

CHUGACH ALASKA CORPORATION  
BOARD OF DIRECTORS  
Resolution 95-05

Tribal Resolution  
Pursuant to P.L. 93-638  
Indian Self-Determination and  
Education Assistance Act.

WHEREAS, Chugach Alaska Corporation (CAC) was organized pursuant to the Alaska Native Claims Settlement Act of 1971 (43 USC 1601 et seq.) and is defined in 4(b) of P.L. 93-638, the Indian Self-Determination and Education Assistant Act, as a Tribe for purposes of receiving benefits under the Settlement Act; and

WHEREAS, the Valdez Native Association (VNA), incorporated under the laws of the State of Alaska, is a non-profit tribal organization for the purpose of enhancing the cultural and tribal unity, customs and traditions of enrollees to the Chugach Region and other Native Americans as well as promoting the socio-economic advancement of tribal members and Native Americans in the spirit of Self-determination;

THEREFORE BE IT RESOLVED, that CAC designates, appoints and authorizes Valdez Native Association as the tribal organization for CAC to apply for, negotiate and receive from the Bureau of Indian Affairs (BIA) and the Indian Health Service (IHS) services, contracts and grants, on behalf of all Chugach enrollees and eligible Alaska Natives residing in the Valdez area.

FURTHER RESOLVED, that Chugach Alaska Corporation requests that Valdez Native Association, through its Tribal Council, seek out and apply for funds from the Bureau of Indian Affairs for Self-Governance Compacting and the Annual Funding Agreement.

FURTHER RESOLVED, that the authority contained in this resolution shall commence immediately.

Dated this 18<sup>TH</sup> day of May, 1995.

  
\_\_\_\_\_  
John Christensen Sr., Chairman

ATTESTED:

  
\_\_\_\_\_  
JoAnn Carr, Assistant Secretary



The foregoing resolution was adopted at a duly convened meeting of the Board of Directors of Chugach Alaska Corporation, a quorum being present this 18<sup>TH</sup> day of May, 1995.

CHUGACH ALASKA CORPORATION  
BOARD OF DIRECTORS  
Resolution 95-06

Tribal Resolution  
Pursuant to P.L. 93-638  
Indian Self-Determination and  
Education Assistance Act.

WHEREAS, Chugach Alaska Corporation (CAC) was organized pursuant to the Alaska Native Claims Settlement Act of 1971 (43 USC 1601 et seq.) and is defined in 4(b) of P.L. 93-638, the Indian Self-Determination and Education Assistant Act, as a Tribe for purposes of receiving benefits under the Settlement Act; and

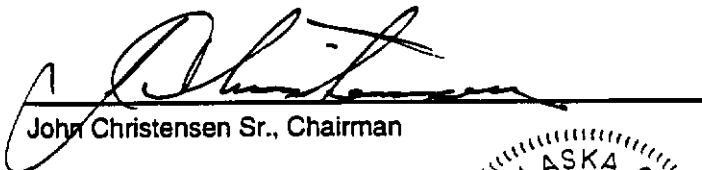
WHEREAS, the Qutekcak Native Tribe (QNT), incorporated under the laws of the State of Alaska, is a non-profit tribal organization for the purpose of enhancing the cultural and tribal unity, customs and traditions of enrollees to the Chugach Region and other Native Americans as well as promoting the socio-economic advancement of tribal members and Native Americans in the spirit of Self-determination;

THEREFORE BE IT RESOLVED, that CAC designates, appoints and authorizes Qutekcak Native Tribe as the tribal organization for CAC to apply for, negotiate and receive from the Bureau of Indian Affairs (BIA) and the Indian Health Service (IHS) services, contracts and grants, on behalf of all Chugach enrollees and eligible Alaska Natives residing in the Seward area.

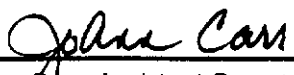
FURTHER RESOLVED, that Chugach Alaska Corporation requests that Qutekcak Native Tribe, through its Tribal Council, seek out and apply for funds from the Bureau of Indian Affairs for Self-Governance Compacting and the Annual Funding Agreement.

FURTHER RESOLVED, that the authority contained in this resolution shall commence immediately.

Dated this 18<sup>TH</sup> day of May, 1995.

  
John Christensen Sr., Chairman

ATTESTED:

  
JoAnn Carr, Assistant Secretary



The foregoing resolution was adopted at a duly convened meeting of the Board of Directors of Chugach Alaska Corporation, a quorum being present this 18<sup>TH</sup> day of May, 1995.

**COMPACT OF SELF-GOVERNANCE**  
**BETWEEN**  
**CHUGACHMIUT, INC.**  
**AND**  
**THE UNITED STATES OF AMERICA**

**ARTICLE I - AUTHORITY AND PURPOSE**

**Section 1 - Authority.**

This agreement, denoted a Compact of Self-Governance (hereinafter referred to as the "Compact"), is entered into by the Secretary of the Interior (hereinafter referred to as the "Secretary"), for and on behalf of the United States of America pursuant to the authority granted by Title IV of the Indian Self Determination and Education Assistance Act, P.L. 93-638, as amended, (hereinafter referred to as "P.L. 93-638, as amended") and Chugachmiut, Inc. (hereinafter referred to as the "Signatory"), for and on behalf of certain federally recognized Alaska Native tribes identified in Attachment 1, acting jointly, pursuant to authorizing resolutions adopted by their tribal councils under the respective constitutions, traditional practices, and other enabling authorities of such tribes.

**Section 2 - Purpose.**

This Compact shall be liberally construed to achieve its purposes:

(a) This compact is to carry out Self-Governance as authorized by Title IV of P.L. 93-638, as amended, which built upon the Self Governance Demonstration Project, and transfers control to tribal governments, upon tribal request, over funding and decision-making of federal programs, services, functions, and activities as an effective way to implement the federal policy of government-to-government relations with Indian tribes.

(b) This Compact is to enable the Signatory to redesign programs, activities, functions, and services of the Bureau of Indian Affairs; to reallocate funds for such programs, activities, functions, or services according to tribal priorities; to provide such programs, activities, functions and services as determined by tribal priorities; to enhance the effectiveness and long term financial stability of tribal governments; to plan, conduct, consolidate, and administer programs, services, functions, and activities, or portions thereof, administered by the Department of the Interior, other than through the Bureau of Indian Affairs, to the extent as provided in the annual funding agreement applicable to such non-BIA program, service, function, or activity; and to reduce the federal bureaucracy.

(c) This Compact is to enable the United States to maintain and improve its unique and continuing relationship with and responsibility to the Signatory and the participating tribes through tribal self-governance, which will allow such tribes to: take their rightful place in the family of governments in the

federal constitutional system; remove federal obstacles to effective self-governance; reorganize tribal government programs and services; achieve efficiencies in service delivery; and provide a documented example for the development of future Federal Indian policy. This policy of tribal self-governance shall permit an orderly transition from federal domination of programs and services to allow Indian tribes meaningful authority to plan, conduct, and administer those programs and services to meet the needs of their people. To implement Self-Governance, the Department of the Interior is expected to reorganize to provide the same level of service to other tribal governments and to demonstrate new policies and methods to improve service delivery and address tribal needs. In fulfilling its responsibilities under the Compact, the Secretary hereby pledges that the Department will conduct all relations with the participating tribes on a government-to-government basis, recognizing that such tribes may act collectively through the Signatory.

Section 3 - Choice of Law and Forum.

The Signatory functions as a regional consortium of tribes and contains multiple tribal jurisdictions within its service area. Accordingly, this Compact shall be governed by federal law, or to the extent applicable, tribal law. The policies and procedures of the Signatory shall be applied in the execution of this Compact and the decisions of its board of directors shall be respected, to the extent that federal law, construed in accordance with the applicable canons of construction and Title

IV of P.L. 93-638, as amended, is not inconsistent. Disputes between the Signatory and any participating tribe or individual may be referred to a tribal court upon agreement by all parties to the dispute, in which case tribal law shall apply to the extent that federal law is not inconsistent.

**Section 4 - Definitions.**

(a) **Compact Programs.** In this document "Compact programs" or "Compact functions" refer to the programs, activities, functions, and services included in the Annual Funding Agreement incorporated to this agreement as Attachment 3, and any subsequent funding agreements or amendments thereto.

(b) **Participating Tribe.** Participating tribes are tribes which have executed the necessary authorizing resolutions for this Compact and receive services under this Compact. See Attachments 1 and 2.

(c) **Subrecipient Tribe.** A subrecipient tribe is a participating tribe which enters into an agreement with the Signatory to receive pass-through money to directly operate Compact programs or portions of programs.

(d) **Secretary.** In this Compact "Secretary" refers to the Secretary of Interior and to any authorized representative of the Secretary of Interior.

**ARTICLE II - TERMS, PROVISIONS AND CONDITIONS**

**Section 1 - Term and Tribal Resolutions.**

(a) **Term.** The term of this Compact begins October 1, 1995 and shall extend thereafter for so long as authorized by federal law, or until ended by mutual agreement of the Secretary and the Signatory. The withdrawal of one or more participating tribes from the Compact shall not effect its validity in regard to the remaining tribes.

(b) **Tribal Resolutions.** Tribes which intend to participate in this Compact and the applicable Annual Funding Agreement for F.Y. 1996 must have issued written authorizing resolutions (see attachment 2).

**Section 2 - Effective Date.**

This Compact shall be effective when signed by the Secretary or an authorized representative and the Signatory. The Annual Funding Agreement required by Title IV of P.L. 93-638, as amended, and this Compact shall be signed by the Signatory and the Secretary or an authorized representative and be forthwith submitted to the Committee on Indian Affairs of the United States Senate, the Committee on Natural Resources of the United States House of Representatives and to the tribes served by the Anchorage Agency, and shall be effective ninety days after such submission, unless otherwise provided by law. Successor Annual Agreements shall be likewise submitted.

**Section 3 - Funding Amount.**

Subject only to the appropriation of funds by the Congress of the

United States and to adjustments pursuant to Section 403(g) of P.L. 93-638, as amended, the Secretary or an authorized representative shall provide the Signatory the total amount specified in the Annual Funding Agreement incorporated by reference as Attachment 3.

**Section 4 - Payment.**

Payments shall be made as expeditiously as possible in compliance with applicable Treasury Department regulations and shall include financial arrangements to cover funding during periods under continuing resolutions to the extent permitted by such resolutions. To the extent authorized by law, for each fiscal year covered by the Compact, the Secretary will pay to the Signatory the funds specified for that fiscal year by the Annual Funding Agreement, in advance, in the form of an annual payment, by using an instrument such as a letter of credit, or other method authorized by law, or a combination thereof, as may be specified in the Annual Funding Agreement. Each annual payment shall be made on or before ten calendar days of the date on which the Office of Management and Budget apportions the appropriations for that fiscal year for the programs, activities, functions and services subject to the Compact.

**Section 5 - Reports to Congress.**

In order to implement section 405 of P.L. 93-638, as amended, on each January 1 throughout the period of the Compact, the Secretary shall make a written report to the Congress, which shall separately include the views of the Signatory and the



participating tribes concerning the matters encompassed by Section 405(b) and (d).

Section 6 - Audits.

(a) The Signatory shall provide to the Secretary an annual single organization-wide audit as prescribed by the Single Audit Act of 1984, 31 U.S.C. § 7501, et seq., and shall adhere to generally accepted accounting principles and Circular A-128 of the Office of Management and Budget as follow:

(i) The costs of this Compact consist of the direct and support costs, including indirect costs, actually incurred in the performance of this Compact, determined in accordance with the cost principles set forth in the OMB Circular A-87 or OMB Circular A-122, whichever is appropriate, in effect as of October 1, 1995; provided, however, that if the Office of Management and Budget revises any provisions of such Circulars:

1. The revisions shall not apply to the Compact unless agreed to by the Signatory or until the Secretary determines their applicability as provided below.

2. The Secretary shall immediately review the revisions in consultation with the Signatory to determine if the revisions are detrimental to the self-governance project or inconsistent with the

intent of the Act.

3. If it is determined that the revisions are neither detrimental nor inconsistent with the intent of the Act, the Secretary will amend this Compact to include those revisions.

(ii) Section 106(k) of P.L. 93-638, as amended, allows the Signatory to expend funds provided under this Compact for the following purposes:

(1) Depreciation and use allowances not otherwise specifically prohibited by law, including the depreciation of facilities owned by the Signatory.

(2) Publication and printing costs.

(3) Building, realty, and facilities costs, including rental costs or mortgage expenses.

(4) Automated data processing and similar equipment or services.

(5) Costs for capital assets and repairs.

(6) Management studies.

