

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER

Northern Region
3700 Airport Way
Fairbanks, AK 99709
(907) 451-2740

Southcentral Region
550 W 7th Ave., Suite 900C
Anchorage, AK 99501-3577
(907) 269-8552

Southeast Region
400 Willoughby, #400
Juneau, AK 99801
(907) 465-3400

MATERIAL SALE CONTRACT
AS 38.05.550 – 38.05.565

Issuance Date:

Expiration Date:

ADL #

Federal Tax I.D.:

Under Alaska Statutes (AS) 38.05.550-565 (Material Sales), other applicable statutes, and the regulations implementing these statutes, the State of Alaska, Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), the seller, whose address is _____, agrees to sell and the buyer, _____, whose address is _____ agrees to buy the material designated in this contract, subject to the provisions that follow:

1. Description: Location, Material, Quantity, and Price.

(a) The material sale area covered by this contract consists of approximately _____ acres. This area is designated by the boundaries shown on the attached sale area map, which is made a part of this contract:

Designated Material Site ADL _____, DOT MS _____ located at MP _____
Highway within _____ Section __, Township _____, Range _____
_____, _____ Meridian.

(b) The material to be removed and the price are:

<u>Type of Material</u>	<u>No. of Units</u>	<u>Unit Price</u>	<u>Total Price</u>
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2. Payments and Deposits. No part of the materials sold under this contract may be extracted from the sale area by the buyer except in accordance with the following terms:

(a) The buyer shall remit an earnest money deposit in the amount of \$ _____ (consistent with 11 AAC 71.045 or 11 AAC 71.065, and no less than \$250) along with the bid for a competitive sale contract or at the time a negotiated sale buyer signs this contract. The seller will retain the deposit to cover administrative costs incurred in offering the material sale, except that if the buyer removes and pays for at least 75% of the material volume covered by this contract, the deposit may

be applied, in whole or in part, to the final payment that becomes due under this contract.

(b) Additional periodic installment payments as required in paragraph 2(c) must be made for material extracted as of the date payment becomes due but may not exceed the total purchase price.

(c) Each periodic installment payment becomes due and payable on December 31 of each year of the contract term without prior notice to the buyer, for the value of material extracted during the reporting period. The installment must be based on records required in paragraph 3 of this contract and must be submitted to the seller no later than the fifth working day following the date the installment is due.

(d) A final accounting and payment for material removed, and a completion statement, must be submitted no later than 30 days following contract completion, or when the contractor has completed removal under the contract, or following termination of the contract by the seller or by operation of law. Whether completion is satisfactory will be decided by the Director of the Division of Mining, Land, and Water (DMLW) within 45 days after receiving the final accounting report and completion statement.

(e) If the buyer fails to make a payment provided for in this contract, the seller may, under paragraph 8(b) of this contract, order all material extraction suspended immediately. Materials extracted by the buyer during any period of suspension are considered taken in trespass and are to be charged to and paid for by the buyer at triple the unit contract price. Resumption of the lawful taking of materials may be authorized, in writing, by the seller only after the payments in arrears plus the penalty provided for in paragraph 2(f) have been paid.

(f) Late Payment Penalty: The greater of either the fee specified in 11 AAC 05.030 or interest at the rate set by AS 45.45.010(a) will be assessed on a past-due account until payment is received by the seller.

(g) All payments and deposits must be remitted to the DMLW and must be made payable to the State of Alaska.

(h) Special Provisions. The following special provisions also apply to payments and deposits under this contract:

(1) The buyer shall prepare an annual Accounting Voucher which becomes due on December 31 of each year that details the volume of material removed during the calendar year from January 1 through December 31. The Accounting Voucher must be based on the information collected in the daily extraction records. If the Accounting Voucher and payment due under paragraph 2(c) is not received by February 1 in the calendar year following the December 31 due date, the contract may be suspended. This voucher shall be filed regardless of whether material was removed during the reporting period.

(2) Should the administrative base price, representative regional sales price, or fair market value be changed during the term of this contract, the new price will be effective and apply to the material remaining to be extracted under this contract as of the effective date of the

price adjustment.

