

**PROSPECTIVE PURCHASER AGREEMENT
BETWEEN THE STATE OF ALASKA
AND DENALI 7th & K, LLC
RELATING TO THE 7th AND K PROPERTY,
ANCHORAGE, ALASKA**

1. This Agreement between the State of Alaska and Denali 7th & K, LLC relating to the 7th and K Property in Anchorage, Alaska¹ (“Agreement”) is made between (1) the State of Alaska Department of Environmental Conservation (“ADEC”) and (2) Denali 7th & K, LLC (“Denali”).

2. ADEC enters into this Agreement pursuant to Title 46 of the Alaska Statutes and Title 18 of the Alaska Administrative Code, including 18 AAC 95.

3. Denali and ADEC enter into this Agreement to:

a. release Denali, its members, managers and employees and successors and assigns from certain liability that might otherwise arise under state or federal law based on the terms and conditions described below; and

b. protect public health and the environment by allowing site access for the purpose of environmental investigation and protecting users of the site from exposure to certain hazardous substances known to exist beneath the Property.

4. The Parties agree to undertake all actions required by the terms and conditions of this Agreement. The purpose of this Agreement is to settle and resolve, subject to reservations contained in Section IX (Reservation of Rights) herein, the potential liability of Denali, its members, managers and employees and its successors and assigns for the Existing Contamination at and from the Property which would otherwise result from Denali becoming owner of the Property.

5. The resolution of this potential liability, in exchange for agreement by Denali to limit use of the Property and to take specified action to prevent exposure to hazardous substances on the Property, as provided herein, is in the public interest.

SECTION I. DEFINITIONS

6. Unless otherwise expressly provided herein, terms used in this Agreement which are defined in Alaska Statute Title 46 or in regulations promulgated thereunder, shall have the meaning assigned to them in those statutes and regulations, including any amendments thereto, in effect as of the effective date of this Agreement. For purposes of this Agreement the following

¹ See Exhibit A.

terms shall have the following meanings:

a. "Existing Contamination" shall include all hazardous substances, hazardous wastes, pollutants and contaminants, including, without limitation, oil and petroleum, released into the environment at, from or to the Property prior to the effective date of this Agreement;

b. "Parties" shall mean ADEC and Denali including its members, managers, employees, lessees, sublessees and successors and assigns; and

c. "Property" shall mean the parcel of real property described more particularly as located in the Municipality of Anchorage, Third Judicial District, State of Alaska as shown on the attached Exhibit A to this Agreement.

SECTION II. STATEMENT OF FACTS

7. Denali wishes to purchase the Property from the present owner.

8. The Property is contaminated with tetrachloroethylene (PCE) and other hazardous substances due to the activities of persons other than Denali.

9. ADEC's and Denali's knowledge of contamination on the Property is based on the reports listed in Exhibit B to this Agreement.

10. Soil and groundwater samples collected during site assessments and other information on file with ADEC document tetrachloroethylene (PCE) concentrations in subsurface soil approximately twenty feet below ground surface that exceed ADEC cleanup levels.

11. Denali represents, and for the purposes of this Agreement, ADEC relies on those representations, that Denali has not contaminated or contributed to the Existing Contamination.

SECTION III. WORK TO BE PERFORMED: PAYMENT OF COSTS

12. In the event Denali undertakes to redevelop the Property in the future, Denali agrees to submit work plans to ADEC for review and approval under 18 AAC 75.325 -.390 if the redevelopment will involve handling of the Existing Contamination. In the event of any future construction of new buildings on the Property, Denali shall undertake appropriate vapor intrusion assessment pursuant to a work plan as approved by ADEC. If the analytical results of such vapor sampling warrant, soil vapor mitigation shall be performed by Denali. Denali also agrees to institutional controls for the Existing Contamination as provided in Sections III and IV of this Agreement.

13. Denali agrees to reimburse ADEC's future oversight costs, if any, incurred after the effective date of this Agreement associated with Denali's potential future redevelopment of

the Property, including as well if Denali's use of the Property otherwise exacerbates the Existing Contamination. Denali agrees to reimburse ADEC for the costs of negotiating this Agreement including ADEC's attorney costs.

