Koniag has conveyed the surrounding lands to the United States, without additional compensation, Koniag agrees to convey such lands or, when applicable, to relinquish

such selections to the United States promptly after the determination of invalidity is final.

(3) First Closing.

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

(i) Koniag shall convey to the State of Alaska, the State Conservation Easement with respect to the Phase 1 Acquisition Lands;

(ii) Koniag shall sell and convey to the United States by the Warranty Deed all of its rights, title and interest in the Phase 1 Acquisition Lands, subject to the related State Conservation Easement;

(iii) Koniag shall convey to the State of Alaska, the State Access Easement;

(iv) Koniag shall convey to the United States the Non-Development Easement with respect to the Koniag Easement Lands; and

(v) Koniag and the Service shall execute the Conservation Agreement with respect to the Phase 2, the Phase 3 and the Phase 4 Acquisition Lands.

(b) The United States shall be responsible for recording the Warranty Deed and shall do it as expeditiously as possible but in any event within five (5) business days of the First Closing, weather permitting. Within fourteen (14) days of the recording of the Warranty Deed referred to in Section 3(a)(ii) hereof, the United States shall pay to Koniag the sum of FIFTEEN MILLION DOLLARS (\$15,000,000.00), of which THIRTEEN MILLION DOLLARS (\$13,000,000.00) shall be allocated as consideration for the purchase of Phase 1 Acquisition Lands and TWO MILLION DOLLARS (\$2,000,000.00) shall be allocated as consideration for the granting of the Non-Development Easement. Should the Service be prevented because of inclement weather from performing the inspection of the property subsequent to recordation as required by Service Realty Manual, 5 REM 2.10F, then such inspection shall be performed on the first possible day thereafter that the weather conditions permit and the payment shall be made by the first day following the inspection or the resolution of any title issues identified by that inspection.

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

(d) At such date after the First Closing, but within ten (10) business days after the United States has conveyed to Koniag all of the Koniag Selection Lands--Easement which Koniag is entitled to receive, Koniag shall convey to the United States, a Koniag Non-Development Easement with respect to such Koniag Selection Lands--Easement. During the interim period from the conveyance by the United States to Koniag of any of the Koniag Selection Lands--Easement until the conveyance and acceptance by the United States of the Koniag Non-Development Easement related to such selected lands, Koniag hereby contractually commits to implement the restrictions on development and use of such property as if such Koniag Non-Development Easement was in effect; provided, however, that such contractual commitment shall cease upon the earlier of December 2, 2001, or the termination of the Non-Development Easement in accordance with Section 11 of this Agreement.

(4) Second Closing.

(a) Subject to the terms and conditions of this Agreement, at the Second Closing:

(i) Koniag shall convey to the State of Alaska, the State Conservation Easement with respect to the Phase 2 Acquisition Lands; and

(ii) Koniag shall sell and convey to the United States by the Warranty Deed all of its rights, title and interest in the surface estate for the Phase 2 Acquisition Lands, subject to the related State Conservation Easement.

(b) The United States shall record such Warranty Deed within five (5) business days of the Second Closing, weather permitting. Within fourteen (14) days of the recording of the Warranty Deed given in Subsection 4(a)(ii) hereof, the United States shall pay to Koniag the sum of FOUR MILLION FIVE HUNDRED THOUSAND DOLLARS (\$4,500,000.00) as consideration for the conveyance of the Phase 2 Acquisition Lands. Should the Service be prevented because of inclement weather from performing the inspection of the property subsequent to recordation as required by Service Realty Manual, 5 REM 2.10F, then such inspection shall be performed on the first possible day thereafter that the weather conditions permit and the payment

shall be made by the first day following the inspection or the resolution of any title issues identified by that inspection.

(c) The Second Closing shall occur no later than September 30, 1996, except that, if despite the good faith best efforts of the United States, approval of the District Court of the disbursement of the funds required for such closing is not then obtained, then the time for this closing may be extended for a period not to exceed thirty (30) days. The United States agrees to use its good faith best efforts to obtain all approvals, including, but not limited to the approval of the District Court, necessary to enable it to make timely payment for the Phase 2 Acquisition Lands as set forth in Section 4(b), and, should the time period be extended, the United States shall use its best efforts to complete such Second Closing as soon as reasonably practicable within the extended time period. Notwithstanding any other provision hereof, the right of the United States to acquire the Phase 2 Acquisition Lands is contingent upon the completion of the First Closing.

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(5) Third Closing.

