

1 **PURCHASE AND SALES CONTRACT, REGARDING BLOCK 4, LOT 12A, LOT 13**
2 **AND LOT 9C OF THE GARY PAXTON INDUSTRIAL PARK,**
3 **BETWEEN CITY AND BOROUGH OF SITKA AND SILVER BAY SEAFOODS, LLC**

4
5 This PURCHASE AND SALES CONTRACT, REGARDING BLOCK 4, LOTS 9C, 12A
6 AND 13 OF THE GARY PAXTON INDUSTRIAL PARK, BETWEEN CITY AND BOROUGH
7 OF SITKA AND SILVER BAY SEAFOODS, LLC (“Agreement”) is entered into between the
8 CITY AND BOROUGH OF SITKA (“Seller”), a home rule municipality and municipal
9 corporation whose address is 100 Lincoln St., Sitka, Alaska 99835, and SILVER BAY
10 SEAFOODS, LLC (“Purchaser”), an Alaskan limited liability corporation whose address is 4400
11 Sawmill Creek Road, Sitka, Alaska, collectively referred to as “Parties.”

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13 1. **PROPERTY.** Upon the terms, conditions and covenants set forth in this
14 Agreement, the Purchaser and Seller agree as follows regarding the property subject to purchase
15 under this Agreement:

16
17 Purchaser agrees to purchase and Seller agrees to sell to Purchaser the following Gary Paxton
18 Industrial Park (“GPIP”) real property (hereinafter referred to as the "Property"):
19 GPIP Block 4: Lots 9C, 12A and 13.
20

21 **Legal Descriptions:**

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23 Lot 9C, Sawmill Cove Industrial Park Resubdivision No. 2, according to the official plat thereof,
24 filed under Plat No. 2013-2, Records of the Sitka Recording District, First Judicial District, State
25 of Alaska.

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27 Lot 12A, Sawmill Cove Industrial Park Resubdivision No. 2, according to the official plat
28 thereof, filed under Plat No. 2013-2, Records of the Sitka Recording District, First Judicial
29 District, State of Alaska.

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31 Lot 13, Block 4, Sawmill Cove Industrial Park Resubdivision No. 1, according to the official plat
32 thereof, filed under Plat No. 2008-27, Records of the Sitka Recording District, First Judicial
33 District, State of Alaska.

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35 2. **PURCHASE PRICE.** The purchase price for the Property ("Purchase Price") shall
36 be Eight Hundred Twenty Five Thousand DOLLARS (US \$825,000.00). The Purchase Price
37 shall be paid to Seller immediately at Closing.

38
39 3. **SELLER’S REPRESENTATIONS, WARRANTIES, AND COVENANTS.**

40
41 (a) Purchaser acknowledges and understands that Seller owns the Property
42 and intends that as a result of the transaction contemplated in this Agreement, Seller will have no
43 further responsibility or liability for the Property. Purchaser and Seller have specifically
44 negotiated this Agreement with the goal that after Closing of the transactions contemplated in

45 this Agreement that the Seller will have no responsibility or liability for the Property, for events
46 occurring after the Closing Date.

47
48 Notwithstanding anything to the contrary set forth in this Agreement, Purchaser is acquiring the
49 Property "AS IS", "WHERE IS," with all faults and defects. Purchaser acknowledges and agrees
50 that Seller (or any agent of Seller) has not made and does not make, and Seller specifically
51 disclaims, any representations, warranties, promises, covenants, agreements or guaranties of any
52 kind or character whatsoever, whether express or implied, oral or written, past, present or future,
53 of, as to, concerning or with respect to:

54
55 (i) the nature, quality or condition of the Property, including without
56 limitation, the water, soil and geology of, or the presence or absence of any pollutant, hazardous
57 waste, gas of substance or solid waste on or about, or deriving from the Property,

58
59 (ii) the income to be derived from the Property,

60
61 (ii) the suitability of the Property for any and all activities and uses
62 which Purchaser may intend to conduct thereon,