(3) Material extraction in excess of the contract amount may be considered taken in trespass and at the discretion of seller, charged to and paid for by the buyer at triple the contract unit price or up to three times the pecuniary gain realized by the buyer as a result of the trespass. Said trespass penalties are in addition to any other administrative or legal proceedings imposed by state law.

(4) Material extraction outside of an active contract term is considered taken in trespass and is to be charged to and paid for by the buyer at triple the unit contract price.

3. Method of Volume Determination.

(a) The method of volume determination for purposes of payment under this contract, along with any special provisions applicable to volume determination, is:

(1) Based on a loose cubic yard quantity as determined by an "in-place" measurement multiplied by a factor of 1.3; or,

(2) Based on a loose cubic yard quantity as determined by a daily vehicle count designating type of vehicle and vehicle capacity; or

(3) Based on an industry standard method acceptable to the department.

(i) If the method of volume determination is based on a weight measurement of the extracted material, the buyer must provide to the seller the standard of density and conversion rate from weight to cubic yards.

(b) The buyer shall keep accurate and up-to-date records of all materials extracted. These records are subject to verification by check measure and inspection of the buyer's books by the seller at any time without notice.

(c) All measurements are to be made by or under the direct supervision of buyer personnel acceptable to the seller, including a qualified engineer where the seller deems appropriate, with quantities certified by that person.

4. Operating Requirements.

(a) Boundary Lines and Survey Monuments. No boundary mark of the sale area or any survey line or witness tree for any survey corner or monument may be severed or removed, nor may any survey corner or monument be damaged or destroyed. Any violation of this clause requires the buyer to bear the expense of re-establishing the line, corner, or monument by a registered surveyor in a manner approved by the seller.

(b) Standard of Operations. The buyer shall properly locate the buyer's operations and buyer's improvements within the sale area, and may not commit waste, whether ameliorated or otherwise.

In addition to complying with all laws, regulations, ordinances, and orders, the buyer shall maintain the land in a reasonably neat and clean condition and shall take all prudent precautions to prevent or suppress grass, brush, or forest fires, and to prevent erosion or destruction of the land.

(c) Erosion Control and Protection of Waters. Road construction or operations in connection with this contract must be conducted so as to avoid damage to streams, lakes, or other waters and land adjacent to them. Vegetation and materials may not be deposited into any stream or other waters. Locations and improvements necessary for stream crossings for haul roads must be approved in advance by the seller. All roads to be abandoned must be treated with measures necessary to prevent erosion in a manner acceptable to the seller. Any damage resulting from failure to perform these requirements must be repaired by the buyer to the satisfaction of the seller. Waters include waters defined in 5 AAC 95.011, Waters important to anadromous fish.

(d) Fire Prevention. The buyer shall take all necessary precautions for the prevention of wildfires and is responsible for the suppression, and must bear the suppression costs, of all destructive or uncontrolled fires occurring in or outside the sale area resulting from any of the buyer's operations under this contract. The buyer shall comply with all laws, regulations, and ordinances promulgated by all governmental agencies responsible for fire protection in the area.

(e) Roads. Before constructing any main haul, secondary or spur road across state land, the buyer shall obtain written approval of the proposed location and construction standards of the road from the seller.

(f) Supervision. The buyer shall maintain adequate supervision at all times when operations are in progress to ensure that the provisions of this contract and all applicable federal, state, and local laws, regulations, and ordinances governing the operations are enforced. At all times when operations are in progress, the buyer, or a person authorized by the buyer to assume the responsibilities imposed by this contract, shall be present on the sale area.

(g) Agents. The provisions of this contract apply with equal force upon an agent, employee, or contractor designated by the buyer to perform any of the operations relating to extraction of the materials sold under this contract. The buyer is liable for noncompliance caused by any such agent, employee, or contractor.

(h) Location. The buyer is responsible for the accurate location of operations under this contract, including any survey that may be necessary for accurate location unless otherwise specified in this contract.