(a) Subject to the terms and conditions of this Agreement, at the Third Closing:

(i) Koniag shall convey to the State of Alaska, the State Conservation Easement with respect to the Phase 3 Acquisition Lands; and

(ii) Koniag shall sell and convey to the United States by the Warranty Deed all of its rights, title and interest in the Phase 3 Acquisition Lands, subject to the related State Conservation Easement.

(b) The United States shall record such Warranty Deed within five (5) business days of the Third Closing, weather permitting. Within fourteen (14) days of the recording of the Warranty Deed given in Subsection 5(a)(ii) hereof, the United States shall pay to Koniag the sum of FOUR MILLION FIVE HUNDRED THOUSAND DOLLARS (\$4,500,000.00) as consideration for the conveyance of the Phase 4 Acquisition Lands. Should the Service be prevented because of inclement weather from performing the inspection of the property subsequent to recordation as required by Service Realty Manual, 5 REM 2.10F, then such inspection shall be performed on the first possible day thereafter that the weather conditions permit and the payment shall be made by the first day following the inspection or the resolution of any title issues identified by that inspection.

(c) The Third Closing shall occur no later than September 30, 1997, except that, if despite the good faith best efforts of the United States, approval of the District Court of the disbursement of the funds required for such closing is not then obtained, then the time for this closing may be extended for a period not to exceed thirty (30) days. The United States agrees to use its good faith best efforts to obtain all approvals, including, but not limited to the approval of the District Court, necessary to enable it to make timely payment for the Phase 3 Acquisition Lands as set forth in Section 5(b), and, should the time period be extended, the United States shall use its best efforts to complete such Third Closing as soon as reasonably practicable within the extended time period. Notwithstanding any other provision hereof, the right of the United States to acquire the Phase 3 Acquisition Lands is contingent upon the completion of the Second Closing.

(6) Fourth Closing.

(a) Subject to the terms and conditions of this Agreement, at the Fourth Closing:

(i) Koniag shall convey to the State of Alaska, the State Conservation Easement with respect to the Phase 4 Acquisition Lands; and

(ii) Koniag shall sell and convey to the United States by the Warranty Deed all of its rights, title and interest in the Phase 4 Acquisition Lands, subject to the related State Conservation Easement.

(b) The United States shall record such Warranty Deed within five (5) business days of the Fourth Closing, weather permitting. Within fourteen (14) days of the recording of the Warranty Deed given in Subsection 6(a)(ii) hereof, the United States shall pay to Koniag the sum of FOUR MILLION FIVE HUNDRED THOUSAND DOLLARS (\$4,500,000.00) as consideration for the conveyance of the Phase 4 Acquisition Lands. Should the Service be prevented because of inclement weather from performing the inspection of the property subsequent to recordation as required by Service Realty Manual, 5 REM 2.10F, then such inspection shall be performed on the first possible day thereafter that the weather conditions permit and the payment shall be made by the first day following the inspection or the resolution of any title issues identified by that inspection.

(c) The Fourth Closing shall occur no later than September 30, 1998, except that, if despite the good faith best efforts of the United States, approval of the District Court of the disbursement of the funds required for such closing is not then

obtained, then the time for this closing may be extended for a period not to exceed thirty (30) days. The United States agrees to use its good faith best efforts to obtain all approvals, including, but not limited to the approval of the District Court, necessary to enable it to make timely payment for the Phase 4 Acquisition Lands as set forth in Section 6(b), and, should the time period be extended, the United States shall use its best efforts to complete such Fourth Closing as soon as reasonably practicable within the extended time period. Notwithstanding any other provision hereof, the right of the United States to acquire the Phase 4 Acquisition Lands is contingent upon the completion of the Third Closing.

(7) Conditions Precedent.

(a) The following conditions shall be satisfied prior to the First Closing, as provided in Section 3 hereof:

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

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

(iii) compliance by Koniag with its representations that since December 2, 1994, development has not taken place upon any of the Koniag Fee Lands nor has there been any development upon the Koniag Non-Development Easement Lands that is inconsistent with the provisions of the Non-Development Easement.

