

# LEASE AGREEMENT

This lease agreement (hereinafter the "Lease"), is made and entered into June 1, 2020, by and between the Kenai Peninsula Borough, 144 N Binkley St, Soldotna, AK 99669 (hereinafter referred to as "Lessor") and Kenaitze Indian Tribe, 150 N. Willow Street, Kenai, Alaska 99611 (hereinafter referred to as "Lessee"). As authorized by KPB Ordinance 2020-\_\_\_, this Lease is the final and complete understanding of the parties.

1. **Premises.** Lessor, for and in consideration of the rents, covenants, and conditions of this Lease does hereby lease to Lessee the following property hereinafter referred to as "Premises":

Two rooms, totaling 1,792 square feet, more particularly described as Room #42 and Room #43, Nikiski Community Recreation Center, 50097 Kenai Spur Highway, situated on Tract A, according to Plat No.1362, records of the Kenai Recording District, Third Judicial District, State of Alaska.

Lessee shall also have common use of public restrooms and parking spaces.

2. **Rent.** In consideration of the Lease of the Premises by Lessor, Lessee covenants to pay to the Lessor as Rent the sum of four thousand eight hundred fifty-six and 32/100 dollars (\$4,856.32) per month. Rent is due and payable in advance, on or before the 1<sup>st</sup> day of the month. Rent shall remain the same for the Term of the lease.

**Additional Rent.** Lessee agrees to pay additional rent for additional rental space in the facility. Advanced scheduling of these areas is required and must be reserved through the North Peninsula Recreation Service Area ("NPRSA") staff. A monthly fee of five hundred (\$500.00) will be charged for shared use of the kitchen and the gymnasium, and will include janitorial services in the common restrooms. Additional Rent is due and payable in advance, on or before the 1<sup>st</sup> day of the month. Rent shall remain the same for the Term of the lease.

3. **Term, Month-to-Month Extended Terms.** The Lease Term is three (3) months commencing on June 1, 2020 and ending on August 31, 2020 and may be extended month-to-month thereafter upon mutual agreement of the parties provided however that either Lessee or Lessor may cancel extended terms of this Lease without cause by delivering written notice to the other party not less than 30 days in advance of the date of cancellation. Such written notice shall specify the date of cancellation. Rents for a partial last month shall be prorated to the actual number of days in the partial term at \$160.00 per day, and the prorated days for the additional monthly rent rate \$16.00 per day for a total of \$176.00 per day. Lessee and Lessor acknowledge that three to six months is the anticipated life of this

Lease. This Lease may not be extended beyond one year without further authorization of the KPB Assembly.

4. **Utilities, Maintenance, and Repairs.**

(a) Lessor Responsibilities. So long as the Lessee is in compliance with all Lease terms, including timely payment of Rent due, the Lessor shall be responsible for the following for the duration of the Lease:

- (i). Utilities/Snow Removal. Gas, electric, water, septic, refuse and snow removal.
- (ii). Grounds Maintenance. Grounds maintenance, to include keeping ingress, egress, and parking clear of snow or other debris and to keep the exterior grounds of the property in good condition.
- (iii). Major Repairs. Any major structural repairs of a permanent nature shall be performed by the Lessor.

(b) Lessee Responsibilities:

- (i). Phone/ Network. Phone and Network service is the responsibility of the Lessee. Phone accounts, network servers, and internet connections shall be established and paid for by Lessee at the option of the Lessee. The Lessee is required to coordinate installation with the Lessor. The Lessor reserves the right to request that the Lessee must properly secure any wireless network provisions.
- (ii). Janitorial Service. Lessee is responsible for its own janitorial or custodial services and required supplies directly related in the rooms leased.
- (iii). Security. Lessee will be responsible for securing rental space. Lessee will be responsible for securing building and alarm system if operating outside of the community center normal operating hours.
- (iv). Minor maintenance and repairs. Lessee shall be responsible for minor and routine maintenance of the premises and maintain the premises in a good, neat and clean condition.

5. **Covenants of Lessee.** Lessee hereby covenants and agrees:
- A. To pay rent. Lessee will pay the rent specified at the times and in the manner set out in paragraph 3 herein, except only in the case of fire or other casualty as herein provided.
  - B. Not to assign. Lessee shall not assign, sublet or part with the possession of all or any part of the leased premises without the prior written consent of the Lessor.
  - C. To permit Lessor to enter. Lessor is granted free access to premises at all times for inspection, maintenance, or repair.
  - D. To yield up premises. At the expiration or cancellation of this Lease, Lessee will peaceably yield up to Lessor the premises, in good repair in all respects, reasonable use and wear excepted.
  - E. Alterations. Lessee may not alter the premises without first obtaining prior approval of Lessor. Any approved fixtures installed by Lessee shall become property of the Lessor unless otherwise agreed to in advance.
  - F. Acceptance of Premises. Lessee has examined and knows the condition of the premises and accepts the same "as is," subject to Lessor's obligations under this lease.
  - G. Use of Premises. Lessee hereby covenants that the use of the premises shall be for professional use (office/conference/meetings) only and for no other purpose except by written mutual agreement by Lessor.
6. **Lessor's Warranties.** The Lessor covenants, guarantees and provides the following express warranties:
- A. No existing restrictions interfere with the Lessee's permitted and intended use of the premises;
  - B. There is availability of adequate ingress and egress to the premises;
  - C. Lessor has sufficient interest in the property to grant Lessee this leasehold;
  - D. Lessor shall be responsible for maintaining the premises in good repair.