(i) Access. The seller makes no representations that it will construct or maintain access to the land. Access over any route not under the seller's control is the responsibility of the buyer. The buyer agrees that any permanent access or right-of-way obtained over privately-owned property will provide a permanent easement to the seller. No material of any type, including excavated material or vegetation, shall be placed, stockpiled, discarded, or otherwise disposed of in such a way as to block access to the material site.

(j) Mining Reclamation. This contract is subject to the attached approved reclamation plan and/or

attached letter of intent under AS 27.19.

(k) Special Provisions. The following special provisions also apply to operations under this contract:

(1) Waste. No waste shall be deposited or buried on the authorized site of this contract. Waste in this subparagraph means all discarded matter, including, but not limited to, construction material, fill, waste asphalt, human waste, trash, garbage, refuse, litter, oil drums, petroleum products, ashes, scrap steel or used culverts and discarded equipment. Stockpiled material and/or overburden shall not be placed in wetlands. After completion, expiration, or termination of the contract, the site will be left in a condition that is acceptable to the seller, and reclaimed in accordance with the approved reclamation plan.

(2) Extraction Area. This contract authorizes removal of material only from the area defined in this contract. All work will be confined within the site boundaries. The buyer is responsible for properly locating the material site and the working limits within the material sale area, as shown on the attached map.

(3) Site Development. Overburden and topsoil shall be stockpiled separately and must be placed in a stable location, protected from contamination by acidic or toxic materials, and in a manner which will prevent erosion and preclude runoff from contaminating adjacent waterways. Topsoil is not permitted to be removed from site unless written authorization is received from the seller.

(4) Water Quality. The buyer shall comply with the State of Alaska water quality standards pursuant to 18 AAC 70, including discharge standards when conducting material washing operations. Disposal of grey or black water waste into the ground surface or nearby water sources from any operation associated with this authorization is specifically prohibited.

(5) Other Authorizations. The issuance of this authorization does not alleviate the necessity of the buyer to obtain authorizations required by any municipal or local, state, or federal entity for this activity. Any asphalt processing, related activities, or associated structures will not be allowed without obtaining prior written authorization from DNR. Failure to obtain any necessary authorizations shall be considered a breach of the terms and conditions of this contract and may be cause for contract revocation or suspension.

(6) Alaska Historic Preservation Act. The buyer will consult the Alaska Heritage Resources Survey (907) 269-8721 so that known historic, archaeological and paleontological sites may be avoided. The Alaska Historic Preservation Act, AS 41.35.200, prohibits the appropriation, excavation, removal, injury, or destruction of any state owned historic, prehistoric, archaeological, or paleontological site without written approval from the DNR Commissioner. Should any sites be discovered, the buyer shall cease any activities that may cause damage and immediately contact the seller and the Office of History and Archaeology in the Division of Parks and Recreation.

(7) Equipment or Vehicle Maintenance. Equipment or vehicle maintenance will be

performed over an effective impermeable barrier.

(8) Fuel, Hazardous Substances, and Explosives. No fuel, hazardous substances, or explosives are to be stored on the subject parcel without a Land Use Permit or other written approval by the seller. All petroleum, oil and lubricants (POL) (e.g., motor oil and fuel) will be stored in double walled tanks or a lined bermed area designed to contain at least 110 percent of the total amount of POL stored. The use and storage of hazardous substances and explosive material by the contractor must be in accordance with existing federal, state, and local laws, regulations and ordinances. Debris (such as soil) contaminated with used motor oil, solvents, or other chemicals may be classified as a hazardous waste and must be removed from the site and managed and disposed of in accordance with state and federal law. Sorbent material in sufficient quantity to handle operational spills must be on site at all times for use in the event of a spill. Oil and fuel spills shall be cleaned up immediately and contaminated ice, snow or earth material shall be disposed of as required by the Alaska Department of Environmental Conservation (DEC) regulations.

(9) Notification of Discharge. The grantee shall immediately notify the Department of Environmental Conservation (DEC) and AO by phone of any unauthorized discharge of oil to water, any discharge of hazardous substances (other than oil), and any discharge of oil greater than 55 gallons on land. All fires and explosions must also be reported immediately.