(b) The following conditions shall be satisfied prior to each closing, including, but not limited to the First Closing, as provided in Sections 3, 4, 5 and 6 hereof:

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

(ii) with respect to the lands to be conveyed at such closing, the satisfactory completion for the Service of a title opinion satisfying the regulations promulgated by the U.S. Department of Justice (hereinafter "Justice") pursuant to 40 U.S.C. § 255 relating to federal land acquisitions. The Parties acknowledge that prior

to execution of this Agreement, a waiver of certain provisions of such regulations has been granted by Justice in order to accommodate the provisions of this Agreement, including in particular, the Subsistence Access Easement reservation contained in the Warranty Deed, the limited warranty of title provided by Koniag with respect to all of the conveyance instruments, and the enforcement rights of the State of Alaska, as reflected in the State Conservation Easement and the Warranty Deed;

(iii) compliance by Koniag with the terms of the Conservation Agreement with respect to the lands pertaining to the respective closing, including if necessary, the completion by Koniag of any corrective action that is required under the Conservation Agreement. Such closing shall be delayed until completion of any such corrective action and such delay shall not constitute grounds for termination by Koniag under Section 11 of this Agreement; and

(iv) satisfactory completion by the United States of hazardous material surveys as required by Department regulations for land acquisitions, which surveys shall be promptly performed by the United States.

(8) General Closing Provisions.

(a) Koniag Selected Lands Substitutions. The Parties recognize that the lands to be purchased by the United States under this Agreement include valid, prioritized selections for which conveyance to Koniag by the United States has not yet been made. Accordingly the Parties have sought to schedule the purchase of such selected but not yet conveyed lands for the Third and Fourth Closings in order to permit the ANCSA conveyance process to be completed by BLM. If for the Third Closing, the United States will be unable to complete the contemplated conveyances to Koniag of such selected lands, the Parties agree to substitute from the Koniag Fee Lands included in the Phase 4 Acquisition Lands an equivalent number of acres of land equal to the number not then available to Koniag for sale to the United States. Such substitute lands shall be identified by Koniag, subject to the consent of the United States, which consent shall not be unreasonably withheld. The lands not conveyed at the Third Closing, shall be conveyed at the Fourth Closing.

(b) Acreage Calculation and Chargeability. The Parties agree that, once the conveyances by the United States to Koniag equal its full ANCSA entitlement within KNWR, that Koniag shall relinquish any remaining selections within KNWR. The Parties recognize that many of the lands to be conveyed hereunder have not been surveyed and that the precise charge against Koniag's ANCSA entitlement arising from such conveyances has not therefore been determined. The Parties mutually agree that



the determination by BLM of acreage chargeability as reflected on the land descriptions attached in appendices hereto shall be deemed to be final, and that no change in the charge against Koniag's ANCSA entitlement shall be made as the result of any future survey of these lands, notwithstanding any future change in the method of computing the acres charged to entitlement.

(c) Third Party Rights of the State of Alaska. In recognition of the joint federal and State of Alaska responsibility to ensure that expenditure of the *Exxon Valdez* Oil Spill settlement funds properly achieves federal and state objectives for the restoration of the injured natural resources and related services, the Trustee Council has required that, in return for the commitment of settlement funds to this acquisition, certain rights be established for the State of Alaska with respect to this transaction. Accordingly, with respect to the Koniag Phase 1, Phase 2, Phase 3 and Phase 4 Acquisition Lands, Koniag shall convey to the State of Alaska, and the title received by the United States at such closing shall be subject to, the State Conservation Easement which authorizes the State to enforce on a non-exclusive basis the restoration objectives of this acquisition. In order to permit Koniag to grant the State Conservation Easement, the United States hereby expressly waives its right of first refusal under § 22(g) of ANCSA, but only to the extent of the interest to be created by the State Conservation Easement.

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

(e) Post-Recordation Title Issues. In the event that the post-recordation inspection of the lands referred to in Sections 3(b), 4(b), 5(b) or 6(b) of this Agreement reveals issues of compliance with the warranties and disclosures provided by Koniag in Section 9(a)-(b), the Parties shall make a good faith effort to resolve promptly all such issues. In the event that the Parties are unable to reach a mutually satisfactory agreement on the corrective actions to be taken as a result thereof, at the request of Koniag the Agreement shall be terminated and all obligations to complete that or any subsequent closing hereunder shall cease. The United States

agrees to execute appropriate legal documents satisfactory to the Parties and suitable for recording confirming such termination and the retention by Koniag of its ownership of the applicable lands.

(9) Warranties and Disclosures.