SECTION IV. USE RESTRICTIONS ("INSTITUTIONAL CONTROLS")

14. Denali agrees to the following limitations on use of the Property:

a. Denali may not install drinking water wells on the Property, except with the written permission of ADEC;

b. Denali shall comply with all federal, state, and local laws and regulations applicable to the handling, disposal, management, or movement of hazardous wastes, hazardous substances, and pollutants associated with any activities at the Property by Denali. Such activities involving the Existing Contamination shall be subject to ADEC approval before implementation. Denali is responsible for coordinating any such activities with investigation or remedial work plans. Denali shall not conduct any activities that might exacerbate Existing Contamination in the Property's soils or groundwater; and

c. In the event of the any future construction of new buildings on the Property, Denali shall undertake appropriate vapor intrusion assessment pursuant to a Work Plan as approved by ADEC. If the analytical results of such vapor sampling warrant, soil vapor mitigation shall be performed by Denali.

SECTION V. ACCESS/NOTICE TO SUCCESSORS IN INTEREST

15. Commencing upon the date that it acquires the Property, Denali shall provide a right of access at all reasonable times to the Property to ADEC and its authorized representatives or contractors, and to persons implementing an ADEC-approved site investigation or cleanup plan, for purposes of overseeing implementation of this Agreement and conducting such tests or taking such samples or other response actions as ADEC deems necessary. ADEC shall use its best efforts, but is not obligated, to provide Denali reasonable notice before entering the Property and to minimize interference with Denali's tenants. Denali also agrees to provide the same access right to ADEC to any other property to which access is required for the implementation of response actions at the Property, to the extent access to such other property is controlled by Denali, for the purposes of performing and overseeing response actions at the Property under applicable state and federal law.

16. Denali shall ensure that assignees, successors in interest, lessees and sub-lessees of the Property shall provide ADEC the same access as Denali is required to provide under this Agreement. Denali shall provide a copy of the Notice of Prospective Purchaser Agreement attached to this Agreement to any current or future lessee or sublessee on the Property. Denali shall ensure that any subsequent leases, subleases, assignments or transfers of the Property or an interest in the Property are consistent with the terms and conditions of this Agreement.

SECTION VI. DUE CARE/COOPERATION

17. Denali shall exercise due care at the Property with respect to the Existing Contamination and shall comply with all applicable local, State, and federal laws and regulations.

18. In the event Denali becomes aware of any action or occurrence which causes or threatens a material release of hazardous substances, pollutants or contaminants at or from the Property, with the exception of Existing Contamination, Denali shall immediately take all appropriate action to prevent, abate, or minimize such release or threat of release, and shall, in addition to complying with any applicable notification requirements under applicable law, immediately notify ADEC of such release or threatened release.

SECTION VII. CERTIFICATION

19. Denali certifies that to the best of its knowledge and belief it has fully and accurately disclosed to ADEC all information known to Denali and all information in the possession or control of Denali's employees that relates to any Existing Contamination or any past release of hazardous substances, pollutants or contaminants at or from the Property, and to any of Denali's activities at the Property. Denali also certifies that to the best of its knowledge and belief it has not caused or contributed to a release or threat of release of hazardous substances or pollutants or contaminants at the Property.

SECTION VIII. STATE OF ALASKA COVENANT NOT TO SUE

20. Except as otherwise provided in Section IX (Reservation of Rights) of this Agreement and subject to the satisfactory performance by Denali and any successor and assign of Denali of the obligations under this Agreement, the State of Alaska covenants not to sue or take any other civil or administrative action against Denali and its members, managers and employees and successors and assigns for any and all liability with respect to the Existing Contamination including but not limited to under Alaska Statute Title 46, common law or federal environmental law. This covenant not to sue shall take effect upon the effective date of this Agreement, and extend only to Denali, its members, managers and employees and successors and assigns and not to any other person or entity except as provided for in Section X (Parties Bound/Transfer of Covenant). This covenant not to sue shall be ineffective if it is discovered that Denali caused or contributed to the Existing Contamination.

SECTION IX. RESERVATION OF RIGHTS

21. The State of Alaska covenant not to sue set forth in Section VIII does not pertain to any matters other than those expressly specified in Section VIII. The State of Alaska and

ADEC reserve, and the Agreement is without prejudice to, all rights against Denali with respect to all other matters, including but not limited to, the following:

- a. Claims based on a failure by Denali to meet a requirement of this Agreement, including but not limited to Section III (Work to be Performed; Payment of Costs), Section IV (Institutional Controls), Section V (Access/Notice to Successors in Interest), and Section VI (Due Care/Cooperation);
- b. Any liability resulting from future releases of hazardous substances, hazardous waste, pollutants or contaminants, at or from the Property caused or contributed to by Denali, and its lessees or sublessees;
- c. Any liability resulting from exacerbation of the Existing Contamination by Denali, its lessees or sublessees; and
- d. Any liability resulting from the release or threat of release of hazardous substances, hazardous waste, pollutants or contaminants, at the Property not within the definition of Existing Contamination.