If a discharge, including a cumulative discharge, of oil is greater than 10 gallons but less than 55 gallons, or a discharge of oil greater than 55 gallons is made to an impermeable secondary containment area, the grantee shall report the discharge within 48 hours. Any discharge of oil greater than one gallon up to 10 gallons, including a cumulative discharge, solely to land, must be reported in writing on a monthly basis.

Notification of discharge during normal business hours must be made to the nearest DEC Area Response Team: Anchorage (907) 269-7500, fax (907) 269-7687; Fairbanks (907) 451-2121, fax (907) 451-2362; Juneau (907) 465-5340, fax (907) 465-5245. For discharges in state off shore waters call (907) 269-0667. The DEC oil spill report number outside normal business hours is (800) 478-9300.

Notification of discharge must be made to the appropriate DNR Office: Anchorage (907) 269-8503, fax (907) 269-8913; Fairbanks (907) 451-2678, fax (907) 451-2751, email dnr.nro.spill@alaska.gov; Juneau (907) 465-3400, fax (907) 465-3886. The grantee shall supply the AO with all incident reports.

(10) Mining and Reclamation. Mining shall be done in accordance with the DNR approved Mining and Reclamation plan (M&R plan). Upon completion, expiration, or termination of the contract, the site will be left in a condition that is acceptable to DMLW and reclaimed in accordance with the approved M&R plan. Reclamation shall be to the standards of DMLW and shall include repair of access roads to and within the site, disposal of remaining stockpiles, other procedures that will be used to stabilize and reclaim the area and any other site-specific measures that may be necessary. The buyer shall leave all slopes in a safe and stable condition at the end of each season.

(11) SWPPP and APDES. The buyer shall comply with the requirement of DEC's Alaska Pollutant Discharge Elimination System (APDES), and if applicable, to maintain and operate the site in accordance with an approved Storm Water Pollution Prevention Plan (SWPPP).

(12) Invasive Species. The buyer shall implement best management practices for minimizing the introduction and proliferation of invasive plant species, including thoroughly washing equipment prior to use on the material site. This is particularly important for work at material sites adjacent to rivers, where introduced species can be transported downstream and spread throughout areas that would not otherwise be exposed to invasive species.

(13) Coordination. The buyer shall coordinate all operations with other users in the site, which may include the Department of Transportation and Public Facilities (DOTPF) or other contractors. Coordination shall take place prior to and during mobilization to ensure access and safety is maintained for all users. If necessary to support the continuation of public or private projects, DNR may provide additional guidance or limitations related to the location and/or timing of extraction activities during the construction season.

(14) Stockpiles. The buyer shall not disturb or remove material from existing stockpiles. Any material extracted by the buyer must be mined according to the approved mining and reclamation plan.

The buyer shall not disturb or remove material from existing stockpiles unless the buyer is the owner of the stockpile. Buyer is not authorized to stockpile material in the material site beyond the active term of the contract. A permit or other written approval is required to stockpile material after the term of the contract. Prior to granting final approval for storage of the stockpile, the seller will require payment in full for the stockpiled material. The seller may also charge a storage fee for the stockpiled material. Unless authorized in writing by the seller, stockpiles will be regraded and reclaimed upon contract completion. Any stockpiles left in the pit outside the contract term by the buyer are the property of the seller unless the buyer receives prior written approval from the seller and, upon approval, purchases the material.

(15) Equipment Storage. The buyer shall remove all machinery, equipment, and other items at the end of each construction season. Prior written approval from the seller is required for a change in this restriction.

(16) Completion Report. A final accounting and payment for material removed and a completion report must be submitted no later than 30 days following contract completion, or following termination of the contract by the seller or by operation of law. The completion report shall include a series of ground level photographs taken before, during, and after the extraction along with a statement confirming:

- (i) compliance with stipulations requiring the removal of personal property, restoration of the extraction area to a clean condition, and reclamation.

- (ii) accuracy of the photographs accompanying the report as depicting the site before extraction, during operations, and after completion and reclamation at the end of each contract period.

Failure to submit a satisfactory report and/or required photographs subjects the site to a field inspection requirement for which the buyer may be assessed, at the Director's discretion, either the actual cost incurred by the Division of Mining, Land, and Water, or a minimum of \$500.00. (11 AAC 05.130). Reimbursement for costs for the field inspection under this section may be taken from the performance guaranty.