Koniag represents and warrants to the United States as follows:

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

(b) Title to the lands and interests in lands to be conveyed to the United States under this Agreement shall be, at closing, free and clear of all liens, charges, encumbrances, clouds and defects whatsoever, except for (i) liens, charges, encumbrances, clouds and defects of record; (ii) liens, charges, encumbrances, clouds and defects not of record which existed prior to the date(s) on which said lands were conveyed to Koniag pursuant to Section 14 of ANCSA, 43 U.S.C. § 1613; (iii) all restrictions, reservations, encumbrances and limitations set forth in the conveyances from the United States to Koniag arising under ANCSA and the rules and regulations promulgated thereunder; (iv) the reservation of the Subsistence Access Easement; (v) the State Conservation Easement; (vi) with respect to Non-Development Easement to be conveyed at the First Closing, the State Access Easement; and (vii) as provided in this Agreement, Third Party Commercial Use Rights and Third Party Individual Use Rights.

(c) To the best of Koniag's knowledge and belief: (i) Koniag has not, nor has it allowed any other person, since the conveyance of lands to Koniag by the United States under ANCSA, to place, store, spill or dump in an unlawful manner any Hazardous Wastes, Hazardous Substances, hazardous materials, chemical waste, or any other toxic substance on the lands to be conveyed to the United States under this Agreement; (ii) such lands are not now, nor since their conveyance to Koniag, ever been used for industrial purposes; (iii) no third party has ever unlawfully placed, stored, spilled or dumped any Hazardous Wastes, Hazardous Substances, hazardous materials, chemical waste, or any other toxic substance on such lands during the time

in which they were owned by Koniag; specifically excluded from this warranty is any spillage of such substances or wastes as may have occurred as a result of EVOS; (iv) Koniag has disclosed to the Service all information in its possession or knowledge which indicates that any of the foregoing activities, whether lawful or unlawful, took place on such lands prior to the conveyance of the lands to Koniag; and (v) Koniag has disclosed to the Service all information in its possession or knowledge concerning the location and activities thereon that took place on those areas subject to this Agreement which Koniag or a third party has used while they may have been in the lawful possession of such hazardous or toxic substances.

(d) To the best of Koniag's knowledge and belief: (i) Koniag has provided to representatives of the Service copies of all agreements in its possession or knowledge granting Third Party Commercial Use Rights which are outstanding ; (ii) Koniag has provided copies of all agreements in its possession granting Third Party Individual Use Rights which are outstanding; and (iii) the term of each such Third Party Commercial Use Right or Third Party Individual Use Right terminates no later than December 31, 1995, and Koniag neither has nor will take any action to extend or renew such rights as to any of the Koniag Fee Lands.

(10) Acquisition of Lands Subject to the Koniag Non-Development Easement.

(a) The Parties acknowledge their mutual interest in the acquisition in fee by the United States of the lands which will be subject to a Koniag Non-Development Easement under this Agreement. The Parties agree to negotiate in good faith to establish a process which will lead to a fair negotiated price for the purchase of such lands. By its Resolution of December 2, 1994, the Trustee Council has directed its Executive Director to take the necessary steps to maintain unobligated funds totalling SIXTEEN MILLION FIVE HUNDRED THOUSAND DOLLARS (\$16,500,000) from the future settlement payments made by Exxon Corporation, et al. This Trustee Council Resolution provides that such funds are to remain available, for the duration of the Non-Development Easement, to provide for the acquisition of all or a portion of such lands. The actual commitment of these funds is only to take place after adoption by the Trustee Council of a future resolution or resolutions approving such additional acquisitions. If prior to the expiration of the Non-Development Easement, the Trustee Council has taken actions such that \$16.5 million no longer remains available for the acquisition of such lands, Koniag, at its sole election, may terminate such easement in accordance with the process set forth in Sections 11(b) and (c) of this Agreement for termination and refund the unamortized portion of the consideration therefor paid by the United States. Such election to

terminate shall not effect the fee purchases of lands otherwise provided for in this Agreement.

(b) Should any of the lands subject to the Koniag Non-Development Easement be acquired by the United States during the term of the Non-Development Easement, then the United States shall receive as a credit against the purchase price of such lands, an amount equal to the product of (i) the number of acres of such lands then being acquired, (ii) Fifty/One Hundredths Dollars (\$.50), and (iii) the number of full months remaining in the term of the Non-Development Easement; provided in no event shall the amount of the sum of all such credits exceed TWO MILLION DOLLARS (\$2,000,000.00).

(11) Termination.