63
64 (iii) the compliance of or by the Property or its operations with any
65 laws, rules, ordinances or regulations of any government authority or body having jurisdiction
66 over the Property, including but not limited to environmental laws, such as CERCLA and RCRA,
67 zoning laws, platting laws and building codes,

68
69 (iv) the habitability, merchantability or fitness for a particular purpose
70 of the Property,

71
72 (v) any matter regarding tax consequences, the presence of asbestos,
73 utilities, valuation, governmental approvals, the truth, accuracy or completeness of the items
74 delivered, and

75
76 (vi) any other matter related to or concerning the Property, except as
77 expressly set forth in this Agreement or the Exhibits.

78
79 Purchaser shall not seek recourse (or seek any remedy, including rescission) against Seller on
80 account of any loss, cost or expenses suffered or incurred by Purchaser with regard to any of the
81 matters described in (i) through (vi) above.

82
83 4. SELLER'S DISCLAIMERS

84
85 Purchaser acknowledges that Purchaser, having been given the opportunity to inspect the
86 Property, is relying solely on its own investigation of the Property and not on any information
87 provided or to be provided by Seller. Purchaser further acknowledges that no independent
88 investigations or verifications have been or will be made by Seller with respect to any
89 information supplied by Seller concerning the Property, and that Seller makes no representation

90 as to the accuracy or completeness of such information. Purchaser will conduct prior to Closing,
91 such investigations of the Property, including but not limited to, the physical and environmental
92 conditions thereof, as Purchaser deems necessary to satisfy itself as to the condition of the
93 Property and the existence or nonexistence of curative action to be taken with respect to any
94 hazardous or toxic substances on or discharged from the Property, and except as expressly set
95 forth in this Agreement, will rely solely upon same and not upon any information provided by or
96 on behalf of Seller or its agents or employees with respect thereto. Upon Closing, Purchaser
97 shall accept the risk that adverse matters, including but not limited to, construction defects and
98 adverse physical and environmental conditions, may not have been revealed by Purchaser's
99 investigations, and except as expressly set forth in this Agreement, Purchaser upon Closing, shall
100 be deemed to have waived, relinquished and released Seller from and against any and all claims,
101 demands, causes of action (including causes of action in tort), losses, damages, liabilities, costs
102 and expenses (including attorneys' fees and court costs) of any and every kind or character,
103 known or unknown, which Purchaser might have asserted or alleged against Seller at any time by
104 reason of or arising out of any of the subject areas listed in this Section 4 and violations of any
105 applicable laws (including any environmental laws) and any and all other acts, omissions, events,
106 circumstances or matters regarding the Property. Purchaser acknowledges that the purpose of
107 this section is for Purchaser, to the fullest extent possible at law, to waive, relinquish, release and
108 disclaim, any claim or liability of or against Seller as the result of any condition or state of facts
109 relating or pertaining to the Property on the Closing Date, except as expressly set forth in this
110 Agreement. Purchaser shall verify the accuracy and completeness of such information itself.

111
112 Purchaser bears the risk of any costs or expenses suffered or incurred by Purchaser with regard to
113 any lack of information, incorrect information or inadequate information relating to any of the
114 matters described in (i) to (vi) above.

115
116 (b) Upon its purchase, the condition and use of the Property are still as
117 provided in and/or subject to the applicable provisions of EXHIBITS A, B, C, and D, which are
118 titled as follows and attached to this Agreement:

- 119
120 EXHIBIT A Legal description of the Property (GPIP Block 4, Lot 11)
- 121 EXHIBIT B - Prospective Purchaser Agreement between the State of Alaska and
122 the City-Borough of Sitka for the Former Alaska Pulp Corporation
123 Pulp Mill Property
- 124 EXHIBIT C - Agreement to Convey between Alaska Pulp Corporation and the
125 City and Borough of Sitka
- 126 EXHIBIT D - Management Requirements at Gary Paxton Industrial Park
- 127 EXHIBIT E - Quit Claim Deed

128 (c) Upon its purchase, the condition and use of the Property is provided in
129 and/or subject to all applicable federal, state, and municipal laws, including GPIP ordinances,
130 rules and regulations.

