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2	701 Pike Street, Suite 2200 Seattle, WA 98101		
3	Telephone: (206) 262-1200 Facsimile: (260) 223-4065		
4	E-Mail: mscheer@scheerlaw.com		
5 6	IN THE SUPERIOR COURT OF THE STATE OF ALASKA THIRD JUDICIAL DISTRICT, AT ANCHORAGE		
7	ALASKA BUILDING, INC., an Alaska corporation,		
8	Plaintiff,		
9	v.		
10	716 WEST FOURTH AVENUE LLC, KOONCE PFEFFER BETTIS, INC., d/b/a		
11 12	KPB ARCHITECTS, PFEFFER DEFELOPMENT, LLC, LEGISLATIVE AFFAIRS AGENCY, and CRITERION		
13	GENERAL, INC.,		
14	Defendants.		
15 16	DEFENDANT CRITERION GENERAL, INC.'S ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFF'S COMPLAINT		
17	Defendant Criterion General, Inc., by and through its attorneys, Scheer & Zehnder		
18	LLP, submits its Answer and Affirmative Defenses to plaintiff's Complaint by admitting		
19	denying, and alleging as follows:		
20	ANSWER		
21 22	1. Defendant objects that the allegations in paragraph 1 of the Complaint call fo		
23	a legal conclusion. Otherwise, defendant admits that plaintiff is an Alaska corporation which		
24	filed a biennial report in 2014, and as of the date of this pleading is in good standing with the		
25	State of Alaska Department of Commerce.		
26			
	DEFENDANT CRITERION GENERAL, INC.'S ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFF'S COMPLAINT – Page 1  SCHEER & ZEHNDER LLP 701 PIKE STREET, SUITE 2200 SEATTLE, WA 98101 P: (206) 262-1200 F: (206) 223-4065		

- 2. Paragraph 2 of the Complaint is not directed to this answering defendant, and therefore no response is required. To the extent a response is required, this answering defendant lacks sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph 2 of the Complaint and therefore denies the same.
- 3. Paragraph 3 of the Complaint is not directed to this answering defendant, and therefore no response is required. To the extent a response is required, this answering defendant lacks sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph 3 of the Complaint and therefore denies the same.
- 4. Paragraph 4 of the Complaint is not directed to this answering defendant, and therefore no response is required. To the extent a response is required, this answering defendant lacks sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph 4 of the Complaint and therefore denies the same.
- 5. Paragraph 5 of the Complaint is not directed to this answering defendant, and therefore no response is required. To the extent a response is required, this answering defendant lacks sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph 5 of the Complaint and therefore denies the same.
  - 6. Defendant admits the allegations in paragraph 6 of the Complaint.
  - 7. Defendant admits the allegations in paragraph 7 of the Complaint.
- 8. Paragraph 8 of the Complaint is not directed to this answering defendant, and therefore no response is required. To the extent a response is required, this answering defendant lacks sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph 8 of the Complaint and therefore denies the same.

- 9. Defendant admits the allegations in paragraph 9 of the Complaint.
- 10. Paragraph 10 of the Complaint is not directed to this answering defendant, and therefore no response is required. To the extent a response is required, this answering defendant lacks sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph 10 of the Complaint and therefore denies the same.
- 11. Paragraph 11 of the Complaint is not directed to this answering defendant, and therefore no response is required. To the extent a response is required, this answering defendant lacks sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph 11 of the Complaint and therefore denies the same.
- 12. Paragraph 12 of the Complaint is not directed to this answering defendant, and therefore no response is required. To the extent a response is required, this answering defendant lacks sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph 12 of the Complaint and therefore denies the same.
- 13. Defendant lacks sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph 13 of the Complaint and therefore denies them.
- 14. Defendant lacks sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph 14 of the Complaint and therefore denies them.
- 15. Defendant lacks sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph 15 of the Complaint and therefore denies them.
- 16. Defendant admits the allegations in paragraph 16 of the Complaint to the extent that paragraph 10 of the Access, Indemnity, and Insurance Agreements states what is quoted in the Complaint. Otherwise, defendant lacks sufficient knowledge and information

to form a belief as to the truth of the allegations in paragraph 16 of the Complaint and therefore denies them.

- 17 22. Paragraphs 17-22 of the Complaint are not directed to this answering defendant, and therefore require no response. To the extent a response is required, defendant objects as these paragraphs call for a legal conclusion, and this answering defendant lacks sufficient knowledge and information to form a belief as to the truth of the allegations and therefore denies the same.
- 23. Paragraph 23 of the Complaint is not directed to this answering defendant, and therefore no response is required. To the extent a response is required, this answering defendant lacks sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph 23 of the Complaint and therefore denies the same.
- 24. Paragraph 24 of the Complaint is not directed to this answering defendant, and therefore no response is required. To the extent a response is required, this answering defendant lacks sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph 24 of the Complaint and therefore denies the same.
- 25. Paragraph 25 of the Complaint is not directed to this answering defendant, and therefore no response is required. To the extent a response is required, this answering defendant lacks sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph 25 of the Complaint and therefore denies the same.
  - 26. Defendant admits the allegations in paragraph 26 of the Complaint.
  - 27. Defendant denies the allegations in paragraph 27 of the Complaint.
  - 28. Defendant denies the allegations in paragraph 28 of the Complaint.