(7) Professional services, other than services provided

in connection with judicial proceedings by or against the United States.

(8) Insurance and indemnification, including insurance covering the risk of loss of or damage to property used in connection with the contract without regard to the ownership of such property.

(9) Costs incurred to raise funds or contributions from non-Federal sources for the purposes of furthering the goals and objectives of this Compact.

(10) Interest expenses paid on capital expenditures such as buildings, building renovation, or acquisition or fabrication of capital equipment, and interest expenses on loans necessitated due to delays by the Secretary in providing funds under the Compact.

(11) Expenses of the governing body of the Signatory that are attributable to the management or operation of programs under this Compact.

(12) Costs associated with the management of pension funds, self-insurance funds, and other funds of the Signatory that provide for participation by the federal government.

(b) No other audit or accounting standards, except as specified

in Article IV, Section 2, shall be required by the Secretary of the Signatory. To the extent that tribal law is not inconsistent, small and minority business audit firms shall be afforded maximum practical opportunity to participate in fulfilling the requirements herein. The preference requirements of P.L. 93-638, as amended, Section 7(b) shall apply to such audits pursuant to Section 2 of Article V of this Compact.

Section 7 - Records.

The following provisions will supplement the Signatory's policies or laws on document disclosure and will govern record keeping associated with this Compact.

(a) Except for previously provided copies of tribal records that the Secretary demonstrates are clearly required to be maintained as part of the record keeping system of the Department of the Interior, tribal records shall not be considered federal records for purposes of Chapter 5 of Title 5, United States Code.

(b) The Signatory shall maintain a record keeping system, and provide the Secretary reasonable access to records, to enable the Department of the Interior to meet its minimum legal record keeping program requirements under the Federal Records Act, 44 U.S.C. § 3101, et seq., and to allow for retrocession of this Compact in whole or in part pursuant to Section 13 of this Article.

(c) The Signatory shall maintain in its record keeping system all documents necessary for the annual audit requirement in Section 6 of this Article, and shall provide reasonable access to records to the Secretary.

Section 8 - Property.

(a) **In general.** At the request of the Signatory or a subrecipient tribe the Secretary shall make available, or transfer to the Signatory or subrecipient tribe, all reasonably divisible real property, facilities, equipment, and personal property that the Department had previously utilized to provide the programs, activities, functions and services covered by the Signatory's or subrecipient's portion of the Compact. A mutually agreed upon list specifying the property, facilities and equipment so furnished shall also be prepared and periodically revised so that such property can be properly recorded in the Bureau of Indian Affairs Property Inventory.

(b) **Records.** The Signatory and subrecipient tribes shall maintain a record of all property referred to in subparagraph (a), or other property acquired under this Compact, for purposes of replacement.

(c) **Joint Use Agreement.** Upon the request of the Signatory or a subrecipient tribe, the Secretary and the Signatory or subrecipient shall enter into a separate joint use agreement to address the shared use by the parties of real or personal

property that is not reasonably divisible.

(d) **Acquisition of property.** The Signatory and subrecipient tribes are granted the authority to acquire such surplus or excess property as may be appropriate in the judgment of the Signatory or subrecipient tribe to support the programs, activities, functions, or services of this Compact.

(e) **Confiscated or excess property.** The Secretary shall assist the Signatory and subrecipient tribes in obtaining such confiscated or excess property as may become available to tribes, tribal organizations, or local governments.

(f) **Screening identification card.** Upon request, a screening identification card (General Administration Form 2946) shall be issued to the Signatory and to subrecipient tribes within 30 days of the request. The Designated Official shall, upon request, assist the Signatory and subrecipient tribes in securing the use of the cards.

(g) **Capital equipment.** The Signatory or subrecipient tribe shall determine the capital equipment, leases, rentals, property or services required to perform its obligations under this Compact and shall acquire and maintain records of such capital equipment, property rentals, leases, property or services through their applicable procurement procedures.

(h) **Replacement of property.** Property and equipment furnished by

the federal government for use in the performance of the Compact and annual funding agreement or purchased with funds under any funding agreement that is utilized by the Signatory or a subrecipient tribe in the performance of the Compact shall remain eligible for replacement, improvement and repair to the same extent as if title to such property was vested in the United States.

(i) **Reversion of title.** Title to property and equipment furnished by the federal government for use in the performance of this Compact and any annual funding agreement or which was purchased with funds provided under this Compact and any annual funding agreement which has a value in excess of \$5,000 at the time of retrocession, rescission, or termination of the funding agreement, and is not donated, shall, at the option of the Secretary, revert to the United States.

(j) **Leasing of facilities.** Upon the request of the Signatory or a subrecipient tribe the Secretary shall enter into a lease with the Signatory or subrecipient tribe for facilities owned by the Signatory or subrecipient tribe and used in performance of Compact programs, in accordance with Section 105 (1) of P.L. 93-638, as amended.

**Section 9 - Savings.**

If it becomes apparent that funds allocated by the Signatory pursuant to its budget process to any Compact activity as defined in the Annual Funding Agreement are in excess of that needed for

such activity, the Signatory may reallocate that excess to any other activity under this Compact. Any funds not expended during the term of any of the fiscal years of this Compact may be carried over to the succeeding fiscal year, and such carry-over shall not diminish the amount of funds that the Signatory is authorized to receive in that succeeding fiscal year or in any subsequent fiscal year.

**Section 10 - Federal Supply Sources.**

Federal supply sources (including lodging, airline transportation, and other means of transportation including the use of the Interagency Motor Pool vehicles) shall be available to the Signatory and to their employees to the same extent as if the Signatory was a federal agency.

**Section 11 - Regulatory Authority.**

The Secretary and the Signatory will utilize the following procedures governing the establishment and application of regulations under this Compact:

(a) Program Guidelines. The Signatory is not required to abide by federal program guidelines, manuals, policy directives, etc. except those they specifically agree to. The Signatory may adopt its own guidelines to be used in place of existing federal guidelines. However, if the Signatory replaces federal guidelines it shall give written notice to the Designated Official.



(b) Federal Regulations. The Signatory will abide by all federal regulations as published in the Federal Register unless waived in accordance with Section 403(i)(2) of P.L. 93-638, as amended.

(c) In order to put to good use the Secretary's waiver authority as authorized by Section 403(i)(2) of P.L. 93-638, as amended, the Secretary will expedite the waiver of any federal regulations which the Secretary or the Signatory determine presents an obstacle to carrying out the Compact and Annual Funding Agreement, their purposes, and the programs, activities, functions, and services pursuant to the Compact, under the following procedures:

(i) if at any time the Signatory determines that one or more specific federal regulations should be waived to more effectively carry out the Compact or Annual Funding Agreement, the Signatory may submit a written request for waiver to the Designated Official, identifying the regulation sought to be waived and the basis for the request.

(ii) Not later than 60 days after receipt by the Designated Official of a written request to waive application of a federal regulation for any funding agreement, the Secretary shall either approve or deny the requested waiver in writing to the Signatory. A denial of a request may be made only upon a specific finding by the Secretary that identified language in the regulation may not be waived because such waiver is prohibited by federal law.

The Secretary's decision shall be final for the Department.

Section 12 - Disputes.

(a) Section 110 of P.L. 93-638, as amended, shall apply to disputes under this Compact and any annual funding agreement.

(b) In addition or as an alternative to remedies and procedures prescribed by Section 110 of P.L. 93-638, as amended, the parties jointly may:

(i) Submit disputes under this Compact to third-party mediation, which for purposes of this Section means that each party to the dispute nominates third parties who together choose a third party mediator ("third-party" means a person not employed by or significantly involved with either the Signatory, the tribe, if applicable, or the Secretary or the Department of the Interior); or

(ii) Submit the dispute to the tribal court of a participating tribe; or

(iii) Submit the dispute to mediation processes provided for under the policies and procedures of the Signatory or tribe.

(iv) The Secretary shall accept decisions reached by the mediation processes or the tribal court, but shall not be bound by any decision which might be in conflict with the interests of the Native Americans being served or of the

United States.

Section 13 - Compact Participation and Retrocession.

(a) **Additional Tribes.** The tribes choosing to participate in this Compact may change from time to time. Additional tribes may participate by adopting an appropriate authorizing resolution delegating authority to the Signatory. Such additions to the Compact shall be effective at the beginning of the fiscal year provided that the tribe's authorizing resolution is given to the Signatory at a date early enough to be accommodated during Annual Funding Agreement negotiations. A different effective date may be mutually agreed between the Signatory, the tribe, and the Secretary.

(b) **New Co-Signers.** A tribe which meets the eligibility criteria of Section 402 of P.L. 93-638, as amended, may be added to this Compact as a co-signer, subject to board approval by the Signatory, and provided that it independently establishes its eligibility with the Secretary and that it notifies the Secretary and the Signatory of its intent to join the Compact as a co-signer at a date early enough to be accommodated during Annual Funding Agreement negotiations.

(c) **Retrocession.** The retrocession provision of Section 105(e) of P.L. 93-638, as amended, and any regulations thereunder, shall apply to this Compact. When a retrocession is due to a participating tribe rescinding the authority of the Signatory to

compact for that tribe, in whole or in part, the transitional amounts, the effective retrocession date and other transitional matters shall be negotiated jointly among the tribe, the Signatory, and, on behalf of the Secretary by the Area Director and the Secretary's Designated Official or their representatives.

**Section 14 - Tribal Administrative Procedure.**

Tribes shall provide administrative due process rights pursuant to those of the Indian Civil Rights Act of 1968, 25 U.S.C. § 1301, et seq., and the Signatory shall provide administrative due process rights, that persons, or groups of persons, may have with respect to services, activities, programs, and functions that are provided pursuant to this Compact.

**Section 15 - Successor Annual Agreement.**

Negotiations for a successor to the Annual Funding Agreement, as provided for in Article VI, Section 3, shall begin no later than 120 days in advance of the conclusion of the preceding Annual Agreement. Pursuant to Sections 403(b) and (g) and Section 404 of P.L. 93-638, as amended, the Secretary shall make best efforts to continue and to promote self governance in preparing his/her budgets for subsequent years. Funding for successor agreements shall only be reduced pursuant to the provisions of Section 106(b) of P.L. 93-638, as amended. The Secretary or an authorized representative agrees to prepare and supply relevant information, and to promptly comply with the Signatory's requests for information reasonably needed to determine the funds that may be available for successor Annual Funding Agreements.

Section 16 - Secretarial Review of Contracts.

(a) Every contract entered into by the Signatory in connection with a program, activity, function, or service encompassed by this compact, shall be in writing, identify the interested parties, their authorities and purposes, state the work to be performed, the basis for any claim, the payments to be made, and the term of the contract which shall be fixed. Contracts which comport with the requirements of this section but which might be void without Secretarial approval under 25 U.S.C. § 81, shall be expeditiously reviewed by the Secretary under the following procedure:

(i) if at any time the Signatory determines that a contract may be subject to 25 U.S.C. § 81, the Signatory may submit a written request for approval to the Designated Official, and the Secretary shall render a written decision within thirty days of receipt of the request.

(ii) If the Secretary determines that 25 U.S.C. § 81 does not apply, he/she shall proceed to review the contract and shall make a determination indicating that he/she would not wish his/her view of 25 U.S.C. § 81 to subject the contract to an assertion it is null and void and, not wishing to disrupt legitimate contracting activity, has accommodated the Signatory or tribe by reviewing and approving (or disapproving) the contract.

(iii) For the period that an agreement entered into under

Title IV of P.L. 93-638, as amended, is in effect, the provisions of section 2103 or the Revised Statutes of the United States (25 U.S.C. 81) and section 16 of the Act of June 18, 1934 (25 U.S.C. 476), shall not apply to attorney and other professional contracts of the Signatory.

**Section 17 - Matching Funds.**

All funds provided under this Compact and any Annual Funding Agreement entered into pursuant to Title IV of P.L. 93-638, as amended, and all funds provided under contracts or grants made pursuant to P.L. 93-638, as amended, shall be treated as non-federal funds for purposes of matching requirements under any federal law.

**ARTICLE III - OBLIGATION OF THE SIGNATORY**

**Section 1 - Consolidation.**

With the exception of the specific responsibilities of the United States identified and retained in Article IV, Section 3, and the programs, activities, functions, and services identified in Section 403(b)(4) of P.L. 93-638, as amended, the Signatory will perform the programs, activities, functions and services as provided in the Annual Funding Agreement incorporated into this Compact as Attachment 3, and any subsequent Annual Funding Agreement. To the extent a program, activity, function, or service included within the Annual Funding Agreement was included within a contract or grant previously entered into by the

Signatory pursuant to P.L. 93-638, as amended, or is subject to any obligation arising from such contract or grant, that contract or grant is terminated and the parties' obligations shall be governed by this Compact.