(17) Contract. The buyer or their agent shall carry a copy of the executed contract while operating in the material site. No material will be removed without the issued contract on site.

(18) Insurance. The buyer shall secure or purchase at its own expense, and maintain in force at all times during the term of this contract, liability coverage and limits consistent with what is professionally recommended as adequate to protect the buyer (the insured) and seller (the State, its officers, agents and employees) from the liability exposures of ALL the insured's operations on state land. Certificates of Insurance must be furnished to the seller prior to issuance of this contract and must provide for a 60-day prior notice to the State before they cancel, not renew or make material changes to conditions to the policy. Failure to furnish satisfactory evidence of insurance, or lapse of the policy, are material breaches of this contract and shall be grounds, at the option of the State, for termination of the permit. All insurance policies shall comply with, and be issued by, insurers licensed to transact the business of insurance under Alaska Statute, Title 21. The policy shall be written on an "occurrence" form and shall not be written as a "claims-made" form unless specifically reviewed and agreed to by the Division of Risk Management, Department of Administration. The State must be named as an additional named insured on the policy with respect to the operations of the buyer on or in conjunction with the permitted premises, referred to as the above ADL number.

(19) Reclamation Bond. The buyer shall remit a reclamation bond in the amount of \$ N/A (consistent with AS 27.19 and 11 AAC 97) to ensure performance of the reclamation plan requirements. The buyer's Material Site Reclamation Letter of Intent, submitted with their application, is attached to and made a part of this contract. The reclamation bond may be released upon the Division of Mining, Land and Water's approval of the reclamation. A buyer may be exempt from the reclamation bond requirement because either the buyer (1) has filed a Letter of Intent, or (2) is an agency of the State of Alaska, the federal government, or a municipality.

(20) Notice. Notice referred to in paragraph 17 of this contract may also be accomplished via email between authorized representatives of buyer and seller. Buyer shall maintain a current, valid, mailing address and email on file with the seller at all times.

The buyer shall notify the seller when a contractor or subcontractor has been selected to

perform work in the material site on behalf of the buyer. The notice must include the name and contact information for the contractor or subcontractor, the project name or number, the expected time period for the contractor or subcontractor to be working in the material site, and the estimated volume of material to be extracted by the contractor or subcontractor.

(21) Project Specific Operating Requirements.

i) _____

5. Indemnity of Seller and Bonding.

(a) The buyer shall indemnify and hold the seller harmless from:

- (1) all claims and demands for loss or damage, including property damage, personal injury, wrongful death, and wage or employment claims, arising out of or in connection with the use or occupancy of the land or operations by the buyer or the buyer's successors, or at the buyer's invitation; and
- (2) any accident or fire on the land; and
- (3) any nuisance on the land; and
- (4) any failure of the buyer to keep the land in a safe and lawful condition consistent with applicable laws, regulations, ordinances, or orders; and
- (5) any assignment, sublease, or conveyance, attempted or successful, by the buyer that is contrary to the provisions of this contract.

The buyer will keep all goods, materials, furniture, fixtures, equipment, machinery, and other property on the land at the buyer's sole risk, and will hold the seller harmless from any claim of loss or damage to them by any cause.

(b) At the seller's discretion, a buyer may be required to file a bond consistent with 11 AAC 71.095, designed to ensure the buyer's performance and to help protect the seller against any liability that may arise as a result of the activities of the buyer. If required, a bond acceptable to the seller in the amount of \$_____ must be filed with the seller at the time of execution of this contract to ensure the buyer's performance and financial responsibility.

6. Improvements and Occupancy.

- (a) Any reasonable and necessary improvement or facilities, including crushers, mixing plants, buildings, bridges, roads, etc., constructed by the buyer in connection with this sale and placed within the sale area must be in accordance with plans approved in writing by the seller.
- (b) The buyer must, within 60 days after contract completion or termination of the contract by the seller or by operation of law, remove the buyer's equipment and other personal property from the

sale area. After removal, the buyer must leave the land in a safe and clean condition that is acceptable to the seller. If the buyer can demonstrate undue hardship, the time for removal of the improvements under this paragraph may be extended at the seller's discretion.