(a) In the event that the United States is unable to proceed to any Closing within the extension periods provided for under this Agreement as the result of a failure of the Service to receive disbursements from the District Court of settlement funds to be used for such acquisition(s), Koniag in its sole discretion may elect to terminate this Agreement. Such termination shall be effective thirty (30) days after written notice of such election is received from Koniag by the Regional Office of the Service. In the event of such termination, Koniag shall have no further obligation under this Agreement other than under this Section 11 as to lands not yet conveyed by Koniag in fee. The Non-Development Easement, the State Access Easement and the Conservation Agreement shall each terminate as well as of the effective date of the termination of this Agreement.

(b) Should any Party hereto fail to perform any obligation under this Agreement, other than failure to close for non-payment which is encompassed within the provisions of Subsection 11(a) hereof, then the other Party shall have the right, upon thirty (30) days written notice to the other Party, to terminate this Agreement. In the event of such termination, the Parties shall be under no further obligation to complete any remaining closing, and the Non-Development Easement, the State Access Easement and the Conservation Agreement shall also terminate on the effective date of such termination. Nothing in this Subsection shall limit any right of either Party to utilize remedies otherwise available to it under this Agreement.

(c) In the event of the termination of the Non-Development Easement as a result of actions taken by a Party pursuant to Subsections (a) or (b) hereof, Koniag shall refund to the United States on the effective date of the termination an amount equal to the unamortized portion of the consideration paid for the Non-

Development Easement, as calculated by the formula contained in Subsection 10(b) hereof for all such lands held in fee by Koniag at the date of the termination notice. Such refund shall be paid by check to the United States on or before the effective date of the termination.

(12) Claims Arising from EVOS.

Nothing in this Agreement or any document executed pursuant thereto shall be deemed to constitute an assignment, waiver or release of any claim Koniag or its individual shareholders may have against Exxon Corporation and any other person or entity as a result of EVOS.

(13) Section 22(g).

With the exception of the conveyances of certain interests in lands to the State of Alaska under the terms of this Agreement, nothing in this Agreement shall be deemed to constitute a waiver by the United States of its right of first refusal pursuant to Section 22(g) of ANCSA.

(14) Recordation.

A copy of this Agreement and any amendment hereto may be recorded by or on behalf of either Party following the execution thereof by the Parties. If this Agreement is subsequently terminated in accordance with the provisions of Section 11, then upon the request of Koniag, the United States shall execute a Release of Interests and/or other documentation satisfactory to the Parties and suitable for recording acknowledging the termination of this Agreement and the release from its terms any Koniag Fee Lands and Koniag Selected Lands--Fee which have not been conveyed to the United States prior to such termination.

(15) Effective Date.

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

(16) Execution in Separate Counterparts.

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

(17) Other Agreements and Actions.

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

(18) Signature Authority.

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

(19) Unanticipated Events.

The Parties acknowledge that there may exist circumstances beyond the reasonable control of either Party which interfere with the Parties' abilities to complete the transaction and to comply with the time constraints set forth in this Agreement. The Parties agree to use their good faith best efforts to complete the transactions contemplated within this Agreement as set forth herein. In the event that circumstances occur beyond the reasonable control of either Party which significantly impair or detract from the rights and benefits provided to either of the Parties, then both Parties will, in good faith, attempt to negotiate reasonable modifications of this Agreement so as to protect the rights, interests and duties of the Parties under this Agreement so as to carry out the intent of this Agreement; provided, however, that in no event, shall this provision be construed to authorize the partition of the estate or the return of any lands purchased in fee for which closing has previously occurred and conveyance made to the United States under this Agreement. Nothing in this Section shall preclude the right of Koniag to terminate this Agreement pursuant to the provisions of Section 11 hereof for reason of the non-payment of money.

(20) Third Party Use Rights.

(a) To the extent the Third Party Commercial Use Rights extend beyond the First Closing as provided in Section 3 hereof, and a holder of a Third Party Commercial Use Rights gives notice of its intent to exercise its rights on the Phase 1 Acquisition Lands, Koniag shall promptly inform the United States of such notice. Within ten (10) days of the receipt of any fee related to the exercise of such Third Party Commercial Use Rights with respect to the Phase 1 Acquisition Lands, Koniag shall tender such amount to the United States.

(b) Koniag will cooperate with the United States to enforce the agreements granting Third Party Commercial Use Rights and Third Party Individual Use Rights with respect to any post-closing use of the Phase 1 Acquisition Lands.

(c) Koniag shall hold the United States harmless as to any and all liabilities arising from the exercise by any person or entity of rights arising under such Third Party Commercial Use Rights or any Third Party Individual Use Rights, where such rights could not have otherwise been exercised by such person or entity but for the existence of such Third Party Commercial Use Rights or Third Party Individual Use Rights held by such person or entity; provided however, Koniag shall not be obligated to hold the United States harmless with respect to those liabilities attributable to the negligence of the United States, its agents, employees and contractors.