**Section 2 - Amount of funds.**

The total amount of funds that the Secretary shall make available to the Signatory for the performance of its obligations under this Compact shall be established in an Annual Funding Agreement negotiated between the Secretary and the Signatory and incorporated into this Compact as Attachment 3.

**Section 3 - Compact Programs.**

The Signatory agrees to provide the programs, activities, functions, and services that are identified in the Annual Funding Agreement; provided that the Signatory may consolidate, redesign, and reallocate funds for such programs, activities, functions and services pursuant to Article I, Section 2. The Signatory pledges to practice utmost good faith in upholding their responsibility to provide such programs, activities, functions and services.

**Section 4 - Trust Services for Individual Natives.**

To the extent that the Annual Funding Agreement endeavors to provide trust services to individual Alaska Natives that were formerly provided by the Secretary, the Signatory will maintain at least the same level of service as was previously provided by the Secretary. The Signatory pledges to practice utmost good faith in upholding their responsibility to provide such service.

Trust Services for individual Alaska Natives means only services that pertain to land or financial management connected with restricted Native allotments and townsite parcels.

Section 5 - Reallocation.

Reallocation of funds from one program, activity, function, or service to another within a General Budget Category, or from one General Budget Category to another shall be governed by the internal procedures and policies of the Signatory and shall not require Secretarial consent. In the event a reallocation involves 30% or more, on a cumulative annual basis, of funds for a physical resource trust or trust fund management function performed by the Signatory, the Signatory shall provide notice to the Designated Official, together with an explanation of how the trust function will continue to be fulfilled.

**ARTICLE IV - OBLIGATIONS OF THE UNITED STATES**

Section 1 - Trust Responsibility.

The United States reaffirms its trust responsibility to protect and preserve the trust resources of the participating tribes and of individual Alaska Natives. Nothing in this Compact is intended to, nor should be interpreted, to terminate, waive, modify, diminish or reduce the trust responsibility of the United States to the tribes or individual Alaska Natives. The Secretary pledges to practice utmost good faith in upholding said trust responsibility.



Section 2 - Trust Evaluations.

Pursuant to Section 403(d) of P.L. 93-638, as amended, the United States shall monitor through annual trust evaluations the trust functions performed by the Signatory pursuant to the Annual Funding Agreement.

Further, the United States shall reassume any programs, services, function, or activity, or portions thereof, if there is a finding of imminent jeopardy to a physical trust asset, natural resource, or to public health and safety.

In the absence of a definition of imminent jeopardy pursuant to negotiated rulemaking, imminent jeopardy shall mean significant devaluation and/or loss of a physical trust asset or natural resource or the intended benefit from such trust asset or resource; or significant diminishment of public health and safety caused by the tribe's action or inaction.

Evaluations shall not be burdensome and shall be conducted on a cost effective basis.

(a) For purposes of this section, a Trust Evaluation will entail a determination that trust functions assumed by the Signatory are carried out in compliance with all applicable laws and regulations, unless a regulation waiver has been approved in accordance with section 403(i)(2)(A), as may be verified through:

- (1) A review of transactions.

- (2) On-site inspections of those trust resources.
- (3) Any other criteria, processes, or appropriate practices as may be negotiated in the Annual Funding Agreement.

(b) Information and analysis obtained by such evaluations shall be immediately provided to the Signatory's designated representative.

(c) If the United State's Designated Official makes findings which indicate a risk of imminent jeopardy, the Designated Official shall immediately notify the Signatory of the specific concerns.

(d) Unless there is imminent jeopardy, the United States shall not take back the responsibility for management of that program, service, function, or activity, or portion thereof. If, however, resources are available, the United States will provide appropriate assistance to the Signatory to enable the protection and conservation of physical trust assets, natural resources and preservation of health and safety.

(d) If there is imminent jeopardy, as defined in this Section, the United States shall, upon two (2) days advance written notice to the Signatory, immediately take over the responsibility for the management of such endangered physical trust asset, natural resource, or public health and

safety function, and may use a reasonable portion of funds remaining for such program for that purpose, notwithstanding any other provisions of this Compact.

**Section 3 - Programs Retained.**

As specified in the Annual Funding Agreement, the United States hereby retains the programs, services, functions, and activities with respect to the participating tribes that are not specially assumed by the Signatory in the Annual Funding Agreement. The Secretary agrees that a Program Outcome Evaluation may be performed by a Compact Evaluation Teams, which shall consist of one representative of the Secretary, and one representative of the Signatory, annually as to each program, activity, function, or service which is retained by the United States pursuant to this Section. Evaluations shall not be burdensome and shall be conducted on a cost effective basis. The findings and recommendations of the Evaluation Team shall be reported to the Signatory and the Secretary.

**Section 4 - Financial and other Information.**

The Signatory and participating tribes shall be eligible for new programs, activities, services and functions on the same basis as other tribes, and the Secretary shall advise the participating tribes and the Signatory of the funding available for such programs. The Secretary shall provide the Signatory and the participating tribes with:

- (a) monthly copies of Bureau of Indian Affairs' Status of Obligations reports of the Central Office concerning Juneau

Area obligations, or in the event a new reporting system is implemented by the BIA, the closest equivalent report; and

(b) monthly Status of Obligations reports by the Area Office concerning programs, activities, functions and services performed in the Juneau Area which are comparable to those performed by the Signatory under this Compact; and

(c) revisions in such program plans, guidelines or budgets as they are made.

Responses providing other information which may be requested by the Signatory shall be made within ten working days.

#### ARTICLE V - OTHER PROVISIONS

##### Section 1 - Designated Official .

The Designated Official for the United States Department of Interior shall be the Director of the Office of Self-Governance. On or before the effective date of this Compact, the Signatory shall provide the Director of the Office of Tribal Self-Governance with a written designation of its representative liaison official for notices, proposed amendments to this Compact, and other purposes under this Compact.

##### Section 2 - Native Preference in Employment, Contracting and Subcontracting.

The Native preference in employment, contracting and

subcontracting provisions of Section 7(b) of P.L. 93-638, as amended, shall apply to the Signatory in the performance of its obligations under this Compact and the Annual Funding Agreement, except that pursuant to Section 7(c) of P.L. 93-638, as amended, the tribal law of a tribe shall govern the provision of Native preference for Compact programs administered by such tribes. Section 104 of P.L. 93-638, as amended, shall apply to individuals who leave federal employment for tribal employment.

**Section 3 - Insurance and Federal Tort Claims Act.**

The Signatory shall be fully covered by such liability insurance or equivalent coverage that the Secretary provides or obtains pursuant to Section 102(c) of P.L. 93-638, as amended.

Additionally, the Signatory and their employees shall be fully covered by all liability coverage under the Federal Tort Claims Act to the same extent as P.L. 93-638 contractors.

**Section 4 - Compact Modifications or Amendments.**

To be effective any modification of this Compact shall be in the form of a written amendment to the Compact, and shall require the written consent of the Signatory and the United States.

**Section 5 - Construction.**

In the implementation of this Compact the Secretary, to the extent feasible, shall interpret Federal laws and regulations in a manner that facilitates this Compact in accordance with Section 403(i) of P.L. 93-638, as amended.

**Section 6 - Officials Not To Benefit.**

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of any contract executed pursuant to this Compact, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to any contract under this Compact if made with a corporation for its general benefit.

**Section 7 - Covenant Against Contingent Fees.**

The parties warrant that no person or selling agency has been employed or retained to solicit or secure any contract executed pursuant to this Compact upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul any contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

**Section 8 - Penalties.**

The parties agree that the criminal penalties set forth in 25 U.S.C. 450d apply to all activities conducted pursuant to this Compact.

**Section 9 - Mature Contractor Status upon Compact Termination:  
Effective Date**

Should the Signatory elect to convert all or some of the programs operated under the Compact to Title I ISDA contract status such conversion shall not effect the Signatory's status as a mature contractor. Conversion to mature contract status will be effective at the beginning of the next fiscal year unless another effective date is mutually agreed upon by the Signatory and the Secretary.

Section 10 - Sovereign Immunity.

Nothing in this Compact or any Annual Funding Agreement shall be construed to affect the sovereign immunity of any Participating Tribe.

Section 11 - Severability

This Compact shall not be considered invalid, void, or voidable if any section or provision of this document is found to be invalid or unlawful by a court of competent jurisdiction. The parties hereto agree to amend, revise or delete such invalid or unlawful section or provision.

Section 12 - Wage and Labor Standard.

The parties agree that the wage and labor provisions set forth in Section 7(a) of P.L. 93-638, as amended, apply to all laborers and mechanics employed by contractors or subcontractors (excluding tribes and tribal organizations) in the construction, alteration, or repair, including the repainting or redecorating of buildings or other facilities in connection with this Compact.

Section 13 - Non-BIA Programs. Subject to the provisions of the regulations to be promulgated pursuant to Section 407 of P.L. 93-638, as amended, the administration of programs, services, functions or activities of Section 403 (b) (2), (b) (3), and (c) of P.L. 93-638, as amended, shall be controlled by the terms of the applicable annual funding agreements.

#### ARTICLE VI - ATTACHMENTS

Section 1 - List of Participating Tribes.

A list of initial Participating Tribes for this Compact is incorporated by reference into this Compact as Attachment 1.

Section 2 - Tribal Resolutions.

The resolutions of the participating tribes authorizing this Compact and delegating the compacting authority to the Signatory are incorporated by reference into this Compact as Attachment 2.

Section 3 - Annual Funding Agreement.

The negotiated and approved Annual Funding Agreement with respect to this Compact identifying those programs, services, functions and activities to be performed, the general budget categories assigned, and the funds to be provided, is incorporated by reference into this Compact in its entirety as Attachment 3. Successor Annual Funding Agreements shall be negotiated annually pursuant to Article II, Section 15. This Compact shall be in effect only during the term of any such Annual Funding Agreement.



DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1995.

CHUGACHMIUT, INC.

BY

*AW 2*

THE UNITED STATES OF AMERICA, DEPARTMENT OF THE  
INTERIOR

BY

*Ada E. Heer*

**CHUGACHMIUT COMPACT**

**ATTACHMENT #1**

**Section 1 - List of Participating Tribes:**

- \*Chenega Bay**
- \*Eyak (Cordova)**
- \*Nanwalek**
- \*Port Graham**
- \*Qutekcak (Seward)**
- \*Tatitlek**
- \*Valdez**

# CHUGACHMIUT COMPACT

## ATTACHMENT #2

### Section 2 - Tribal Resolutions:

Chenega Bay	Res. No. 95-07
Eyak (Cordova)	Res. No. 95-3-17
Nanwalek	Res. No. 95-01
Port Graham	Res. No. 95-07
Qutekcak (Seward)	Res. No. 95-06
Tatitlek	Res. No. 95-09
Valdez	Res. No. 95-05

# ALASKA TRIBAL HEALTH COMPACT

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# ALASKA TRIBAL HEALTH COMPACT

BETWEEN

CERTAIN ALASKA NATIVE TRIBES

AND THE

UNITED STATES OF AMERICA

OCTOBER 1, 1994

AMENDED AND RESTATED — OCTOBER 1, 1995

*This Compact of Self-Governance, which under Title III of Public Law No. 93-638, as amended, became effective October 1, 1994, and is amended and restated effective October 1, 1995, is made and entered into by and between the Secretary of Health and Human Services, of the United States of America, represented by the Director of the Indian Health Service, and certain Alaska Native Tribes recognized by the United States acting collectively, as set forth in Exhibit A. This Compact is entered into under the Self-Governance Demonstration Project which authorizes the Secretary to enter into Compacts and Annual Funding Agreements with the governing bodies of participating Tribal governments. The Secretary has delegated the authority to enter into this compact and annual funding agreements to the Director, Indian Health Service (IHS). This Compact reflects the unique tribal cooperation that has developed in Alaska to assure that all Alaska Natives have access to a comprehensive, integrated, tribally controlled health care delivery system. The parties are committed to ensuring that the essential statewide functions of the Alaska Native Medical Center in Anchorage remain intact, whether operated by the Indian Health Service or by Alaska Native Tribes recognized by the United States.*

WITNESSETH:

WHEREAS, the Alaska Native people have governed themselves and lived in the area known as Alaska since time immemorial;

WHEREAS, federally recognized tribal governments in the State of Alaska

“ . . . have the same governmental status as other federally acknowledged Indian tribes by virtue of their status as Indian tribes with a government-to-government relationship with the United States; are entitled to the same protection, immunities, privileges as other acknowledged tribes; have the right, subject to general principles of Federal Indian law, to exercise the same inherent and delegated authorities available to other tribes; and are subject to the same limitations imposed by law on other tribes;”

*(Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs, 58 Fed. Reg. 54364 (October 21, 1993));*

WHEREAS, for the purposes of ensuring that all Alaska Natives and America Indians in Alaska can receive the services provided by the Federal Government through an Alaska Native provider, the Congress has defined the term, “Indian Tribe,” to mean:

“ . . . any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.”