29. Paragraph 29 of the Complaint calls for a legal conclusion and does not require an answer from this defendant. To the extent a response is required, defendant objects as these paragraphs call for a legal conclusion, and this answering defendant lacks sufficient knowledge and information to form a belief as to the truth of the allegations and therefore denies the same.

30. Paragraph 30 of the Complaint calls for a legal conclusion and does not require an answer from this defendant. To the extent a response is required, defendant objects as these paragraphs call for a legal conclusion, and this answering defendant lacks sufficient knowledge and information to form a belief as to the truth of the allegations and therefore denies the same.

31. Defendant denies the allegations in paragraph 31 of the Complaint.

## RESPONSE TO PRAYER TO RELIEF

To the extent that the prayer for relief in the Complaint requires an answer, defendant denies them all.

## AFFIRMATIVE DEFENSES

- 1. Plaintiff may have failed to state a claim upon which relief can be granted.
- 2. Plaintiff may have failed in whole or in part to mitigate, minimize, or avoid the damages allegedly sustained, and any recovery must be reduced by that amount.
  - 3. Defendant asserts all defenses stated in Rule 12(b).
- 4. Plaintiff's damages, if any, may have been proximately caused in whole or in part by the actions and/or negligence of the Plaintiff. Plaintiff's recovery, if any, should be reduced in proportion to the percentage of Plaintiff's and/or other third parties' fault.

DEFENDANT CRITERION GENERAL, INC.'S ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFF'S COMPLAINT – Page 5

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- 5. Plaintiff's recovery should be reduced by the comparative fault of persons other than defendant.
  - 6. Plaintiff's claims may be barred by waiver, estoppel, and/or unclean hands.
  - 7. Plaintiff's claims may be barred by the doctrine of lack of privity.
- 8. Defendant adopts all affirmative defenses alleged by other defendants and reserves the right to assert further defenses and claims pending discovery and investigation in this case.

## PRAYER FOR RELIEF

WHEREFORE, having answered plaintiff's Complaint, and having asserted affirmative defenses, defendant requests that judgment be entered as follows:

- 1. Dismissal of plaintiff's claims against defendant, with prejudice;
- 2. An award of expenses and costs incurred by defendant, including attorney fees, against plaintiff as permitted by law.
  - 3. For such further relief as this Court deems equitable and just.

DATED this 29th day of April, 2015.

SCHEER & ZEHNDER-LALF

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DEFENDANT CRITERION GENERAL, INC.'S ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFF'S COMPLAINT – Page 6

SCHEER & ZEHNDER LLP 701 PIKE STREET, SUITE 2200 SEATTLE, WA 98101 P: (206) 262-1200 F: (206) 223-4065

## **CERTIFICATE OF SERVICE**

I certify under penalty of perjury under the laws of the State of Washington, that the following is true and correct:

I am employed by the law firm of Scheer & Zehnder LLP.

At all times hereinafter mentioned, I was and am a citizen of the United States of America, a resident of the State of Washington, over the age of eighteen (18) years, not a party to the above-entitled action, and competent to be a witness herein.

On the date set forth below I served the document(s) to which this is attached, in the manner noted on the following person(s):

PARTY/COUNSEL	DELIVERY INSTRUCTIONS
Counsel for Plaintiff James B. Gottstein Law Offices of James B. Gottstein 406 G Street, Suite 206 Anchorage, AK 99501	<ul> <li>(X) Via U.S. Mail</li> <li>( ) Via Legal Messenger</li> <li>(X) Via E-Mail</li> <li>( ) Via Overnight Mail</li> </ul>
Counsel for Defendant 716 West Fourth Avenue LLC Jeffrey W. Robinson Ashburn & Mason P.C. 1227 West 9th Avenue, Suite 200 Anchorage, Alaska 99501-5914	(X) Via U.S. Mail ( ) Via Legal Messenger (X) Via E-Mail ( ) Via Overnight Mail
Counsel for Defendant Pfeffer Development, LLC Cynthia L. Ducey Delaney Wiles 1007 W. 3rd Avenue, Suite 400 Anchorage, AK 99501	<ul> <li>(X) Via U.S. Mail</li> <li>( ) Via Legal Messenger</li> <li>(X) Via E-Mail</li> <li>( ) Via Overnight Mail</li> </ul>

DEFENDANT CRITERION GENERAL, INC.'S ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFF'S COMPLAINT – Page 7

SCHEER & ZEHNDER LLP 701 PIKE STREET, SUITE 2200 SEATTLE, WA 98101 P: (206) 262-1200 F: (206) 223-4065

1		
	Counsel for Defendant	(X) Via U.S. Mail
2	Legislative Affairs Agency Kevin M. Cuddy	( ) Via Legal Messenger (X) Via E-Mail
3	Stoel Rives LLP	( ) Via Overnight Mail
4	510 'L' St., Suite 500 Anchorage, AK 99501	
5		
6		
7	DATED this 29 <sup>th</sup> day of Apri	l, 2015, at Seattle, Washington.
8		Marada Paul Dans
9		Magdalen Diaz, Legal Secretary
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DEFENDANT CRITERION GENERAL, INC.'S ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFF'S COMPLAINT – Page 8

SCHEER & ZEHNDER LLP 701 PIKE STREET, SUITE 2200 SEATTLE, WA 98101 P: (206) 262-1200 F: (206) 223-4065