22. Nothing in this Agreement is intended as a release or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Alaska, ADEC, or Denali may have against any person, firm, corporation or other entity not a party to this Agreement.

23. Nothing in this Agreement is intended to limit the right of the State of Alaska or ADEC to undertake future response actions at the Property or to seek to compel parties other than Denali and its members, managers and employees and successors and assigns to perform or pay for response actions at the Property. Nothing in this Agreement shall in any way restrict or limit the nature or scope of response actions which may be taken or be required by the State of Alaska or ADEC in exercising its authority under state or federal law, excepting for such limitations with respect to Denali, its members, managers and employees and Denali's successors and assigns as are set forth in this Agreement. Denali acknowledges that it is acquiring an interest in property where such response actions may be required. Denali agrees to cooperate with ADEC in the event that further response actions are necessary.

SECTION X. PARTIES BOUND/TRANSFER OF COVENANT

24. This Agreement shall apply to and be binding upon the State of Alaska, its officers, commissioners, employees and agents, and shall apply to and be binding on Denali, its members, managers and employees, agents, assigns, successors, contractors, and authorized representatives. Each signatory of a Party to this Agreement represents and certifies that he or she is fully authorized to enter into the terms and conditions of this Agreement and to legally bind such party.

25. The benefits and burdens of this Agreement shall run with the land; however, the covenant not to sue set forth in Paragraph 20 of this Agreement shall limit or otherwise effect the liability only of persons who are potentially liable under Alaska law for a release of hazardous substances at the Property as of the date of that person's acquisition of ownership or operation, or other interest in the Property and who assume and are bound by the terms of this Agreement applicable to the Property as of the date of their acquisition of ownership, operation, or other interest in the Property. In the event Denali sells the Property in the future, Denali is released thereafter from the burdens of this Agreement, which will be borne by its successors and assigns.

SECTION XI. DISCLAIMER

26. This Agreement in no way constitutes a finding by ADEC as to the risks to human health and the environment which may be posed by contamination at the Property, nor constitutes any representation by ADEC that the Property is fit for any particular purpose.

SECTION XII. NOTICES

27. All notices, requests, orders, and other communications under this Agreement shall be in writing and shall be deemed to have been duly given if delivered personally to the addresses, or upon receipt if mailed by certified or registered mail, return receipt requested, with postage prepaid, as follows:

For ADEC: Commissioner
Alaska Department of Environmental Conservation
410 Willoughby Street
Juneau, AK 99801-1795

For Denali: Chuck Kim
Denali 7th & K, LLC
1230 W. International Airport Road
Anchorage, AK 99518

Joshua D. Hodes
Landye Bennett Blumstein LLP
701 W. 8th Ave., Suite 1200
Anchorage, AK 99501

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

SECTION XIII. EFFECTIVE DATE

28. The obligation to reimburse ADEC for the costs of negotiating this Agreement described in paragraph 14 shall be effective on the date upon which the Agreement has been

fully executed by the Parties. With the respect to the remaining obligations of this Agreement, the effective date of this Agreement shall be the date upon which the Agreement has been fully executed by the Parties or the date on which the Denali acquires the Property, whichever comes later.

SECTION XIV. ATTORNEY GENERAL APPROVAL

29. The signature of the Alaska Attorney General or his designee hereto signifies approval of the Covenant Not to Sue of the State of Alaska and the Contribution Protection provision herein.

SECTION XV. TERMINATION/MODIFICATION

30. If any Party believes that any or all of the obligations under Section V (Access/Notice to Successors in Interest) are no longer necessary to ensure compliance with the requirements of the Agreement, that Party may request in writing that the other Party agree to terminate the provision(s) establishing such obligations; provided, however, that the provision(s) in question shall continue in force unless and until the party requesting such termination receives written agreement from the other Party to terminate such provision(s).