*(Indian Self-Determination and Education Assistance Act, as amended, 25 U.S.C. § 450b(e));*

WHEREAS, to prioritize between the entities eligible to authorize contracting under the Indian Self-Determination and Education Assistance Act, as amended, the Indian Health Service has established in the Alaska Area the following order of preference:

“If there is an Indian Reorganization Act (IRA) Council, and it provides governmental functions for the village, it will be recognized.

“If there is no IRA Council, or it does not provide governmental functions, then the traditional village council will be recognized.

“If there is no IRA Council and no traditional village council, then the village profit corporation will be recognized.

“If there is no IRA Council, no traditional village council, and no village profit corporation, then the regional profit corporation will be recognized for that particular village.”

*(Alaska Area Guidelines for Tribal Clearances for Indian Self-Determination Contracts, 46 Fed. Reg. 27178);*

WHEREAS, the United States of America has recognized certain entities in Alaska as American Indian Tribes for purposes of the Indian Self-Determination and Education Assistance Act (*See 25 U.S.C. § 450b(e); Indian Entities Recognized and Eligible To Receive Services from the United States Bureau of Indian Affairs, 58 Fed. Reg. 54364 (October 21, 1993); and Alaska Area Guidelines for Tribal Clearances for Indian Self-Determination Contracts, 46 Fed. Reg. 27178,*) (hereinafter “the Tribes”);

WHEREAS, certain Tribes of Alaska have formed and authorized certain Tribal Organizations pursuant to 25 U.S.C. § 450b(l) for the purpose of providing health care to Alaska Natives and to contract with the Indian Health Service and other federal and non-tribal agencies for such purpose



as well as to provide health care to the other residents of their respective service areas, as permitted by § 813 of the Indian Health Care Improvement Act, as amended, or other applicable law;

WHEREAS, the Congress has declared its commitment to the maintenance of the Federal Government's unique and continuing relationship with, and responsibility to, Alaska Native and American Indian Tribes and to the Alaska Native and American Indian people as a whole through the establishment of a meaningful Indian self-determination policy which will permit an orderly transition from the federal domination of programs for, and services to, Alaska Natives and American Indians to effective and meaningful participation by the Alaska Native and American Indian people in the planning, conduct, and administration of those programs and services, 25 U.S.C. § 450a(b);

WHEREAS, the Congress has declared its commitment to supporting and assisting Alaska Native and American Indian Tribes in the development of strong and stable tribal governments, capable of administering quality programs and developing the economies of their respective communities, 25 U.S.C. § 450a(b);

WHEREAS, Federal health services to maintain and improve the health of the Indians and Alaska Natives are consonant with and required by the Federal Government's historical and unique legal relationship with, and resulting responsibility to, the American Indian and Alaska Native people, 25 U.S.C. § 1601(a);

WHEREAS, the Congress has declared that it is the policy of the United States, in fulfillment of its special responsibilities and legal obligations to the American Indian and Alaska Native people, to meet the national goal of providing the highest possible health status to Indians and Alaska Natives and to provide existing Indian health services with all resources necessary to effect that policy, 25 U.S.C. § 1602(a);

WHEREAS, under authority from the Tribes, certain Tribal Organizations in Alaska have provided health services for many years under self-determination contracts with the Indian Health Service and have been recognized by the Indian Health Service as tribally-operated service units;

WHEREAS, in furtherance of the federal policy of Alaska Native and American Indian tribal self-determination, Congress has directed the Secretary of Health and Human Services (hereinafter the "Secretary") to conduct a demonstration project known as the Tribal Self-Governance Project under Title III of the Indian Self-Determination and Education Assistance Act, P.L. 100-472, as amended, (hereinafter "Title III");

WHEREAS, Congress, in Title III, has authorized the Secretary to negotiate and implement a Compact of Self-Governance and Annual Funding Agreements with the governing bodies of participating Tribal governments of qualified Alaska Native and American Indian Tribes that have completed a planning activity;

WHEREAS, Congress has directed that the Annual Funding Agreements, which the Secretary negotiates with Alaska Native and American Indian tribes, shall authorize the Tribes to plan, conduct, consolidate, administer, redesign, and reallocate funds for programs, services and functions of the Indian Health Service as specified in § 303(a) of Title III;

WHEREAS, each Annual Funding Agreement shall specify the services to be provided, the functions to be performed, and the responsibilities of the Tribe and the Secretary pursuant to the Agreement, § 303(a)(4) of Title III;

WHEREAS, the Annual Funding Agreement shall specify the authority of the Tribe and the Secretary, and the procedures to be used, to reallocate funds or modify budget allocations within any project year, § 303(a)(5) of Title III;

WHEREAS, for the year for which, and to the extent to which, funding is provided to a Co-Signer, as authorized by Alaska Native Tribes, pursuant to an Annual Funding Agreement, such Co-Signer shall be responsible for administration of programs, services and activities pursuant to the Agreement, consistent with § 303(b)(2) of Title III;

WHEREAS, nothing in this Compact or associated Annual Funding Agreements shall be construed to limit or reduce in any way the services, contracts or funds that any other Indian Tribe or tribal organization is eligible to receive under § 102, [25 U.S.C. § 450f], or any other applicable Federal law, § 306 of Title III;

WHEREAS, Congress has, in Title III, directed that the Annual Funding Agreements, which the Secretary negotiates with Alaska Native and American Indian Tribes shall contain certain provisions and, at the option of the Tribes, apply to certain programs, activities, functions and services of the Indian Health Service (including construction) as specified in § 303(a) of Title III;

WHEREAS, Congress has directed that, at the request of the governing body of qualifying Tribes and under the terms of an Annual Funding Agreement, the Secretary shall provide funding to the Tribes to implement the Annual Funding Agreement, §303(c) of Title III;

WHEREAS, Congress has directed that, to the extent feasible, the Secretary shall interpret federal laws and regulations in a manner that will facilitate a Compact of Self-Governance and Annual Funding Agreement authorized by § 303(e) of Title III;

WHEREAS, Congress has directed that, to the extent feasible, the Secretary shall interpret federal laws and regulations in a manner that will facilitate the inclusion of activities, programs, services, and functions in the agreements authorized by § 303(f) of Title III;

WHEREAS, it is the intent of certain Alaska Native Tribes to collectively enter into a single Compact with the Secretary. To carry out that intent, such Tribes (hereafter referred to as signatory Tribes) enter into this Compact either by individual signature or by means of a delegation of signature authority as authorized by resolution of the Tribal government. Such resolutions are attached as Exhibit "A".

WHEREAS, it is the intent of the signatory Tribes that this Compact will be carried out either by the Tribe itself or by tribal organizations, as authorized by resolution of the Tribal governments. These Tribes or tribal organizations are bound by the terms of this Compact and are signing separately as Co-Signers. They will hereafter be referred to as "Co-Signer(s)".

WHEREAS, it is also the intent of the parties that each Annual Funding Agreement entered into under this compact shall be executed by the Tribes, either by individual signature or by means of a delegation of signature authority as authorized by resolution of the Tribal government. Each Funding Agreement will also be signed by a Co-Signer, designated by the Tribal governing body. The Co-Signer will carry out the terms of the Annual Funding Agreement for the signatory Tribe(s) from which it has obtained a resolution of authority and by bound by its terms; and

WHEREAS, for purposes of clarification, and to recognize the government to government relationship between the signatory Tribes and the Secretary, the parties agree that the signatory Tribes, by entering into this Compact, do not relinquish any aspects of Tribal sovereignty to the Co-Signers. The Co-Signers act only for and on behalf of the signatory Tribe(s) within the scope of the authority granted to them by tribal resolution and by carrying out the terms of this Compact and the associated Annual Funding Agreement do not gain the status of a sovereign tribal government;

WHEREAS, the parties have determined that all of the provisions of this Compact are authorized by Title III or other provisions of federal law and the parties have executed this Compact in reliance on this representation;

NOW, THEREFORE, the Secretary, signatory Tribes and the Co-Signers do hereby agree to enter into, undertake, and be bound by this Compact in accordance with the foregoing principles.

## ARTICLE I — AUTHORITY AND PURPOSE

**Section 1 – Authority.** This Compact of Self-Governance, which became effective October 1, 1994, and is amended and restated effective October 1, 1995, (hereinafter referred to as the “Compact”), is authorized by Title III of the Indian Self-Determination and Education Assistance Act, hereby entered into by the Secretary of the Department of Health and Human Services of the United States of America (hereinafter referred to as the “Secretary”), represented by the Director of the Indian Health Service, and certain Alaska Native Tribes, as identified in Exhibit A, recognized by the United States, acting individually or collectively. The Director of the Indian Health Service by signing this Compact commits the Secretary to the extent and within the scope of the Secretary's delegation of authority to enter into Compacts and Annual Funding Agreements pursuant to Title III or as otherwise authorized.

**Section 2 – Purpose.** This Compact shall be liberally construed to achieve its purposes:

(a) This Compact is to carry out an unprecedented Self-Governance Demonstration Project, which is intended as a demonstration in the areas of health planning, funding and program operations within the government-to-government relationship between the Tribes and the United States. The Demonstration Project encourages innovation in order to determine how to improve this government-to-government relationship and promote the autonomy of the Tribes in Alaska in the realm of health care.

(b) This Compact is to enable the participating Tribes to re-design health programs, activities, functions, and services of the Indian Health Service; to reallocate funds for such programs, activities, functions, or services according to the priorities of the Tribes; to provide such reallocated funds for such programs, activities, functions, or services according to its priorities; to provide such programs, activities, functions, and services, as determined by such priorities; to enhance the effectiveness and long-term financial stability of the Tribes and the Co-Signers; and to streamline the federal Indian Health Service bureaucracy.

(c) This Compact is to enable the United States to maintain and improve its unique and continuing relationship with and responsibility to the Tribes through the establishment of a meaningful demonstration project for tribal self-governance and to permit an orderly transition from federal domination of programs and services. This Compact and Annual Funding Agreement shall transfer to participating Tribes, acting individually or collectively, the responsibility for the programs, activities, functions and services of the Indian Health Service included in the Annual Funding Agreement. This Compact allows participating Tribes, acting individually or collectively, to exercise meaningful authority to plan, conduct, and administer those programs and services to meet the health care needs of the Alaska Native Tribes. In fulfilling its responsibilities under the Compact and consistent with the April 29, 1994, Memorandum from the President of the United States of America for the Heads of Executive Departments and Agencies, attached hereto as Exhibit B, the Secretary hereby pledges that the Indian Health Service will conduct all relations with the Tribes on a government-to-government basis.

## ARTICLE II — TERMS, PROVISIONS AND CONDITIONS

### Section 1 - Term and Resolutions.

(a) **Term.** The term of this Compact begins as to each Co-Signer on the effective date of the Co-Signer's first Annual Funding Agreement and shall extend thereafter as to each Co-Signer throughout the period authorized by Title III of the Indian Self-Determination and Education Assistance Act, and any subsequent amendment thereto, provided the Co-Signer has an Annual Funding Agreement in effect, and shall be subject to renewal as may be provided by law and approved by the Co-Signers.

(b) **Resolutions from Participating Tribes.** Those Tribes which intend to participate in this Compact and the applicable Annual Funding Agreement through delegation of signature authority as provided in this Compact must have issued a written resolution authorizing the Co-Signer, on their behalf, to enter into this Compact and Annual Funding Agreement on or before the date the Compact and the applicable Annual Funding Agreement is signed by the Co-Signer for that Tribe, provided that:

(1) **Transition.** Based on reliance upon commitments made to certain signatory Tribes and Co-Signers by the Indian Health Service and to reflect extraordinary circumstances beyond the control of the parties, the provisions of this section are modified as to the following Tribes and Co-Signers in the manner set forth herewith:

(A) For those Tribes, for which this Compact and Annual Funding Agreement will be carried out by the Co-Signers intending to have Annual Funding Agreement become effective as of October 1, 1994, resolutions authorizing the respective Co-Signer to sign this Compact and applicable Annual Funding Agreement must be obtained on or before September 30, 1994.