7. **Default by Either Party.** Should either Lessor or Lessee default in the performance of the obligations of any covenants of this Lease and fail to fully remedy such default within thirty days after written notice by the non-defaulting party, then the Lease may be terminated by written notice to the defaulting party. Upon termination of this Lease, Lessor shall refund to Lessee any unearned advance rent paid by Lessee.

8. **Indemnification and Insurance.**

a. **Indemnification and Insurance**

The Lessee shall indemnify and hold harmless the Kenai Peninsula Borough (KPB) from any and all claims, liabilities, losses, damages, and charges, related to the use of the facilities subject of this Agreement. Upon request, the lessee shall provide proof of Commercial General Liability Insurance with minimum policy limits of \$1,000,000 per incident; Automobile Liability policy with minimum policy limits of \$1,000,000 per accident for bodily injury; and Worker's Compensation / Employer's Liability limits as required by law. The KPB is self-insured and will maintain insurance on the land and facility and maintain insurance covering its employees as required by law.

The policies described above shall remain in force for the life of the agreement and must state that the coverage is primary and exclusive of any insurance carried by the KPB. The coverage required of Lessee by this agreement shall list the KPB as additional insured. All policies and certificates of insurance shall provide that a written notice of any cancellation or modification will be delivered to Lessor at least 30 days prior to the effective date of such cancellation or modification.

c. **Proof of Insurance.** At the time of executing this Lease, and at the time of each renewal of insurance, Lessee shall deliver to the North Peninsula Recreation Service Area Director certificates of insurance or letters of self-insurance meeting the above criteria.

9. **Damage due to Causes beyond Control.** Lessee and Lessor agree that if a cause beyond control prevents occupation of the premises, any rent paid shall be prorated daily for the days Lessee is unable to occupy the premises. If the "cause beyond control" lasts for more than 30 days, Lessee or Lessor shall have the right to terminate this Lease upon 14 days' written notice given in the manner set out in Section 17 of this Lease. The phrase "cause or causes beyond control," as used in this section, means any one or more of the following causes which are not attributable to the fault or negligence of the Lessee or Lessor and which prevent performance of this Lease: fire, explosions, floods, earthquakes, other acts of God, war, orders or law of duly constituted public authorities, and other major uncontrollable and unavoidable events, all of the foregoing which must actually prevent Lessee or Lessor from

performing the terms of this Lease. Events which are particular to either party, including but not limited to financial difficulties, are not causes beyond the control of either the Lessee or Lessor.

10. **Compliance with Laws.** Lessee agrees to comply with all applicable federal, state, borough and local laws and regulations.
11. **No Waiver.** No assent, expressed or implied, by either party to any breach of either party's covenants shall be deemed to be a waiver of any succeeding breach of the same covenants, nor shall any forbearance by a party to seek a remedy for any breach be deemed a waiver by that party of its rights or remedies with respect to such breach.
12. **Integration.** This document contains the entire lease agreement of the parties hereto. All negotiations, statements, representations, guarantees, warranties, and assurances, whether oral or written, which are in any way related to the subject matter of this Lease and the performance of either party hereto, are merged and integrated into the terms of this document.
13. **Interpretation and Enforcement.** This Lease has been drafted following negotiations between the parties. It shall be construed according to the fair intent of the language as a whole, not for or against any party. The interpretation and enforcement of this Lease shall be governed by the laws of the State of Alaska. The titles of sections in this agreement are not to be construed as limitations or definitions but are for identification purposes only.
14. **Counterparts; Electronic Signature.** This Lease may be executed in counterpart and may be executed by way of facsimile or electronic signature in compliance with AS 09.80, each of which when executed shall be considered an original and all of which together shall constitute one agreement.
15. **Severability.** If any section or clause of this Lease is held invalid by a court of competent jurisdiction, or is otherwise invalid under the law, the remainder of this Lease shall remain in full force and effect.
16. **Notice.** Whenever notice is required hereunder, it shall be addressed as follows until written notice of change of address is given to the other party:

**LESSOR:**

Kenai Peninsula Borough  
Rachel Parra, NPRSA Director  
144 N. Binkley Street

**LESSEE:**

Kenaitze Indian Tribe  
Dawn Nelson, Executive Director of Tribal Administration  
150 N. Willow Street

Soldotna, Alaska 99669

Kenai, AK 99611

- 17. **Authority to Sign.** Each person signing this Lease represents and warrants that he or she is duly authorized and has legal capacity to execute this Lease. Each party represents and warrants that by executing this lease the performance of such party's obligations under the Lease are valid and binding on such party and the Lease is enforceable in accordance with its terms. Due to the current statewide disaster emergency, the Lease will not be notarized or witnessed.

KENAI PENINSULA BOROUGH

KENAITZE INDIAN TRIBE

\_\_\_\_\_  
 Charlie Pierce  
 Mayor

\_\_\_\_\_  
 Dawn Nelson  
 Executive Director of Tribal Administration

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
 Johni Blankenship, Borough Clerk

\_\_\_\_\_  
 Sean Kelley, Deputy Borough Attorney