31. The restrictions on use of the Property set forth in Section IV (Use Restrictions) may be terminated or modified in whole or in part by ADEC, following a determination by ADEC that the use restrictions, or certain of them, are no longer necessary for protection of public health or the environment. Any release of use restrictions shall be in writing, signed by an authorized representative of ADEC, and in a form that may be recorded in the Anchorage Recorder's Office, Third Judicial District, State of Alaska.

SECTION XVI. CONTRIBUTION PROTECTION

32. With regard to claims for contribution against Denali, the Parties hereto agree that Denali is entitled to protection from contribution actions or claims as provided by CERCLA Section 113(f)(2), 42 U.S.C. §9613(f)(2), and other law, for matters addressed in this Agreement. The matters addressed in this Agreement are all response actions taken or to be taken and response costs incurred or to be incurred by the State of Alaska or any other person for the American Linen Site,² including releases of hazardous substances that have migrated and continue to from that Site to and beyond the Property, as well as the Property itself with respect to Existing Contamination.

33. Denali agrees that with respect to any suit or claim for contribution brought by it for matters related to this Agreement it will notify the State of Alaska, Department of Law in writing no later than 60 days prior to the initiation of such suit or claim.

² DEC File No. 2100.26.143, Hazard ID 23921, 700 I St., Anchorage, AK 99501.

34. Denali also agrees that with respect to any suit or claim for contribution against it for matters related to this Agreement it will notify the State of Alaska, Department of Law within 20 days of service of the complaint on Denali.

SECTION XVII. GENERAL PROVISIONS

35. This Agreement shall be governed by and construed in accordance with the laws of the State of Alaska. Jurisdiction for any action arising from this Agreement shall be in the superior court for the State of Alaska, Third Judicial District at Anchorage.

36. This Agreement contains the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the Parties. There are no unwritten oral agreements between the Parties.

37. This Agreement may be executed in several counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

38. Each signatory to this Agreement represents that he has the authority to execute this Agreement on behalf of the department or corporation for which he is executing and bind the same in accordance with the terms and conditions hereof.

IT IS SO AGREED:

By: Mr. Chuck Kim, Manager
Denali 7th & K, LLC

Dated this ___ day of _____, 2016

IT IS SO AGREED:

ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By: Jennifer Roberts
Contaminated Sites Program Manager
Division of Spill Prevention and Response

Dated this ___ day of _____, 2016

APPROVED:

ALASKA DEPARTMENT OF LAW

By: Breck C. Tostevin
Senior Assistant Attorney General

Dated this ____ day of _____, 2016

EXHIBIT A
Legal Description

Lots 4A, 5A and 6A, Block 65, L ST. SLIDE REPLAT OF ORIGINAL TOWNSITE OF ANCHORAGE, according to the official plat thereof, filed under Plat Number 67-30, in the records of the Anchorage Recording District, Third Judicial District, State of Alaska.

EXHIBIT B
Environmental Reports

1. 2016 Limited Phase II Environmental Site Assessment, 624, 626 & 634 K Street and 1009 & 1015 West 7th Avenue, Anchorage, Alaska, prepared by BGES, Inc. Environmental Consultants, October 2016.
2. 2016 Phase I Environmental Site Assessment and Addendum for 624, 626 and 634 K. St. and 1009 and 1015 West 7th Ave., Anchorage, Alaska prepared by BGES, Inc. Environmental Consultants, Aug and Oct 2016.
3. Site Assessment Report, Underground Storage Tank Closure Program, 7th Avenue and I Street Cleaners, 700 I Street, Anchorage Alaska prepared by DOWL Engineers, September, 1991.
4. Report, Soil and Groundwater Sampling, American Linen, 700 I Street, Anchorage, Alaska prepared by Dames and Moore, June 1996.
5. Quarterly Groundwater Monitoring Report, American Linen, 700 I Street, Anchorage, Alaska, prepared by Dames and Moore, October 1997.
6. Groundwater Sampling, 700 I Street, Anchorage, Alaska, prepared by Shannon and Wilson, September 2007.
7. Groundwater Sampling, 700 I Street, Anchorage, Alaska, prepared by Shannon and Wilson, July 2013.
8. 1988 DEC state RCRA inspection on American Linen (ID number AkD 050178094) attached to the August 17, 1988 letter to EPA.
9. Site Assessment Report, Former Texaco Service Station, Chevron Site 211074, 1006 West 5th Avenue, Anchorage, Alaska, prepared by GHD, December 29, 2015.