(B) For those Tribes, for which this Compact and Annual Funding Agreement will be carried out by the Co-Signers intending to have Annual Funding Agreement become effective as of January 1, 1995, resolutions authorizing the respective Co-Signer to sign this Compact and applicable Annual Funding Agreement must be obtained on or before December 31, 1994.

(2) **Resolutions.** Even though, under paragraph (1) above, a Co-Signer may have negotiated an Annual Funding Agreement prior to obtaining an authorizing resolution from a Tribe, nothing herein shall be construed to limit or impair in any way a tribal government's sovereign right to decide whether or not to sign such a resolution.

**Section 2 – Effective Date.**

(a) Once this Compact and the Annual Funding Agreements, attached hereto as Exhibit C, are approved and signed by the Co-Signers and the Secretary, they shall be forthwith submitted by the Secretary to the Committee on Indian Affairs of the United States Senate, the Committee on Natural Resources of the United States House of Representatives and to all Alaska Native Tribes and the Co-Signers, and shall be effective ninety days after such submission, unless otherwise provided by law. Additional Annual Funding Agreements will be negotiated with other Co-Signers and submitted on or before September 30, and shall be effective as provided above.

(b) This Compact may be executed by additional Co-Signers provided that the Compact as so additionally executed shall be submitted each year on or before June 30 or September 30 of any year and as to each such additional Co-Signer the Compact shall become effective as described in Subsection (a) above.

(c) During the term of this Compact any Co-Signer which has not previously negotiated an Annual Funding Agreement may do so, provided, however, that any such additional Annual Funding Agreement shall be submitted as provided in Subsection (a) above on June 30 or September 30 of any year and shall become effective in the same manner as the initial Annual Funding Agreements. All Annual Funding Agreements shall be subject to, and all the activities thereunder shall be governed by, the terms of this Compact to the same extent as the initial Annual Funding Agreements. Successor Annual Funding Agreements shall be submitted in the same manner in subsequent years while the Compact remains in effect.

(d) Each Annual Funding Agreement and successor Annual Funding Agreement of a Co-Signer is deemed to be incorporated, as negotiated, by reference into this Compact, for the purposes only of that Co-Signer and the United States. In the event of inconsistency between the Compact and any successor Annual Funding Agreement, the provisions of the Compact shall prevail.



**Section 3 – Funding Amount.** Subject only to the appropriation of funds by the Congress of the United States and to adjustments pursuant to § 106(b) of the Indian Self-Determination and Education Assistance Act, as amended, the Secretary shall provide the total amounts specified in the Annual Funding Agreements.

**Section 4 – Payment.**

**(a) Payment Schedule.** Payment shall be made as expeditiously as possible and shall include financial arrangements to cover funding during periods under continuing resolutions to the extent permitted by such resolutions. For each fiscal year covered by the Compact, the Secretary shall make available the funds specified for that fiscal year under the Annual Funding Agreements by paying the respective total amount as provided for in each Annual Funding Agreement in advance lump sum, as permitted by law, or such other payments as provided in the schedule set forth in each Annual Funding Agreement. The first payment shall be made on or before ten calendar days after the date on which the Office of Management and Budget apportions the appropriations for that fiscal year for the programs, activities, functions and services subject to the Compact.

**(b) Interest on Advances.** Co-Signers receiving funds under applicable Annual Funding Agreements pursuant to this Compact shall be permitted to retain interest earned on funds advanced pending disbursement as authorized by law. Interest earned on advances shall not diminish the amount of funds the Co-Signer is authorized to receive under its Annual Funding Agreement in the year earned or in any subsequent fiscal year.

**Section 5 – Reports to Congress.** In accordance with § 305 of Title III, the Secretary shall submit to the Congress a written report on July 1 and January 1 of each of the five years following the date of enactment of Title III on the relative costs and benefits of the Tribal Self-Governance Project. Such report shall be based on mutually determined baseline measurements jointly developed by the Secretary and participating Tribes and Co-Signers, and shall separately include the views of the Tribes and Co-Signers. The Secretary shall provide each Co-Signer with a draft of each report required to be submitted to Congress under this provision for review thirty (30) days prior to the submission of the report to Congress.

**Section 6 – Audits**

(a) Each Co-Signer which has executed an Annual Funding Agreement receiving funds pursuant to this Compact shall provide to the Designated Official of the Secretary (as defined in Article V, Section 1) an annual single organization-wide audit as prescribed by the Single Audit Act of 1984, 31 U.S.C. § 7501, *et seq.*, and shall adhere to generally accepted accounting principles and the applicable Circulars of the Office of Management and Budget (hereinafter “OMB”). A copy of this audit will be sent simultaneously to the Indian Health Service Resolution Board and the cognizant agency.

(b) For the term of this demonstration project, all provisions contained in the letter dated July 16, 1991, from the Office of Management and Budget (OMB) to the Department of Interior, attached hereto as Exhibit D, may be relied upon by each Co-Signer. Each Co-Signer shall apply cost principles under the applicable OMB Circular, except as modified by the July 16, 1991, OMB Letter or by any exemptions subsequently granted by OMB. To the extent that OMB Circular A-87 or its successor, or other applicable circulars, permit agency pre-approval of allowable costs, the agency hereby grants that pre-approval. The Secretary will assist the Co-Signers in obtaining such additional waivers from OMB as are requested by the Co-Signers. No other audit or accounting standards shall be required by the Secretary. Any claim by the Federal Government against any Co-Signer receiving funds under an Annual Funding Agreement based on any audit under this Section

shall be subject to the provisions of § 106(f) of the Indian Self-Determination and Education Assistance Act, as amended.

**Section 7 – Records.** Each Co-Signer's practices relating to document disclosure and record-keeping associated with this Compact shall, in accordance with applicable law, be set forth in the respective Annual Funding Agreement.

**Section 8 – Property.**

(a) At the request of a Co-Signer, the Secretary or an authorized representative shall to the extent permissible by federal regulation or law and utilizing the Title I of P.L. 93-638 process make available and/or transfer title to the Co-Signer reasonably divisible real property, facilities, equipment, and personal property that the Department had previously utilized to provide the program, activities, functions and services consolidated by the Co-Signer in accordance with the provisions of this Compact. A list agreed upon by the Secretary and the Co-Signer specifying the property, facilities, and equipment so made available shall also be prepared and periodically revised.

(b) Subject to Agreement of the General Services Administration (GSA), the Secretary hereby delegates to each Co-Signer the authority to acquire such "excess" property as may be appropriate in the judgement of the Co-Signer to support the programs, activities, functions, and services designated in the Co-Signer's Annual Funding Agreement. The Secretary, or an authorized representative, agrees to make her best efforts to assist the Co-Signer in obtaining such confiscated or excess property as may become available to Indian Tribes or local governments. Subject to agreement of the GSA, a Screener Identification Card (General Services Administration Form 2946) shall be issued to each Co-Signer no later than the effective date of this Compact. The Designated Official upon request shall assist the Tribe in securing the use of this Card. The Secretary shall exercise good faith and due diligence in obtaining the agreement of GSA and shall report in writing to the Co-Signers on the status within thirty days of the effective date of the Compact and periodically thereafter at thirty day intervals until a final decision is reached by GSA.

(c) Each Co-Signer will determine what capital equipment, leases, rentals, property or services, it will require to perform its obligations under this Compact, and will acquire and maintain records of such capital equipment, property rentals, leases, property or services through its own internal procurement procedures.

(d) Upon the request of a Co-Signer, the Secretary shall enter into a lease with the Co-Signer in accordance with § 105(1) of the Indian Self-Determination and Education Assistance Act, as amended.

(e) Management of property under this Compact will be in accordance with additional provisions included in each Co-Signer's Annual Funding Agreement.

**Section 9 – Regulatory Authority.** The Secretary and the Co-Signers agree to utilize the following procedures governing the establishment and application of program rules and regulations under this Compact:

(a) **Program Rules.** No Co-Signer is required to comply with program guidelines, manuals, or policy directives other than those identified in this section or in the individual Co-Signer's Annual Funding Agreement in carrying out the programs, services, activities and functions under the Compact.

(b) **Federal Regulations.**

(1) **Applicable Federal Regulations.** The Co-Signers, in carrying out the provisions of this Compact and applicable Annual Funding Agreements, will be required to comply only with applicable federal regulations. To the extent that any section of Title I of the Indian Self-Determination and Education Assistance Act, as amended, is, by its own terms or in some other manner, made applicable to self-determination compacts under Title III, regulations promulgated pursuant to § 107 of the Act to implement such section are considered “applicable” federal regulations.

**(2) Waiver of Federal Regulations.**

**(A)** The Secretary and the Co-Signer will seek to identify any federal regulations which may require waiver in order to effectively carry out the Annual Funding Agreement. Any applicable regulations promulgated under § 107, as noted in section 9(b)(1) above, are subject to the special exception and waiver provisions contained in § 107(e) of the Indian Self-Determination and Education Assistance Act, as amended.

**(B)** The Secretary agrees to assist the Co-Signers in obtaining, from the appropriate office within or outside the Department of Health and Human Services, waivers of regulations in accord with the following process:

**(i)** If a Co-Signer decides that a regulation should be waived such request must be submitted in writing to the Director, Office of Tribal Self-Governance (OTSG). The request shall indicate that the Co-Signer seeking waiver has researched the matter carefully and made its best determination concerning what exactly needs to be waived. The request should also contain alternative methods of dealing with the matter, if applicable, or justify why no alternative methods will be sufficient. If legal research has been done on the matter, this should be included in the waiver request to expedite the review process. A Co-Signer requesting waiver is encouraged to discuss the matter with the Director, OTSG, and other federal officials as appropriate, prior to filing the request in order to explore options under existing law and regulation and to aid in expediting the request.

**(ii)** After the request is submitted to and received by the Director, OTSG, acknowledgement of receipt will be made in writing. The request shall be reviewed to determine the following:

**(a)** What department, agency or component thereof, if any, has authority to grant the waiver?

(b) Which Indian Health Service programs, activities, functions or services are involved and what is the Indian Health Service input on the matter? For example, will granting the waiver have an impact on a portion of such program, activity, function or service which remains with the Indian Health Service?

(c) What are the policy implications of the request for the Indian Health Service?

(iii) At a minimum, this review would involve receiving input from the Office of General Counsel, and the appropriate program offices of the Indian Health Service.

(iv) The Director, OTSG, shall, within 30 days of receipt, forward the request, through appropriate channels, along with the Director's recommendations, to the appropriate department, agency or component having authority to grant or deny the request. A copy of the recommendations of the Director, OTSG, shall also be sent to the Co-Signer requesting the waiver. The Director, OTSG, shall, to the extent consistent with his or her review of the request, recommend to such agency or component that the request be granted in an expeditious manner and shall report to the Co-Signer on the status of the request at 30 day intervals until a decision is reached. The Director, OTSG, shall make every effort to secure a decision on the request within a reasonable period of time.

#### **Section 10 – Disputes.**

(a) All disputes between the Indian Health Service and any Co-Signer or between the Indian Health Service and all Co-Signers under this Compact shall be subject to the provisions of § 110 of the Indian Self-Determination and Education Assistance Act, as amended, and all remedies provided for therein shall be available to each Co-Signer of this Compact. Actions and proceedings to enforce the Co-Signer's rights and the Secretary's obligations under this Compact shall be subject

to the Equal Access to Justice Act, Public Law 96-481, as amended, to the same extent as are actions and proceedings involving Public Law 93-638 contracts.

(b) In the alternative, the Indian Health Service and the Co-Signers may use the processes authorized and encouraged in the Administrative Dispute Resolution Act, 5 U.S.C. § 581 note, for more informal resolution of disputes arising under this Compact and associated Annual Funding Agreements.

**Section 11 – Retrocession and Discontinuance.** The retrocession provisions of § 105(e) of the Indian Self-Determination and Education Assistance Act, as amended, shall apply if a signatory Tribe decides to retrocede a portion or all of the programs contained in the applicable Annual Funding Agreement. Retrocession shall be in accordance with the procedures and timelines included in that Tribes's Annual Funding Agreement. A Co-Signer which is a consortium of Tribes may discontinue its participation in the Compact in accordance with the procedures and timelines in the Annual Funding Agreement and in the inter-tribal memorandum of agreement for that consortium.