(d) Koniag shall take all actions necessary to ensure that all such third party use rights terminate no later than December 31, 1995, with respect to the Koniag Fee Lands.

(21) Miscellaneous.

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

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

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

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

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

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

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

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

(h) All notices, requests, orders and other communications under this Agreement shall be in writing (unless expressly provided otherwise), and shall be deemed to have been duly given if delivered personally to the addressee or upon receipt if mailed by certified or registered mail, return receipt requested, with postage prepaid as follows:

(i) If to Koniag:

President  
Koniag, Inc.  
4300 B Street, Suite 407  
Anchorage, Alaska 99503



With a copy to:

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

(ii) If to the United States:

Regional Director  
U.S. Fish and Wildlife Service  
1011 East Tudor Road  
Anchorage, Alaska 99503

With a copy to:

Refuge Manager  
Kodiak National Wildlife Refuge  
1390 Buskin River Road  
Kodiak, Alaska 99615

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

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

**Koniag, Inc.**

Date: November 9, 1995

By: Frank Pagano

Frank Pagano  
President

**United States of America**

Date: November 19, 1995

By: Bruce Babbitt

Bruce Babbitt  
Secretary of the Interior

Date: November 13, 1995

By: George T. Frampton, Jr

George T. Frampton, Jr  
Assistant Secretary for  
Fish and Wildlife and Parks

Date: November 13, 1995

By: Mollie U. Beattie

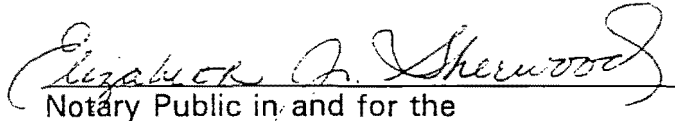
Mollie Beattie  
Director  
U.S. Fish and Wildlife Service

ACKNOWLEDGEMENT

DISTRICT OF COLUMBIA       )  
  ) ss:  
  )

THIS IS TO CERTIFY that on the 13 day of November, 1995, before me, the undersigned a Notary Public in and for the District of Columbia, duly commissioned and sworn as such, personally appeared Bruce Babbitt known to me and known to be the Secretary of the Interior; and George T. Frampton Jr., Assistant Secretary for Fish and Wildlife and Parks; and Mollie Beattie, Director of the U.S. Fish and Wildlife Service; and they acknowledged to me that they signed as accepting the foregoing AGREEMENT FOR THE SALE AND PURCHASE OF LANDS AND INTERESTS IN LANDS BETWEEN KONIAG, INC. AND THE UNITED STATES OF AMERICA, and they acknowledged to me that they executed the foregoing instrument freely and voluntarily.

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



Notary Public in and for the  
District of Columbia

SEAL

My Commission expires:

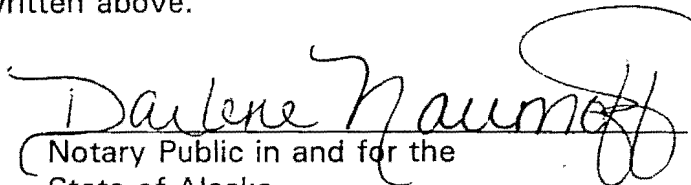
Elizabeth J. Sherwood  
Notary Public, District of Columbia  
My Commission Expires March 31, 1997

ACKNOWLEDGEMENT

STATE OF ALASKA                    )  
  ) ss:  
THIRD JUDICIAL DISTRICT        )

THIS IS TO CERTIFY that on the 9 day of November, 1995 , before me, the undersigned a Notary Public in and for the State of Alaska, duly commissioned and sworn as such personally appeared Frank Pagano, President of Koniag, Inc., to me known and known to be the person he represented himself to be and the same identical person who executed the above and foregoing AGREEMENT FOR THE SALE AND PURCHASE OF LANDS AND INTERESTS IN LANDS BETWEEN KONIAG, INC. AND THE UNITED STATES OF AMERICA on behalf of Koniag, Inc., and who acknowledged to me that he had full power and authority to and did execute the above and foregoing as a free and voluntary act and deed of said corporation for the uses and purposes therein mentioned.

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

  
Notary Public in and for the  
State of Alaska

SEAL

My Commission expires: 3/30/99