131
132 (d) All required action necessary to authorize Seller to enter into this
133 Agreement and to carry out Seller's obligations under this Agreement has been taken or will be
134 taken by the Closing Date.

135
136 (e) The representations and warranties set forth above are made as of the
137 Execution Date and shall be deemed made also as of the Closing Date. If Purchaser knows prior
138 to Closing that any representation or warranty above is untrue, then Purchaser shall give Seller
139 written notice of such fact. If (a) such representation and warranty is not remedied by Seller
140 prior to Closing, or (b) the representation and warranty, as remedied, has an adverse affect on any
141 decision made by Purchaser to proceed with this transaction, or (c) any representation or
142 warranty made by Seller is untrue and such fact is not disclosed to Purchaser until Closing, and
143 same has a material and adverse affect on Purchaser's decision to purchase the Property, then
144 Purchaser may either (i) terminate this Agreement, and neither Party shall have any further
145 rights, duties or obligations pursuant to this Agreement except as expressly provided herein, or
146 (ii) waive its objections to any such untrue representation or warranty and this Agreement shall
147 remain in full force and effect. Purchaser shall have a period of one (1) year and one (1) day
148 from the Closing Date to bring any action against Seller for the breach of any such representation
149 or warranty.

150
151 (f) Notwithstanding Seller's disclaimers in this section 4, Seller warrants that
152 upon Purchaser's installation of a certified fire sprinkler system for the related building Property,
153 Seller or its authorized department will issue a Certificate of Occupancy.

154
155 (g) The provisions of this Section 4 survive the Closing or termination of this
156 Agreement.

157
158 5. PURCHASER'S REPRESENTATIONS, WARRANTIES AND COVENANTS.
159 Purchaser represents, warrants, covenants, and agrees with Seller to the following as of the
160 Execution Date and as of the Closing Date:

161
162 (a) Purchaser has the full right, power, and authority to purchase the Property
163 from Seller as provided in this Agreement and to carry out Purchaser's obligations under this
164 Agreement; and all required action necessary to authorize Purchaser to enter into this Agreement
165 and to carry out Purchaser's obligations under this Agreement has been taken. The individual
166 executing this Agreement on behalf of Purchaser has the authority to do so.

167
168 (b) There are no pending, or to the knowledge of Purchaser threatened,
169 actions, suits, claims, proceedings or litigation against Purchaser that would prevent Purchaser
170 from entering into this Agreement, or adversely affect Purchaser's ability to perform under this
171 Agreement, or that would in any way result in any liability to Seller.

173 (c) There are no attachments, executions, assignments for the benefit of
174 creditors, receiverships, conservatorships, or voluntary or involuntary proceedings in bankruptcy
175 or pursuant to any other debtor relief laws contemplated or filed by Purchaser or to the best
176 knowledge of Purchaser pending against Purchaser.

177
178 (d) The representations and warranties set forth above are made as of the
179 Execution Date and shall be deemed made also as of the Closing Date. It shall be a condition of
180 Seller's obligation to close that the representations and warranties made hereunder are true on the
181 Closing Date. In the event any representation or warranty made by Purchaser as of the Closing
182 Date is untrue, Seller must bring any action with respect to such breach of the representation and
183 warranty within two (2) years and (1) day of the Closing Date.

184
185 6. CLOSING. The purchase and sale of the Property shall be closed ("Closing") in
186 the offices of the Seller or at such other place as is mutually agreed to in writing between Seller
187 and Purchaser. The "Closing Date" shall be within 30 calendar days of execution of this
188 Agreement, unless another date is agreed in writing between Seller and Purchaser prior to 30
189 calendar days after execution of this Agreement, which may not be more than a thirty (30)
190 calendar day extension, at a time to be agreed upon by Seller and Purchaser.