**Section 12 – Successor Annual Funding Agreements.**

(a) Negotiations for successor respective Annual Funding Agreements, as provided for in Article VI, Section 2, shall begin no later than 120 days in advance of the conclusion of the preceding Annual Funding Agreement. Pursuant to § 301 and § 303(a) of the Indian Self-Determination and Education Assistance Act, as amended, the Secretary shall make best efforts to continue and promote this demonstration project in preparing budgets for subsequent years. Each Co-Signer is hereby assured that future funding of the Co-Signer's successor Annual Funding Agreements shall only be reduced pursuant to the provisions of § 106(b) of the Indian Self-Determination and Education Assistance Act, as amended, provided, however that future funding for each Co-Signer's non-recurring funds and tribal shares shall be subject to adjustments in accordance with a yearly reallocation decision by the Co-Signers. The Secretary agrees to prepare and supply relevant information, and promptly to comply with the Co-Signers' requests for

information reasonably needed to determine the funds that may be available for a successor Annual Funding Agreement as provided for in Article VI, Section 2 of this Compact.

(b) If the parties are unable to conclude negotiation of a successor Annual Funding Agreement, the terms of this Compact and the existing Annual Funding Agreement shall, at the option of the Co-Signer, continue on in 30 to 90 day increments until a successor Annual Funding Agreement is agreed to. Any increases in funding to which the Tribes are entitled by statute, or increases which the Tribes subsequently negotiate, shall be included in the successor Annual Funding Agreement.

**Section 13 – Annual Evaluation, Baseline Measurements and Evaluation Criteria.** Annual evaluations of the programs, activities, functions and services under this Compact and the Annual Funding Agreement shall be conducted in accordance with baseline measures, which shall include the procedures and criteria for conducting the evaluation and which shall be negotiated between the Secretary and the Co-Signer.

**Section 14 – Secretarial Approval.** For the term of the Compact, the provisions of 25 U.S.C. § 81 and 25 U.S.C. § 476 shall not apply to attorney and other professional contracts of participating tribal governments of Alaska Native Tribes operating under the Compact pursuant to § 303(d) of Title III.

**Section 15 – Transportation.**

(a) **Use of Motor Vehicles.** Subject to agreement of the General Services Administration, the Secretary hereby authorizes each Co-Signer to obtain Interagency Motor Pool vehicles and related services for performance of any programs, activities, functions and services under this Compact.



(b) **Other Supply Sources.** Federal supply sources (including lodging, airline transportation, and other means of transportation) shall be available to each Co-Signer in accordance with § 105(k) of the Indian Self-Determination and Education Assistance Act, as amended.

### ARTICLE III — OBLIGATIONS OF EACH CO-SIGNER

**Section 1 – Consolidation.** Each Co-Signer will be responsible for performing the health programs, activities, functions and services as specified in Section 3 of this Article III and in their respective Annual Funding Agreements, as provided for in Article VI, Section 2 of this Compact. To the extent a program, activity, function, or service included within a contract or grant entered into pursuant to §§ 102 or 103 of the Indian Self-Determination and Education Assistance Act, as amended, is included within an Annual Funding Agreement, that contract or grant shall be modified or terminated as appropriate. The parties' obligations shall be governed by this Compact and all funds previously obligated under contracts or grants (including carry-over funds) will be re-obligated to the Co-Signer under the applicable Annual Funding Agreement. Such terminated contracts shall be identified by contract number in each Annual Funding Agreement.

**Section 2 – Amount of Funds.** The total amount of funds covered by the consolidation and redesign provided for in Section 1 of this Article that the Secretary shall make available to the Co-Signers shall be determined in accordance with § 303(a)(6) of Title III and shall be set forth in the respective Annual Funding Agreements between the Secretary and each Co-Signer.

**Section 3 – Compact Programs.** The health programs, activities, functions and services will be the responsibility of each Co-Signer under this Compact and shall be identified in each Co-Signer's Annual Funding Agreement.

**Section 4 – Eligibility for Services.** In determining eligibility for services, the Co-Signers shall comply with applicable eligibility provisions set forth in the Indian Health Care Improvement Act, as amended, applicable regulations, and other statutory law.

**Section 5 – Reallocation.** Reallocation of funds to other health programs, activities, functions, or services shall not require Secretarial consent, except that the use of funds pursuant to this Compact shall be subject to specific directives or limitations as may be included in applicable appropriations Acts. In addition, funds may not be transferred from one Indian Health Service appropriations account to another. (Specifically, funds from Indian Health Service's services accounts may not be used for purposes for which funds in the Indian Health Service's facilities accounts are appropriated, and vice versa, except as authorized by law.) Funds may be used to meet matching and other cost participation requirements under other federal, state and other health programs, where not prohibited by statute.

**Section 6 – Merging with Other Programs.** Each Co-Signer may merge programs, activities, functions and services provided under its Annual Funding Agreement with other health programs, activities, functions and services provided with its own funds or funds from other sources. In such cases, the Co-Signer shall not be required to separate dollars or programs, activities, functions and services so long as the Co-Signer can provide sufficient data to permit an acceptable program and financial audit to be conducted.

**Section 7 – Program Income, including Medicare/Medicaid.** All Medicare, Medicaid or other program income received by a Co-Signer shall be treated as additional supplemental funding to that negotiated in the Annual Funding Agreement and the Co-Signer may retain all such income, including Medicare/Medicaid, and expend such funds in the current year or in future years, nor shall such funds result in any off-set or reduction in the negotiated amount of the Annual Funding Agreement. Medicare/Medicaid collections of a Co-Signer under Title IV of Public Law 94-437, as amended, shall be used by the Co-Signer in accordance with any applicable statutory restrictions on the use of such funds.

**Section 8 – Carry-over.** Congressionally appropriated funds allocated in accordance with an Annual Funding Agreement under this Compact are “no year” funds and may be expended by the Co-Signer in accordance with its budget for the year for which the funds are appropriated or carried over and expended in any subsequent fiscal year, and such carry-over shall not diminish the amount

of funds the Co-Signer is authorized to receive under its Annual Funding Agreement for any such subsequent fiscal year.

## ARTICLE IV — OBLIGATIONS OF THE UNITED STATES

**Section 1 – Trust Responsibility.** Nothing in this Compact waives, modifies, or diminishes in any way the trust responsibility of the United States with respect to the Alaska Native Tribes or individual Alaska Natives and American Indians which exists under treaty, executive orders, and acts of Congress.

### **Section 2 – Programs Retained.**

(a) The Secretary hereby retains the responsibility for the programs, activities, functions and services with respect to the signatory Tribes that are not specifically assumed by the signatory Tribes acting individually or collectively through their applicable Annual Funding Agreement and they shall continue to be entitled to the full benefit of those programs, activities, functions, and services retained by the Indian Health Service. Each signatory Tribe shall be eligible for new programs, activities, functions and services of the Secretary and the Indian Health Service on the same basis as other Tribes and Tribal Organizations. The Indian Health Service, in consultation with the Tribes, may reorganize to sustain its ability to provide, in the most effective and efficient manner, all programs, activities, functions, and services that have not been included in the Annual Funding Agreement.

(b) No later than 120 days prior to the end of each fiscal year, the Indian Health Service shall provide each signatory Tribe and Co-Signer with a written list of the retained programs, activities, functions, and services relevant to Native health care in Alaska for the upcoming fiscal year. To the fullest extent permitted by law, the Secretary shall provide any requesting signatory Tribe and Co-Signer access to, and copies of, all documents and other information relevant to any ongoing retained programs, activities, functions, or services, and shall cooperate with any evaluation which the Co-Signer or signatory Tribe may wish to conduct. The Secretary will cooperate with each Tribe

and Co-Signer to facilitate the inclusion of programs, activities, functions and services in future Annual Funding Agreements of those Tribes and Co-Signer.

**Section 3 – Financial and Other Information.**

(a) To assist the Tribes and Co-Signers in monitoring compliance with § 303(a)(6) of the Indian Self-Determination and Education Assistance Act, as amended, the Secretary shall provide to Co-Signers:

(1) all monthly reports of obligations and allowances, including all reports from Central Office, Headquarters, the Office of Tribal Self-Governance and the Alaska Area Office, concerning funds provided to support programs, activities, functions and services provided by Tribes or Tribal Organizations under this Compact and funds retained by the Indian Health Service to support programs, activities, functions and services retained by the Indian Health Service;

(2) revisions in such program plans, guidelines or budgets as they are made;

and

(3) prompt notice of any new programs, activities, functions and services for which the Tribes or Co-Signers are eligible, including the funding available for such programs, activities, functions and services.

(b) The Secretary shall prepare and promptly supply relevant financial information and comply with each Co-Signer's request for information needed to determine funds that may be available for a successor Annual Funding Agreement. Such written information shall be provided to the interested Co-Signer within 30 days of its request.

**Section 4 – Termination of the Demonstration Project.** Prior to the expiration or termination of the Compact, the Secretary shall, to the extent permitted by law and regulation and at the request of the relevant Tribe(s), negotiate a contract or contracts under Title I of the Indian

Self-Determination and Education Assistance Act, as amended, to provide, as requested by the Tribe(s), all of the programs, activities, functions or services and the resources authorized under Title I.

## ARTICLE V — OTHER PROVISIONS

### Section 1 – Designated Officials/Agent.

(a) **Parties.** On or before the effective date of this Compact, both the Secretary and each Co-Signer shall provide a written designation of an individual as their representative/liaison. The Secretary shall direct all communications about the Compact, and relevant Annual Funding Agreement to the Co-Signer's designee, except in the case where the Compact or Annual Funding Agreement requires notice to the signatory Tribes, in which case notice shall also be sent to the Tribes. Reference herein to Co-Signers or the Secretary shall include the respective Designated Official thereof.

(b) **Agent for Notice.** If Co-Signers assign an agent to accept and distribute notices, those Co-Signers shall provide the name and address of the agent and a description of the limited powers and duties of the agent.

**Section 2 – Indian Preference in Employment, Contracting and Sub-Contracting.** 42 C.F.R. §§ 36.220 and 36.221, as amended, relating to use of Indian business concerns and Indian preference in training and employment shall apply to the procurement and employment policies of each individual Co-Signer performing under this Compact. The parties agree that any Co-Signer may comply with any Indian or Alaska Native preference established by their respective Tribes, including preference based on tribal affiliation.

**Section 3 – Federal Tort Claims Act Coverage; Insurance.**

(a) The Tribes and Co-Signers are deemed by statute to be part of the Public Health Service (PHS), and the employees of the Tribes and Co-Signers are deemed by statute to be part of or employed by the Public Health Service, for purposes of coverage under the Federal Tort Claims Act, while performing programs, activities, functions or services under this Compact and any applicable Annual Funding Agreement, including coverage for claims of medical malpractice, as is more fully described in the Indian Self-Determination Memorandum No. 92-1, attached hereto as Exhibit E, and incorporated by reference herein.

(b) The above status of a signatory Tribe or Co-Signer, or an employee's status as an employee of a Tribe or employee of a Co-Signer, is not affected by the source of the funds used by the Tribe or Co-Signer to pay the employee's salary and benefits as long as the employee does not receive any additional compensation for the performance of covered services from anyone other than the Tribe or Co-Signer.

(c) The Tribe's employee or the Co-Signer's employee may, while performing under this Compact and any applicable Co-Signer's Annual Funding Agreement and as a condition of employment, be required by the Tribe or Co-Signer to provide services to non-Indian Health Service beneficiaries in order to meet the obligations under this Compact either in facilities of the Tribe or Co-Signer or in facilities other than those of the Tribe or Co-Signer.

(d) Funds provided under an Annual Funding Agreement may be used to purchase such additional liability and other insurance as is prudent in the judgment of a Co-Signer performing under this Compact and Annual Funding Agreement for its protection and the protection of its employees.

(e) Personal services contracts shall be covered under this provision to the extent provided under § 102(d) of the Indian Self-Determination and Education Assistance Act, as amended.

**Section 4 – Compact Modifications or Amendments.**

(a) Any request for a modification of this Compact must be communicated in writing to all signatory Tribes and Co-Signers and to the Indian Health Service. To be effective any modifications of this Compact shall be in the form of a written amendment to the Compact, and shall require written consent of each of the signatory Tribes, acting directly or through an agent authorized by resolution, and the Secretary.

(b) This provision shall not apply to amendment of the Compact to include additional Tribes and/or Co-Signers. Such amendment shall only require the concurrence of the additional Tribe and/or Co-Signer, and the Secretary.

**Section 5 – Construction.** To the extent permitted by law, and according to the terms of applicable appropriations acts and other relevant authority, this Compact shall apply to funds included in the facilities category of Indian Health Service appropriations. Section 7(a) of the Indian Self-Determination and Education Assistance Act, as amended, shall apply to any construction activities transferred to a Co-Signer in accordance with this provision.

**Section 6 – Officials Not To Benefit.** No member of or delegate to Congress shall be admitted to any share or part of any Compact executed pursuant to this Compact, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to any contract under this Compact if made with a corporation for its general benefit.

**Section 7 – Covenant Against Contingent Fees.** The parties warrant that no person or selling agency has been employed or retained to solicit or secure any contract executed pursuant to this Compact upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business.

**Section 8 – Penalties.** The parties agree that the criminal penalties set forth in 25 U.S.C. § 450d apply to all activities conducted pursuant to this Compact.

**Section 9 – Use of Federal Employees.** Section 104 of the Indian Self-Determination and Education Assistance Act, as amended, shall apply to this Compact and to any individuals assigned or detailed to any Co-Signer performing functions under this Compact or leaving federal employment to perform services under this Compact, including assignments either on detail or on leave without pay and with or without reimbursement by the Co-Signer for the travel and transportation expenses to or from the place of assignment and for the pay, or supplemental pay, or a part thereof, of the employee during assignment.

**Section 10 – Extraordinary or Unforeseen Events.** This Compact is intended to obligate each Co-Signer to carry out all usual and ordinary functions respecting the programs, activities, functions and services that it is undertaking to assume responsibility for under its Annual Funding Agreement. In the event major unforeseen or extraordinary events occur, as jointly identified by each Co-Signer and the Secretary, with consequences beyond the control of the Co-Signer, that the Co-Signer shall have access to additional services and funding amounts for its Annual Funding Agreement as described in its Annual Funding Agreement. The parties will seek to ensure that funds available to the Co-Signer to deal with the unforeseen circumstance will not be less than would have been available to non-Compact Tribes or the Indian Health Service had they encountered a similar circumstance. Each Co-Signer's participation in the Indian Health Service Catastrophic Funds will be identified in the Co-Signer's Annual Funding Agreement.

**Section 11 – Mature Contractor Status upon Compact Termination.** Should any signatory Tribe elect to convert all or some of the programs operated under the Compact back to contract status under Public Law 93-638, such conversion shall not affect the Co-Signer's or the Tribe's status as a Mature Contractor. Such conversion would occur only at the end of the Compact term, on another date mutually acceptable to the Tribe, the Co-Signer and the Secretary, or as otherwise provided in this Compact, and will be implemented in a manner which avoids any interruption of services to individual tribal members. If the Compact is terminated or a Tribe



determines that it will retrocede any program, activity, function or service operated under the Compact, neither the Tribe nor the Co-Signer shall lose its Mature Contractor status.

**Section 12 – Startup Costs.** Startup costs may be separately negotiated by each Co-Signer and shall be included in each Co-Signer's Annual Funding Agreement, if available. Startup costs are designed to compensate the Tribe for costs associated with implementing this Compact which the Co-Signer would not normally incur. Upon agreement to such costs on an annual basis, funds for such costs shall be included in the Annual Funding Agreement, if available.

**Section 13 – Limitation of Liability.** Any liability to the United States or to any third party incurred by a Co-Signer arising out of its performance of or expenditure of funds under this Compact and each Co-Signer's Annual Funding Agreement shall be the obligation only of that Co-Signer and shall not be the obligation of any Co-Signer of this Compact which did not participate in such performance or expenditure.

**Section 14 – Contracting Rights.** Nothing in this Compact or in any Annual Funding Agreement shall be construed to preclude a Co-Signer from contracting with the Secretary to perform a program, activity, function, or service under Title I of P.L. 93-638, subject, however, to § 303(b)(1) of Title III.

**Section 15 – Sovereign Immunity.** Nothing in this Compact or in any Annual Funding Agreement shall be construed to affect the sovereign immunity, to the extent that it may exist, of any Tribe or Co-Signer.

**Section 16 – Interpretation Of Federal Law.** In the implementation of this Compact, the Secretary, to the extent feasible, shall interpret federal law and regulations and this Compact in a manner that effectuates and facilitates the purposes of this Compact in accordance with § 303(e) of Title III.

**Section 17 – Inadequacy of Program Funding.** The parties to this Compact understand that the Indian Health Service budget is inadequate to fully meet the special responsibilities and legal obligations of the United States to assure the highest possible health status for American Indians and Alaska Natives and that, accordingly, the funds provided to the Co-Signers are inadequate to permit the Co-Signers to achieve this goal. The Secretary commits to advocate for increases in the Indian Health Service budget to further the ability of the Co-Signers to provide the full range of services that are the responsibility and obligation of the United States to make available to American Indian and Alaska Native people and to meet the goals of the Indian Health Care Improvement Act.

**Section 18 – Effect on Non-Participating Tribes.**

(a) Nothing in this Compact or associated Annual Funding Agreements shall be construed to limit or reduce in any way the service, contracts or funds that any Indian Tribe or tribal organization is eligible to receive. It is the intent of the parties to this Compact that the Compact will not have an adverse impact on any Tribe choosing not to participate in this Compact directly or through a Tribal Organization.

(b) The Compact shall not be construed to limit or curtail the right of any Tribe to pursue a contract under Title I of the Indian Self-Determination and Education Assistance Act, as amended, individual participation in this Compact under Title III, or an independent compact under Title III.

**Section 19 – Gaining Mature Contractor Status.** Subject to Secretarial approval, a Tribe that participates in this Compact by authorizing a Tribal Organization to be a Co-signer and receive funds on its behalf, which enters into a Memorandum of Agreement with the Co-Signer, for three years manages a program, activity, function or service identified in the Co-Signer's Annual Funding Agreement and obtains three audits with no material unresolved audit exceptions, shall be deemed a mature contractor for all purposes, including entering into a Compact under Title III. Nothing in this section precludes the right of a Tribe to become a mature contractor under other provisions of law.

**Section 20 – Severability.**

(a) Except as provided in this section, this Compact shall not be considered invalid, void or voidable if any section or provision of this Compact is found to be invalid, unlawful or unenforceable by a court of competent jurisdiction.

(b) If any section or provision of this Compact is found to be invalid, unlawful or unenforceable by a court of competent jurisdiction, either party may, at its option, treat this Compact as invalid, void, or voidable, in accordance with the provisions of this Compact.

(c) In the event that the parties decide not to treat the Compact as invalid, void or voidable under subsection (b) of this section, the parties will seek agreement to amend, revise or delete any such invalid, unlawful or unenforceable section or provision, in accordance with the provisions of this Compact.

**ARTICLE VI — ATTACHMENTS**

**Section 1 – Approval of Compact.** The resolutions of the Tribes approving this Compact for each Co-Signer are attached to Exhibit A. Additional resolutions for each Co-Signer may be filed with the Indian Health Service and included in Exhibit A up to the effective date of each Co-Signer's Annual Funding Agreement.

**Section 2 – Annual Funding Agreements.** Each Co-Signer's Annual Funding Agreement shall be attached hereto as Exhibit C.

**ARTICLE VII — COUNTERPART SIGNATURES**

This Compact may be signed in counterparts.

# ALASKA TRIBAL HEALTH COMPACT

## EXHIBIT A FOR CHUGACHMIUT

Chugachmiut has negotiated the Alaska Tribal Health Compact in anticipation that the following Alaska Native Tribes will provide resolutions on or before December 31, 1994, authorizing Chugachmiut to enter into this Compact on their behalf effective January 1, 1995.

Chenega Bay IRA Council  
Chugach Alaska Corporation for the Qutekcak Native Tribe of Seward  
Native Village of Eyak Tribal Council  
Nanwalek Traditional Council (formerly the English Bay Traditional Council)  
Port Graham Village Council  
Tatitlek IRA Council

### UNITED STATES OF AMERICA SECRETARY OF DEPARTMENT OF HEALTH AND HUMAN SERVICES

BY:

  
\_\_\_\_\_  
DIRECTOR, INDIAN HEALTH SERVICE

DATE:

09/29/94

### CHUGACHMIUT

on Behalf of Itself and Certain Alaska Native Tribes,  
Identified in This Exhibit A

BY:

  
\_\_\_\_\_  
Derenty Tabios  
Executive Director

DATE:

9/22/94

**RECEIVED**  
5-7-12

**INDIAN SELF-DETERMINATION AGREEMENT**

**BY AND BETWEEN**

**Valdez Native Tribe**

**AND THE**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES INDIAN  
HEALTH SERVICE**

**IHS CONTRACT NUMBER 243-12-0003**

**SELF-DETERMINATION AGREEMENT  
 BETWEEN THE UNITED STATES DEPARTMENT OF  
 HEALTH AND HUMAN SERVICES  
 AND THE  
 VALDEZ NATIVE TRIBE  
 IHS CONTRACT 243-12-0003  
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    (1) TRIBAL MANAGEMENT SCOPE OF WORK  
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**(a) AUTHORITY AND PURPOSE**

**(1) AUTHORITY.** This agreement, denoted a Self-Determination contract (referred to in this agreement as the "contract"), is entered into by the Secretary of Health and Human Services (referred to in this agreement as the "Secretary"), for and on the behalf of the United States pursuant to Title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and by the authority of the Valdez Native Tribe (referred to in this agreement as the "Contractor"). The provisions of Title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) are incorporated in this agreement.

**(2) PURPOSE.** Each provision of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and each provision of this contract shall be liberally construed for the benefit of the Contractor to transfer the funding and the following related programs, functions, services, and activities (or portions thereof), that are otherwise contractible under section 102(a) of such Act, including all related administrative functions, from the Federal Government to the Contractor.

**(b) TERMS, PROVISIONS, AND CONDITIONS**

**(1) TERM.** Pursuant to section 105(c)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j (c)(1)), the term of this contract shall be indefinite subject to the annual appropriation of funds by Congress. Pursuant to section 105(d)(1) of such Act (25 U.S.C. 450j(d)), upon the election by the Contractor, the period of this Contract shall be determined on the basis of a fiscal year, unless the Secretary and the Contractor agree on a different period in the annual funding agreement (AFA) incorporated by reference in subsection (f)(2).

**(2) EFFECTIVE DATE.** This Contract shall become effective on the date of approval, unless the Contractor and the Secretary agree on an effective date other than the date specified in this paragraph.

**(3) PROGRAM STANDARDS.** The Contractor agrees to administer the program, functions, services, and activities (or portions thereof) listed in the AFA in conformity with the standards which is set out in the Scope of Work.

**(4) FUNDING AMOUNT.** Subject to the availability of appropriations, the Secretary shall make available to the Contractor the total amount specified in the annual funding agreement incorporated by reference in subsection (f)(2). Such amount shall not be less than the applicable amount determined pursuant to section 106(a) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j-1).

**(5) LIMITATION OF COSTS.** The Contractor shall not be obligated to continue performance that requires an expenditure of funds in excess of the amount of funds awarded under this Contract. If, at any time, the Contractor has reason to believe that the total amount required for performance of this Contract or a specific activity conducted under this Contract would be greater than the amount of funds awarded under this Contract, the Contractor shall provide reasonable notice to the Secretary. If the Secretary does not take such action as may be necessary to increase the amount of funds awarded under this Contract, the Contractor may suspend performance of the Contract until such time as additional funds are awarded.

**(6) PAYMENT.**

**(A) In General.** Payments to the Contractor under this Contract shall

- (i) be made as expeditiously as practicable; and

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- (ii) Include financial arrangements to cover funding during periods covered by joint resolutions adopted by Congress making continuing appropriations, to the extent permitted by such resolutions.

**(B) Quarterly, Semiannual, Lump-Sum, and Other Methods of Payment.**

- (i) In General. Pursuant to section 108(b) of the Indian Self-Determination and Education Assistance Act, and notwithstanding any other provision of law, for each fiscal year covered by this Contract, the Secretary shall make available to the Contractor the funds specified for the fiscal year under the AFA incorporated by reference pursuant to subsection (f) (2) by paying to the Contractor, on a quarterly basis, one-quarter of the total amount provided for in the AFA for that fiscal year, in a lump sum payment or as semi-annual payments, or any other method of payment authorized by law, in accordance with such method as may be requested by the Contractor and specified in the AFA.
- (ii) Method of Quarterly Payment. If quarterly payments are specified in the AFA incorporated by reference pursuant to subsection (f)(2), each quarterly payment made pursuant to clause (i) shall be made on the first day of each quarter of the fiscal year, except that in any case in which the contract year coincides with the Federal fiscal year, payment for the first quarter shall be made not later than the date that is 10 calendar days after the date on which the Office of Management and Budget apportions the appropriations for the fiscal year for the programs, functions, services and activities subject to this contract.
- (iii) Applicability. Chapter 39 of Title 31, United States Code, shall apply to the payment of funds due under this Contract and the AFA.

**(7) RECORDS AND MONITORING.**

**(A) In General.** Except for previously provided copies of tribal records that the Secretary demonstrates are clearly required to be maintained as part of the record-keeping system of the Department of Health and Human Services, records of the Contractor shall not be considered Federal records for purposes of Chapter 5 of Title 5, United States Code.

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**(B) Recordkeeping System.** The contractor shall maintain a recordkeeping system and, upon reasonable advance request, provide reasonable access to such records to the Secretary.

**(C) Responsibilities of Contractor.** The Contractor shall be responsible for managing the day-to-day operations conducted under this Contract and for monitoring activities conducted under this Contract to ensure compliance with the contract and applicable Federal requirements. With respect to the monitoring activities of the Secretary, the routine monitoring visits shall be limited to not more than one performance monitoring visit for this Contract by the head of each operating division, departmental bureau, or departmental agency, or duly authorized representative of such head unless:

- (i) the Contractor agrees to one or more additional visits; or
- (ii) the appropriate official determines that there is reasonable cause to believe that grounds for reassumption of the Contract, suspension of contract payments, or other serious contract performance deficiency may exist.

No additional visit referred to in clause (ii) shall be made until such time as reasonable advance notice that includes a description of the nature of the problem that requires the additional visit has been given to the Contractor.

## **(8) PROPERTY.**

**(A) In General.** As provided in section 105(f) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(f)), at the request of the Contractor, the Secretary may make available, or transfer to the Contractor, all reasonable divisible real property, facilities, equipment, and personal property that the Secretary has used to provide or administer the programs, services, functions, and activities covered by this Contract. A mutually agreed upon list specifying property, facilities, and equipment so furnished shall also be prepared by the Secretary, with the concurrence of the Contractor, and periodically revised by the Secretary, with the concurrence of the Contractor.

**(B) Records.** The Contractor shall maintain a record of all property referred to in subparagraph (A) or other property acquired by the Contractor under section 105 (f)(2)(A) of such Act for purposes of replacement.

**(C) Joint Use Agreements.** Upon the request of the Contractor, the

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Secretary and the Contractor shall enter into a separate joint use agreement to address the shared use by the parties of real or personal property that is not reasonably divisible.

**(D) Acquisition of Property.** The Contractor is granted the authority to acquire such excess property as the Contractor may determine to be appropriate in the judgment of the Contractor to support the programs, functions, services, and activities operated pursuant to this Contract.

**(E) Confiscated or Excess Property.** The Secretary shall assist the Contractor in obtaining such confiscated or excess property as may become available to tribes, tribal organizations, or local governments.

**(F) Screeener Authorization.** Pursuant to FMR 102-36.110, all non-Federal employees who wish to screen for excess property need a letter from the sponsoring agency. The Contractor will submit a letter of request and a completed application form (Attachment B) to the Property Management Officer at:

Alaska Area Indian Health Service  
ATTN: Property Management Officer  
4141 Ambassador Drive, Suite 300  
Anchorage, AK 99508-5928

**(G) Capital Equipment.** The Contractor shall determine the capital equipment, leases, rental, property, or services the Contractor requires to perform the obligations of the Contractor under this subsection, and shall acquire and maintain records of such capital equipment, property rentals, leases, property, or services though applicable procurement procedures of the Contractor.

**(9) AVAILABILITY OF FUNDS.** Notwithstanding any other provision of law, any funds provided under this Contract

- (A) shall remain available until expended; and
- (B) with respect to such funds, no further;

- (i) approval by the Secretary, or
- (ii) justifying documentation from the Contractor, shall be required prior to the expenditure of such funds.

**(10) TRANSPORTATION.** Beginning on the effective date of this Contract, the Secretary shall authorize the Contractor to obtain interagency motor pool vehicles and related services for performance of any activities carried out under this Contract.

**(11) FEDERAL PROGRAM GUIDELINES, MANUALS, OR POLICY**

**DIRECTIVES.** Except as specifically provided in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) the Contractor is not required to abide by guidelines, manuals, or policy directives of the Secretary, unless otherwise agreed to by the Contractor and the Secretary, or otherwise required by law.

**(12) DISPUTES.**

**(A) Third-Party Mediation Defined.** For the purposes of this Contract, the term "third party mediation" means a form of mediation whereby the Secretary and the Contractor nominate a third party who is not employed by or significantly involved with the Secretary, or the Contractor, to serve as a third-party mediator to mediate disputes under this Contract.

**(B) Alternative Procedures.** In addition to, or as an alternative to, remedies and procedures prescribed by section 110 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450m-1), the parties to this Contract may jointly

- (i) Submit disputes under this Contract to third-party mediation;
- (ii) Submit the dispute to the adjudicatory body of the Contractor, including the tribal court of the Contractor;
- (iii) Submit the dispute to mediation processes provided for under the laws, policies, or procedures of the Contractor; or
- (iv) Use the administrative dispute resolution processes authorized in subchapter IV of chapter 5 of title 5, United States Code.

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**(C) Effect of Decisions.** The Secretary shall be bound by decisions made pursuant to the processes set forth in subparagraph (B), except that the Secretary shall not be bound by any decision that significantly conflicts with interests of Indians or the United States.

**(13) ADMINISTRATIVE PROCEDURES OF CONTRACTOR.** Pursuant to the Indian Civil Rights Act of 1968 (25 U.S.C. 1301 et seq.), the laws, policies, and procedures of the Contractor shall provide for administrative due process (or the equivalent of administrative due process) with respect to programs, functions, services, and activities that are provided by the Contractor pursuant to this Contract.

**(14) SUCCESSOR ANNUAL FUNDING AGREEMENT.**

**(A) In General.** Negotiations for a successor AFA, provided for in subsection (f)(2), shall begin not later than 120 days prior to the conclusion of the preceding AFA. Except as provided in section 105(c)(2) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(c)(2)), the funding for each such successor AFA shall only be reduced pursuant to section 106(b) of such Act (25 U.S.C. 450j-1(b)).

**(B) Information.** The Secretary shall prepare and supply relevant information, and promptly comply with any request by the Contractor for information that the Contractor reasonably needs to determine the amount for funds that may be available for a successor annual funding agreement, as provided for in subsection (f)(2) of this Contract.

**(15) CONTRACT REQUIREMENTS; APPROVAL BY SECRETARY.**

**(A) In General.** Except as provided in subparagraph (B), for the term of the Contract section 2103 of the Revised Statutes (25 U.S.C. 81) and section 16 of the Act of June 18, 1934 (48 Stat. 987, chapter 576; 25 U.S.C. 476), shall not apply to any contract entered into in connection with this Contract.

**(B) Requirements.** Each Contract entered into by the Contractor with a third party in connection with performing the obligations of the Contractor under this Contract shall

- (i) be in writing;
- (ii) identify the interested parties, the authorities of such parties, and purposes of the Contract;
- (iii) state the work to be performed under the Contract; and

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- (iv) state the process for making any claim, the payments to be made, and the terms of the Contract, which shall be fixed.

**(C) OBLIGATIONS OF THE CONTRACTOR.**

**(1) CONTRACT PERFORMANCE.** Except as provided in subsection (d)(2), the Contractor shall perform the programs, functions, services and activities as provided in the AFA under subsection (f)(2) of this Contract.

**(2) AMOUNT OF FUNDS.** The total amount of funds to be paid under this Contract pursuant to section 106(a) shall be determined in an AFA entered into between the Secretary and the Contractor, which shall be incorporated into this Contract.

**(3) CONTRACTED PROGRAMS.** Subject to the availability of appropriated funds, the Contractor shall administer the programs, functions, services, and activities identified in this Contract and funded through the AFA under subsection (f)(2).

**(4) TRUST SERVICES FOR INDIVIDUAL INDIANS.**

**(A) In General.** To the extent that the AFA provided funding for the delivery of trust services to individual Indians that have been provided by the Secretary, the Contractor shall maintain at least the same level of service as the Secretary provided for such individual Indians, subject to the availability of appropriated funds for such services.

**(B) Trust Services to Individual Indians.** For the purposes of this paragraph only, the term "trust services for Individual Indians" means only those services that pertain to land or financial management connected to individually held allotments.

**(5) FAIR AND UNIFORM SERVICES.** The Contractor shall provide services under this Contract in a fair and uniform manner and shall provide access to an administrative or judicial body empowered to adjudicate or otherwise resolve complaints, claims, and grievances brought by program beneficiaries against the Contractor arising out of the performance of the Contract.



**(D) OBLIGATION OF THE UNITED STATES.****(1) TRUST RESPONSIBILITY.**

**(A) In General.** The United States reaffirms the trust responsibility of the United States to the Valdez Native Tribe to protect and conserve trust resources of the Indian tribes and the trust resources of individual Indians.

**(B) Construction of Contract.** Nothing in this Contract may be construed to terminate, waive, modify, or reduce the trust responsibility of the United States to the tribe(s) or individual Indians. The Secretary shall act in good faith in upholding such trust responsibility.

**(2) GOOD FAITH.** To the extent that health programs are included in this Contract, and within available funds, the Secretary shall act in good faith in cooperating with the Contractor to achieve the goals set forth in the Indian Health Care Improvement Act as amended (25 U.S.C. 1601 et seq.).

**(3) PROGRAMS RETAINED.** As specified in the AFA, the United States hereby retains the programs, functions, services, and activities with respect to the tribes that are not specifically assumed by the Contractor in the AFA under subsection (f)(2).

**(E) OTHER PROVISIONS.**

**(1) DESIGNATED OFFICIALS.** Not later than the effective date of this Contract, the United States shall provide to the Contractor, and the Contractor shall provide to the United States, a written designation of a senior official to serve as a representative for notices, proposed amendments to the Contract, and other purposes for this Contract.

**(2) CONTRACT MODIFICATIONS OR AMENDMENT.**

(A) Except as otherwise provided in subparagraph (B), no modification to this contract shall take effect unless such modification is made in the form of a written amendment to the contract and the Contractor and the Secretary provide written consent for the modification.

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- (B) **EXCEPTION:** The addition of supplemental funds for programs, functions, and activities (or portions thereof) already included in the AFA under subsection (f)(2), and the reduction of funds pursuant to section 106(b)(2), shall not be subject to subparagraph (A).

Should negative Congressional Appropriations or rescissions occur; written amendments will be sent to the Tribe as unilateral amendments.

Written consent of the Tribe shall not be required for issuing amendments which result from changes in actual appropriation levels, or which represent an increase in funding of PSFA's identified in this AFA.

**(3) OFFICIALS NOT TO BENEFIT.** No Member of Congress, or resident commissioner, shall be admitted to any share or any Contract executed pursuant to this Contract, or to any benefit that may arise from such contract. This paragraph may not be construed to apply to any contract with a third party entered into under this Contract if such contract is made with a corporation for the general benefit of the corporation.

**(4) COVENANT AGAINST CONTINGENT FEES.** The parties warrant that no person or selling agency has been employed or retained to solicit or secure any contract executed pursuant to this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business.

**(5) APPROVAL OF CONTRACT.** Both parties agree to inform the parties by formal letter or resolution, the individual authorized to represent or negotiate on their behalf.

**(6) ANNUAL FUNDING AGREEMENT.**

- (A) In General.** The annual funding agreement under this Contract shall only contain
- (i) terms that identify the programs, functions, services and activities to be performed or administered, the general budget category assigned, the funds to be provided, and the time and method of payment; and
  - (ii) such other provisions, including a brief description of the programs, functions, services and activities to be performed

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(including those supported by financial resources other than those provided by the Secretary), to which the parties agree.

**(B) Incorporation by Reference.** The annual funding agreement is hereby incorporated in its entirety in this Contract and attached to this Contract as Attachment 2.

**(7) CONTRACT SUPPORT COSTS (CSC).** The parties agree that the CSC funding under this Annual Funding Agreement (AFA) will be calculated and paid in accordance with Section 106 of the Act: IHS CSC Policy (Indian Health Manual – Part 6, Chapter 3); and any Congressional restrictions in appropriations or other statutes. In accordance with these authorities and subject to available appropriations for CSC, the parties agree that under this AFA the Valdez Native Tribe will receive direct and indirect CSCs in the amounts cited on the Alaska Area Native Health Service Fiscal Year 2012 Operating Resources Detail No. 01. These amounts may be adjusted as set forth in the IHS CSC Policy (IHM 6-3) as a result of changes in program bases and/or Tribal CSC need, and available CSC appropriations. Any adjustments to the amounts will be reflected in future modification to this AFA.

**Valdez Native Tribe**

BY Benna Hershney, President  
*Authorized Official*

*United States of America, Department of Health and Human Services,  
Indian Health Service*

BY Christopher Mandregan, Jr.  
*Christopher Mandregan, Jr. MPH  
Area Director, Alaska Area, Indian Health Service*

BY Burton J. Humphrey  
*Burton J. Humphrey  
Chief of the Contracting Office, Alaska Area Indian Health Service*