(c) If any of the buyer's property having an appraised value in excess of \$10,000, as determined by the seller, is not removed within the time allowed, that property may, upon 30 days' notice to the buyer, be sold at public auction under the direction of the seller. The proceeds of the sale will inure to the buyer after satisfaction of the expense of the sale and deduction of all amounts then owed to the seller. If there are no other bidders at the sale, the seller may bid on the property, and the seller will acquire all rights, both legal and equitable, that any other purchaser could acquire through a sale and purchase.

(d) If any of the buyer's property having an appraised value of \$10,000 or less, as determined by the seller, is not removed within the time allowed, title to that property automatically vests in the seller.

(e) Special provisions. Special provisions applicable to improvements and occupancy under this contract are listed in paragraph 4 of this contract.

7. Inspection.

(a) The seller must be accorded access, at all times, to the sale area and to the books and records of the buyer, the buyer's contractors, and any sub-contractors relating to operations under this contract for purposes of inspection to assure the faithful performance of the provisions of this contract and other lawful requirements.

(b) At all times when construction or operations are in progress, the buyer shall have a representative readily available to the area of operations who is authorized to receive, on behalf of the buyer, any notices and instructions given by the seller in regard to performance under this contract, and to take appropriate action as is required by this contract.

8. Termination and Suspension.

(a) The seller may terminate the buyer's rights under this contract if the buyer breaches the contract and fails to correct this breach within 30 days after written notice of the breach and an opportunity to be heard.

(b) If the buyer fails to comply with any of the provisions of this contract, the seller may shut down the buyer's operations upon issuance of written notice, until corrective action, as specified by the seller in its notice, is taken. If this corrective action is not taken within 30 days after written notice is served upon the buyer, the seller may terminate the contract under paragraph 8(a) of this contract. The buyer's failure to take immediate corrective action when ordered to remedy dangerous conditions or unwarranted damage to natural resources may be corrected by the seller to prevent danger or additional damage. Any cost incurred by the seller as a result of this corrective action, or by the buyer's failure to take corrective action, must be paid by the buyer.

(c) This contract may also be terminated by mutual agreement of both parties on terms agreed to in writing by both parties.

9. Reservations. The seller reserves the right to permit other compatible uses, including the sale of materials, on the land in the sale area if the seller determines that those uses will not unduly impair the buyer's operations under this contract. Under AS 38.05.125 the seller further expressly reserves to itself, and its successors, forever,

(a) all oil, gas, coal, ores, minerals, fissionable materials, geothermal resources, and fossils of every kind, that may be in or upon the land described above, or any part of it;

(b) the right to explore the land for oil, gas, coal, ores, minerals, fissionable materials, geothermal resources, and fossils;

(c) the right to enter by itself or its agents, attorneys, and servants on the land, or any part of it, at any time for the purpose of opening, developing, drilling, and working mines or wells on this or other land and taking out and removing from it all oil, gas, coal, ores, minerals, fissionable materials, geothermal resources, and fossils;

(d) the right by itself or its agents, attorneys, and servants at any time (1) to construct, maintain, and use all buildings, machinery, roads, pipelines, powerlines, and railroads; (2) to sink shafts, drill wells, and remove soil; and (3) to occupy as much of the land as may be necessary or convenient for these purposes; and

(e) generally all rights to and control of the land, that are reasonably necessary or convenient to make beneficial and efficient the complete enjoyment of the property and rights that are expressly reserved.

10. Inclusion of Applicable Laws and Regulations. The buyer shall comply with all laws and regulations applicable to operations under this contract, including the provisions of AS 27.19 and 11 AAC 97 regarding mining reclamation, the provisions of AS 41.15 for wildfire prevention and control, the provisions of AS 38.05.550 - 38.05.565, AS 38.05.810, AS 38.05.872, material sale regulations 11 AAC 71, state fish and game regulations pertaining to the protection of wildlife and wildlife habitat, and state regulations pertaining to safety, sanitation, and the use of explosives. These laws and regulations are, by this reference, made a part of this contract, and a violation of them is cause for termination or suspension of this contract in addition to any penalties prescribed by law. These laws and regulations control if the terms of this contract are in conflict with them in any regard.