191
192 (a) At Closing, Seller, at Seller's expense, shall deliver to Purchaser:

193
194 (i) Executed Quit Claim Deed in the format attached as EXHIBIT E;

195
196 (ii) Owner's policy of title insurance for the property.

197
198 (iii) Any and all other documents reasonably required to be executed by
199 Purchaser to consummate this transaction,

200
201 (b) At Closing, Purchaser, at Purchaser's expense, shall deliver to Seller:

202
203 (i) The Purchase Price; and

204
205 (ii) Any and all other documents reasonably required to be executed by
206 Seller to consummate this transaction.

207
208 7. CLOSING COSTS. At Closing, closing costs and expenses of sale shall be borne
209 as follows:

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211 (a) Seller shall be obligated for and shall pay:

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213 (i) Survey and platting costs;

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215 (ii) Owner's policy of title insurance, and

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217 (iii) Seller's attorneys' fees.

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- (b) Purchaser shall be obligated for and shall pay:
 - (i) Purchaser's due diligence;
 - (iii) Any fees and expenses incurred by Purchaser in connection with Purchaser obtaining financing for its purchase of the Property;
 - (iv) Appraisal Fee of \$5,600;
 - (iii) Recording fee; and
 - (iv) Purchaser's attorneys' fees.

All other closing costs not mentioned herein and for which no provision is made in this Agreement shall be paid equally by the Seller and Purchaser.

8. DEFAULT AND REMEDIES. In the event that this transaction is not consummated by reason of Seller's or Purchaser's default, both Parties sole remedy shall be termination of this Agreement.

9. INDEMNITY. Purchaser will hold harmless, indemnify and defend Seller, its employees, elected and unelected officials from and against any and all losses, claims, actions, demands, damages or other liabilities of any and every nature ("Claims") arising from the Property after the Closing Date of this Agreement.

10. ASSIGNMENT OF AGREEMENT. This Agreement may not be assigned by Purchaser, without Purchaser having to first obtain the consent of Seller.

11. NOTICES. Any notices to be given by either Party to this Agreement shall be given in writing and may be effected by personal delivery, facsimile transmittal, delivery by overnight Federal Express or similar courier service, or mailed through the United States Postal Service, as follows:

To Purchaser:	Richard A. Riggs Silver Bay Seafoods, LLC 4400 SMC RD, STE B Sitka, AK 99835 Telephone: (907) 747-7996 Telecopy/Fax: (907) 747-7998 E-mail: Richard.riggs@silverbayseafoods.com
To Seller:	Administrator, Mark Gorman City and Borough of Sitka 100 Lincoln Street Sitka, Alaska 99835

Telephone: (907) 747-1808
Telecopy/Fax: (907) 747-7403

The Parties hereto shall have the right from time to time to change their respective addresses, and each shall have the right to specify as its address any other address by at least five (5) calendar days prior written notice to the other Party as herein provided. Notice shall be effective and deemed given upon actual receipt or upon the fifth (5th) business day after same is sent as specified above, whichever is earlier; provided, however, notice given by facsimile transmittal shall be effective upon actual receipt and telephonic confirmation that such notice has been received in its entirety.

12. MODIFICATION OF AGREEMENT; WAIVER. This Agreement may not be modified or amended except by a written instrument signed by Seller and Purchaser. Purchaser and Seller may waive any of the conditions contained in this Agreement or any of the obligations of the other party under this Agreement, but any such waiver shall be effective only if in writing and signed by the party waiving such condition or obligation.

13. BINDING EFFECT. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, successors, legal representatives and, subject to Section 11, assigns.

14. ENTIRE AGREEMENT. This Agreement, including any attached Exhibits, constitutes the entire agreement and understanding between the Parties and supersedes all prior and contemporaneous agreements and undertakings of the Parties in connection herewith. No statements, agreements or understandings, representations, warranties or conditions not expressed in this Agreement shall be binding upon the Parties, or shall be effective to interpret, change or restrict the provisions of this Agreement unless such is in writing signed by both Parties hereto and by reference made a part of this Agreement.

The terms of this Agreement are contractual and not a mere recital. The rule of construction that a document is more strictly construed against the drafter shall not apply in the interpretation of this Agreement. The purpose of this Agreement is to ensure the full, complete, and final resolution of any disputes and claims between the Seller and Purchaser regarding the subjects discussed in this Agreement, including but not limited to the purchase of the Property, Parties' obligations and liabilities regarding the Property.

15. GOVERNING LAW. This Agreement shall be construed and interpreted in accordance with the laws of the State of Alaska. Venue for any action regarding the interpretation and enforcement of this Agreement shall be in the Superior Court for the State of Alaska at Sitka, Alaska.

16. ATTORNEYS' FEES. In the event of a dispute or controversy concerning the agreements that are the subject of this Agreement that results in litigation, the prevailing party in such litigation shall be entitled to reasonable attorneys' fees and costs as determined by the Court.

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17. COUNTERPARTS; FACSIMILE SIGNATURES. This Agreement may be executed in counterparts, each of which shall be deemed an original. Each Party agrees that its signature page may be attached to an identical counterpart of this Agreement so that there are signature pages of each such Party to such counterpart of this Agreement.

18. CAPTIONS. Captions and headings throughout this Agreement are for convenience and reference only, and they shall not define, limit, modify or add to the interpretation or meaning of any provisions of this Agreement or in any way affect the scope, intent or effect of this Agreement.

19. SEVERABILITY. If any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained.

20. EXHIBITS. All exhibits attached to this Agreement are made a part of this Agreement for all purposes whatsoever.

21. SURVIVAL. All provisions of this Agreement shall survive Closing.

22. ASSEMBLY APPROVAL. This Agreement is subject to approval by the Assembly for the City and Borough of Sitka regarding its being consistent with the terms and conditions outlined and approved by the Assembly on January 27th, 2015. This Agreement, together with any modifications, changes, or amendments to this Agreement, cannot be enforced against the Seller unless the Assembly for the City and Borough of Sitka has approved this Agreement and any modification, changes, or amendments to this Agreement.

340 EXECUTED by the Parties as of the date set forth below the signature of each party, with
341 the Effective Date of this Agreement to be the date first listed in this Agreement.
342

343 CITY AND BOROUGH OF SITKA, SELLER
344

345 _____
346 Mark Gorman, Administrator
347

348 STATE OF ALASKA)
349) ss:
350 FIRST JUDICIAL DISTRICT)
351

352 On this ____ day of _____, 2015, personally appeared before me MARK
353 GORMAN, whose identity is personally known to me or proved to me on the basis of
354 satisfactory evidence, and who states under oath by signing this document that he has the
355 authority as Municipal Administrator for the City and Borough of Sitka to sign on its behalf, and
356 does so freely and voluntarily.
357

358 _____
359 Notary Public for Alaska
360 My Commission Expires: _____
361

362 SILVER BAY SEAFOODS, LLC, Purchaser
363

364 _____
365 Richard Riggs, CEO
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367 STATE OF ALASKA)
368) ss:
369 FIRST JUDICIAL DISTRICT)
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371 On this ____ day of _____, 2015, personally appeared before me
372 RICHARD RIGGS, whose identity is personally known to me or proved to me on the basis of
373 satisfactory evidence, and who states under oath by signing this document that he has the
374 authority as Chief Executive Officer of Silver Bay Seafoods, LLC to sign on its behalf, and does
375 so freely and voluntarily.
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377 _____
378 Notary Public for Alaska
379 My Commission Expires: _____
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