11. Assignment. This contract may not be assigned by the buyer without the seller's prior written consent to the assignment.

12. Permits. Any permits necessary for operations under this contract must be obtained by the buyer before commencing those operations.

13. Passage of Title. All right, title and interest in or to any material included in the contract shall

remain in the State until it has been paid for; provided, however, that the right, title and interest in or to any material that has been paid for but not removed from the sale area by the buyer within the period of the contract or any extension thereof as provided for in this contract shall vest in the seller.

14. Expiration and Extension. This contract expires on the date stated at the top of the contract unless an extension is granted by the seller in accordance with 11 AAC 71.210.

15. Warranties. This sale is made without any warranties, express or implied, as to quantity, quality, merchantability, profitability, or fitness for a particular use, of the material to be extracted from the area under contract.

16. Valid Existing Rights. This contract is entered into and made subject to all valid existing rights, including easements, rights-of-way, reservations, or other interests in land, in existence on the date the contract is entered into.

17. Notices. All notices and other writings required or authorized under this contract must be made by certified mail, postage prepaid, to the parties at the following address, and notify the seller promptly of any change in address:

To the Seller:

Alaska Department of Natural Resources Division of Mining, Land and Water
3700 Airport Way
Fairbanks, Alaska 99709-4699

To the Buyer:

18. Integration and Modification. This contract, including all laws and documents that by reference are incorporated in it or made a part of it, contains the entire agreement between the parties.

This contract may not be modified or amended except by a document signed by both parties to this contract. Any amendment or modification that is not in writing, signed by both parties, and notarized is of no legal effect.

19. Severability of Clauses of Sale Contract. If any provision of this contract is adjudged to be invalid, that judgment does not affect the validity of any other provision of this contract, nor does it constitute any cause of action in favor of either party as against the other.

20. Construction. Words in the singular number include the plural, and words in the plural number include the singular.

21. Headings. The headings of the numbered paragraphs in this contract shall not be considered in construing any provision of this contract.

22. "Extracted," "Extraction". In this contract, use of the terms "extracted" and "extraction"

encompasses the severance or removal, as well as extraction, by the buyer of any materials covered by this contract.

23. **Waiver.** No agent, representative or employee of the seller has authority to waive any provision of this contract unless expressly authorized to do so in writing by the director of the Division of Mining, Land and Water.

SAMPLE

BY SIGNING THIS CONTRACT, the State of Alaska, as seller, and the buyer, agree to be bound by its provisions as set out above.

BUYER: _____

SELLER: STATE OF ALASKA

Address:

Director, Division of Mining, Land and Water

Commissioner,
Department of Natural Resources

THIS IS TO CERTIFY that on _____, _____, before me appeared _____, known by me to be the person named in and who executed this Material Sale Contract and acknowledged voluntarily signing it as buyer.

Notary Public in and for the State of Alaska
My commission expires:

THIS IS TO CERTIFY that on _____, ___, before me appeared _____, known by me to be the representative of the Division of Mining, Land and Water, Department of Natural Resources, who executed this Material Sale Contract on behalf of the State of Alaska, Department of Natural Resources, and who is fully authorized by the State to do so.

Notary Public in and for the State of Alaska
My commission expires:

CERTIFICATE OF CORPORATE BUYER
(if applicable)

I, _____, certify that I am the Secretary of the corporation named as buyer in this contract and that _____, who has signed this contract is(was) at the time of signing the contract the _____ of _____ that corporation, and that he(she) did so for and on behalf of the corporation at the direction and by the authority of the corporation's governing body acting within the scope of its corporate powers.

Corporate Seal

Secretary

THIS IS TO CERTIFY that on _____, ___, before me appeared _____
_____, known by me to be the Secretary of the corporation named as buyer in
this contract and who acknowledged voluntarily signing as Secretary of the corporation.

Notary Public in and for the State of Alaska
My commission expires: