

STATE BOARD OF LAND COMMISSIONERS  
December 19, 2017  
Regular Agenda

SUBJECT

2018 Cottage Site Leasing Plan

BACKGROUND

The Idaho Department of Lands (Department) Cottage Site Leasing Program last experienced a lease expiration and new lease issuance cycle in 2013. At that time, the Department offered new cottage site leases with staggered lease lengths beginning on January 1, 2014. These leases were offered subject to the direction provided by the State Board of Land Commissioners (Land Board) at their regular meetings dated January 15, 2013, (Attachment 1) and May 21, 2013 (Attachment 2).

Key elements of the Land Board's direction included the following:

- Lessee-initiated, multi-step, appraisal appeal process offered prior to lease issuance.
- A new cottage site lease template that included:
  - Staggered expiration dates;
  - Annual CPI adjustment with a 4.0% annual cap and no downward adjustment;
  - Five-year re-appraisal process; and
  - Opportunity for lessee appeal of the five-year reappraisal to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP).
- Two-Year Land Use Permit option for those not wishing to sign a lease.

The Department successfully executed the Land Board's leasing plan during the same timeframe the Department began execution of the Voluntary Auction for Ownership (VAFO) process approved by the Land Board. The VAFO plan was subsequently amended on February 16, 2016, to allow VAFO auctions through 2019 (Attachment 3).

The Department recently met with Land Board staff, the Priest Lake Cabin Owners Association (PLCOA), and Payette Lake cottage site lessees to discuss the potential for a new leasing plan. The discussions identified key elements of a new leasing plan that would be considered suitable under current circumstances. The new leasing plan would begin with the 2018 expiring lease process and would coincide with the current VAFO process. During discussions, the following were reviewed:

- Expiration schedule of the existing cottage site leases;
- Potential lease length for new leases;
- Appraisal schedule for new leases beginning in 2019;

- Appraisal schedule for 2018 and 2019 VAFO sites;
- Appraisal schedule for the five-year re-appraisal for those still under lease;
- Any appeal process prior to or during any new lease;
- One-Year Land Use Permit for 2019 VAFO participants with a 2018 expiring lease; and
- Two-Year Land Use Permit option previously offered for those not desiring a new lease.

Attachment 4 provides a table demonstrating the distribution of expiring leases, the appraisal schedule for leases and the 2018 and 2019 VAFO auctions.

## DISCUSSION

The following describes the 2018 Cottage Site Leasing Plan recommended by the Department. Elements of this plan were discussed with the Priest Lake Cabin Owners' Association (PLCOA) at their board meeting on November 15, 2017, in Spokane, Washington. The PLCOA Board wholeheartedly approved of the leasing plan and provided a letter of support (Attachment 5). The Department also contacted the two homeowner's associations at Payette Lake for comments on the plan.

### **2018 Cottage Site Leasing Plan**

Beginning in 2018, the Department will post newly appraised land values for all leases that expire on December 31 of a given year. This posting on the Department's public website will occur by the last business day in March in anticipation of the April 30 deadline for new lease applications. The leases offered will expire on December 31, 2024.

If more than one application is received for a cottage site lease, the appraised value will hold without appeal and the Department will initiate the conflict lease auction process to identify the future lessee. If only one application is received from either the existing lessee or another party, that applicant will have the option to initiate an appeal of the appraised value. This appeal process (Attachment 6), which is the same process utilized in the existing cottage site lease for the five-year re-appraisal process, calls for the appraisal to be reviewed for compliance with USPAP.

Upon completion of the appeal process, the applicant may choose to: A) sign a new lease, B) sign a Two-Year Land Use Permit, or C) allow the lease to expire and then remove their personal property by December 31. The Two-Year Land Use Permit (Attachment 7) would be similar to the Land Use Permit offered by the Land Board in 2013. This would allow time for the permittee to seek a buyer of their personal property that would lease or pursue a future VAFO. The Land Use Permit would require an annual rental payment equal to the lease rate for the two-year period, with a prorated refund upon the closure of a VAFO transaction.

For lessees with leases expiring on December 31, 2018, and slated for a 2019 VAFO, the Department would issue a One-Year Land Use Permit (Attachment 8) that would allow participation in the 2019 VAFO cycle without entering into a lease. Should a permittee drop

out of the 2019 VAFO cycle, they would have the option to apply for a new lease that would be advertised and subject to the conflict auction process. The same USPAP compliance appeal process described above would be offered under this circumstance.

The proposed cottage site lease template (Attachment 9) for new leases is essentially the same document approved by the Land Board in 2013 with one significant change. The Department has removed the five-year re-appraisal process and the associated appeal option based on the short-term nature of the new leases that would all expire in 2024. The Consumer Price Index (CPI) adjustment in the existing cottage site lease would be used to adjust the leases annually through 2024, with no need for a re-appraisal. No other changes to the new lease template were considered beyond minor legal language changes advised through a review by the Attorney General's office.

The Department will make future recommendations to the Land Board regarding VAFO offerings beyond 2019 as well as options for the Land Board to consider regarding cottage site leases remaining through 2024 and lessees that choose not to participate in a VAFO.

### RECOMMENDATION

Approve the Department's recommended Cottage Site Leasing Plan, which includes the following key elements:

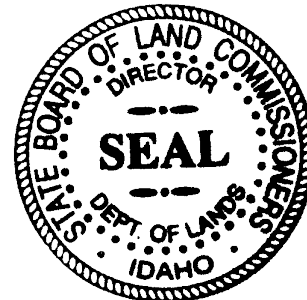
- As the staggered cottage site leases expire (beginning on December 31, 2018), new leases will be offered through December 31, 2024, using the cottage site lease template (Attachment 9);
- An appeal process will be available to non-conflicted applicants for new leases (Attachment 6);
- A One-Year Land Use Permit will be offered for 2019 VAFO participants with a 2018 expiring lease; and
- A Two-Year Land Use Permit will be offered as an option to those parties not wishing to enter into a lease through 2024.

### BOARD ACTION

A motion was made by Attorney General Wasden that the Board adopt the Department's recommended Cottage Site Leasing Plan as outlined in agenda item 7, page 3 of 3. Controller Woolf seconded the motion. The motion carried on a vote of 4-0.

### ATTACHMENTS

1. Land Board Memo – January 15, 2013
2. Land Board Memo – May 21, 2013
3. Land Board Memo – February 16, 2016
4. Cottage Site Expiration and Appraisal Schedule
5. PLCOA Letter
6. Appeal Process Lease Language
7. Two-Year Land Use Permit
8. One-Year 2019 VAFO Land Use Permit
9. Cottage Site Lease Template



STATE BOARD OF LAND COMMISSIONERS  
January 15, 2013  
Regular Agenda

SUBJECT

2014 Cottage Site Lease Template

BACKGROUND

On September 25, 2012 the Department posted the draft 2014 cottage site lease template on the Department's internet site and mailed a letter to the current cottage site lessees describing the new application process. The document directed the lessees to the posted draft cottage site lease template, appraisal instructions and description of the conflict auction process. The Department established an October 31, 2012 deadline for written comments that was later extended to November 15, 2012 based on a request from the Priest Lake Lessee's Association.

On November 20, 2012 the Department presented an informational memo updating the Land Board on the comments received. This memo included a copy of the written comments received and a summary of the comments, including Department responses.

On December 18, 2012 the Department presented a 2014 Cottage Site Lease Template to the Land Board for approval. The presentation documents included a summary sheet of the written comments received during the comment period along with descriptions of how the lease was adjusted based on those comments and justification as to why the other comments were not incorporated into the lease template.

At the December 18<sup>th</sup> Land Board meeting Chuck Lempesis, attorney for the Priest Lake State Lessee Association, raised concerns about the following three issues:

- Use of the CPI index to adjust lease rates between evaluations,
- Lessees' right to dispute appraisals, and
- Incorporation of interference language regarding the auction/bid process (Section W.1.4.).

DISCUSSION

On January 3, 2013 the Department received a letter from Mr. Lempesis further addressing the three issues he raised at the December Land Board meeting (Attachment 1).

After reviewing the comments submitted by Mr. Lempeis the Department worked with the Attorney General's office and recommends the following regarding the Cottage Site Lease Template:

- The Department does not recommend any changes regarding the use of the CPI for future rent adjustments (Section D.1.1.c.). CPI is commonly used in commercial contracts of all kinds, including contracts for the lease of personal and real property. The Department has seen hundreds of contracts using CPI adjustments as a basis for adjusting annual or periodic rents. It is common in commercial leases to increase with the CPI, while decreases to the CPI (which rarely occur), have no impact on the rent. With regard to concerns of significant inflation rates, the CPI over the last 40 years has remained quite stable and consistent. Additionally, the Land Board has a constitutional mandate to address significant changes in the real economic conditions of the time, to acquire market rent and to maximize income for the trust beneficiaries.
- The Department does not recommend any changes regarding the process for a lessee to dispute an appraisal of the Leased Premises (Section D.1.1.b.i.). The appeal process and contractual right to appeal have been removed from the Cottage Site Lease Template in order to facilitate the administration of the cottage site leases. However, if there is any Idaho statute which provides for an appeal in any given scenario, then any such right to appeal will exist independent, and regardless, of whether such right of appeal is expressly set forth in the lease.
- The Department recommends Section W.1.4. *Interference with Application, Auction or Bid Process* be amended to read as follows:

Neither LESSEE, nor any person or entity acting on LESSEE'S behalf shall intimidate, hinder, prevent or attempt to intimidate, hinder or prevent, any person from: 1) filing an application to lease or to purchase the Leased Premises or to enter any bid therefore, and/or 2) attending or submitting any bid at any public auction held to lease or purchase any land consisting of, or including the Leased Premises, or any portion thereof. Violation of this Section or any provision of Idaho Code § 58-154 shall constitute a breach of this Lease subject to immediate termination, and LESSEE shall be disqualified from bidding on any future auction for the sale or lease of the Leased Premises.

Attachment 2 is the Department recommended draft 2014 Cottage Site Lease Template which has been drafted to comply with the Land Board's "constitutional obligation to 'secure the maximum long term financial return' on leases . . . of endowment lands." *Wasden v. State Bd. of Land Comm'rs*, 153 Idaho 190, \_\_\_, 280 P3d 693, 702 (2012). This duty includes securing and ensuring, at a minimum, a market rate of return throughout the duration of the lease.

## RECOMMENDATION

Approve the 2014 Cottage Site Lease Template as proposed by the Department.

## BOARD ACTION

A motion was made by Attorney General Wasden that the Board approve the 2014 Cottage Site Lease Template as proposed by the Department. Controller Woolf seconded the motion.

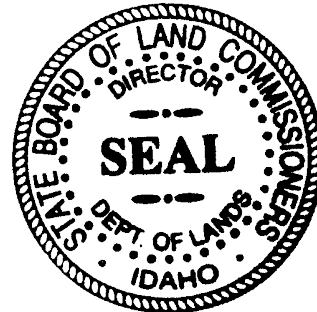
A substitute motion was made by Superintendent Luna that the Board accept the lease as proposed with the following changes: a 4% cap on the CPI with a bottom cap of 0%, and include language that would define the lessees' opportunity to appeal. Secretary of State Yursa seconded the motion for purpose of discussion. Following several minutes of discussion, Attorney General Wasden called for the question. Secretary of State Yursa then called for division of the question.

Division of the Question: First part of the amended motion, 4% cap and 0% down: 3 ayes (Governor Otter, Secretary of State Yursa, Superintendent Luna) and 2 nays (Attorney General Wasden, Controller Woolf); second part of the amended motion, inclusion of an appeal process: 1 aye (Superintendent Luna) and 4 nays.

The Board then voted on the amended motion which included only the 4% cap, 0% down on CPI: 3 ayes (Governor Otter, Secretary of State Yursa, Superintendent Luna) and 2 nays (Attorney General Wasden, Controller Woolf). The amended motion passed, making a vote on the primary motion unnecessary.

## ATTACHMENTS

1. Letter from Charles Lempeis dated January 3, 2013
2. Redline Draft 2014 Cottage Site Lease Template



STATE BOARD OF LAND COMMISSIONERS  
May 21, 2013  
Regular Agenda

SUBJECT

Approval of 2014 Cottage Site Appraisal Process

BACKGROUND

In 2012 the Department completed new appraisals for all cottage site lots at Payette Lake and Priest Lake. The appraisals were completed in order to establish fee-simple market value of the endowment-owned lots in anticipation of carrying out transactions that will transition the lots into private ownership. The appraisals also were the basis on which the 2014 lease payments were determined.

For lessees at Payette Lake, there was little change in land values between 2013 and 2014. In fact, the change in overall values of the lots at Payette Lake went down by 2.6 percent. At Priest Lake, however, the change in values increased by more than 80 percent. Many factors contributed to this increase in land value.

After the release of the 2014 land values and rents, groups of lessees at Priest Lake sued the Department and Land Board.

Since April 2013, the Department has heard numerous concerns about the appraisals completed at Priest Lake. For many weeks the Department worked with the Priest Lake lessees' representative counsel to resolve the issues related to those concerns.

DISCUSSION

The Process Moving Forward (see Attachment 1):

Lessees who were not conflicted and desire a 2014 lease can:

- Accept the current 2014 appraised value, immediately be issued the 2014 lease agreement and be made eligible to pursue an exchange in 2013 or request to be included in the 2013 sale auction.
- Ask for a reappraisal of the land value for the lot they lease. Reappraisals will be conducted using IDL appraisal instructions. If the lessee does not challenge the reappraisal, then the cottage site lease will be offered for 30 days – subject to lease conflictors. If the lessee challenges the reappraisal, a third appraiser will resolve the differences.

For lessees whose leases were conflicted:

- The lessee's personal property (improvements) will be appraised. An auction for the lease will be scheduled in the fall of 2013. Only those who submitted applications for the 2014 lease before the April 30, 2013, deadline can participate. If the conflictor is the successful bidder on the lease, that person will compensate the current lessee for the appraised value of the lessee's improvements.

For lessees who choose not to renew their lease for 2014:

- A new land use permit option is available.

### RECOMMENDATION

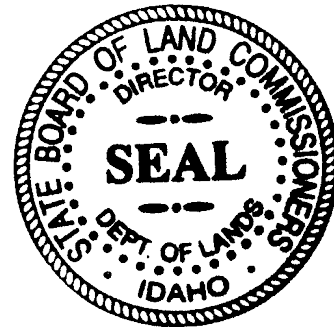
The Department recommends approval of the 2014 Cottage Site Appraisal Process as outlined in Attachment 1.

### BOARD ACTION

A three part motion was made by Attorney General Wasden: 1) that the Department schedule a conflict auction for those cottage sites where a conflict application has been filed; 2) that a reappraisal be offered to any applicant that has a pending challenge to the appraised value of the cottage site; 3) that the Department proceed with the proposed lease application process described in Attachment 1. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

### ATTACHMENTS

1. 2014 Cottage Site Appraisal Process





## 2014 Cottage Site Appraisal Process

### Reappraisal

Target Date 9/1/2013 -- This date may change depending on availability of appraiser.

If no challenge to the reappraisal, the cottage site will be offered for lease for 30 days. If a conflict application is filed, the lessee's personal property will be appraised in accordance with I.C. § 58-308 and a public auction will be scheduled.

If the appraisal is challenged, then State will hire an approved appraiser at lessee's expense. If appraisal value difference is less than 10% then the difference will be split. If more than 10% then a third approved appraiser will pick one of the two appraisals or split the difference between the appraisals. Lessee will be bound by results of appraisal process, with no right of administrative appeal.

Cottage site will be advertised for 30 days at new appraised value upon approval of the appraisal by the Board. In the event of a conflict application, the lessee's personal property will be appraised in accordance with I.C. § 58-308 and a public auction will be scheduled.

Upon execution of new lease, lessee will be eligible for exchange or to request sale auction.

### Accept Current Appraisal

If lessee accepts current appraisal, lease will be issued, and lessee will be eligible to pursue exchange or request sale auction. In order to meet 2013 sale auction window, only cottage sites with agreed upon value for personal property will be included.

### Conflicted Lease

Personal Property will be appraised in accordance with I.C. § 58-308. Land will not be reappraised.

Public auction will be scheduled.

### Lessee Does Not Desire New Cottage Site Lease

Lessee will be offered month-to-month Land Use Permit for a period not to exceed two years on the condition lessee waives any right to lease or purchase cottage site and agrees to not contest appraised value of personal property. Permit will be at 4% of reappraised land value. Rent will be due in 6 month increments. Failure to pay will result in the termination of the permit. Lessee and State will cooperate in the marketing of the cottage site for lease and or sale. Lessee may continue to occupy the premises; however, such occupancy shall not interfere with the marketing of the cottage site.

Rent deferral option: Permit holder will have option to defer that portion of the rental payment in excess of the 2013 rental for a period not to exceed two years as provided for by I.C. § 58-305. If the cottage site is leased or sold during the term of the permit, deferred rent will be deducted from the proceeds of the sale of the personal property. A credit will be given for any prepaid rent.

STATE BOARD OF LAND COMMISSIONERS  
February 16, 2016  
Regular Agenda

SUBJECT

Cottage Site 4-Year Auction Plan 2016-2019

BACKGROUND

The Land Board's authority to dispose of endowment trust lands is provided for in the Idaho Constitution, Article IX, Sections 8 and 10; the Idaho Admissions Bill Section 5, and Idaho Code Sections 58-104(8), 58-133, 58-138, 58-154, 58-301, 58-310, 58-313, 58-314, 58-505.

In February of 2010 the Land Board gave the Department direction to unify the cottage site split estates and to develop a voluntary auction for ownership (VAFO) process (Attachment 1). Since 2011, auctions have resulted in the transition of one hundred and eighty nine (189) cottage site lots into private ownership: eighty seven (87) lots at Payette Lake and one hundred two (102) lots at Priest Lake.

In April of 2014 the Land Board approved the 2015-2016 cottage site auction goals (Attachment 2). This memo set goals of one to two auction cycles per year with capacity as determined by experience and the level of interest expressed by lessees.

In October of 2014 the Land Board approved a 3-Year VAFO Plan for the sale of sixty (60) sites per year in 2015, 2016, and 2017 (Attachment 3). The lots for each year were determined through a random lottery selection process for lessees that had expressed interest in the 3-Year VAFO Plan. Interest in the 3-Year VAFO Plan exceeded the predetermined one hundred eighty (180) lot capacity and the excess sites were given an alternate position number.

The 3-Year VAFO Plan was developed to provide predictability of VAFO cycles and to establish eligibility criteria for participation in a VAFO. During 2015, the Department continued to hear concerns from lessees regarding uncertainty for those not in the 3-Year VAFO Plan and requests to increase the number of sites allowed to participate in a VAFO each year.

DISCUSSION

Over the last year the Department has adjusted the VAFO cycle time line to increase capacity in future years and has developed a proposed 4-Year VAFO Plan (2016-2019) that would allow every lessee an opportunity to participate in a VAFO by the end of 2019 (Attachment 4). This plan adds certainty for all lessees interested in participating in a VAFO and increases the number of VAFO positions offered each year.

Given that the total number of lessees wanting to participate in a VAFO over the next four years is unknown and will likely change, the proposed 4-Year VAFO Plan was developed to accommodate every remaining cottage site by 2019. The proposed 4-Year VAFO Plan shows the total number of cottage sites in 2010 (523) and calculates the remaining balances by year. Balances by lake (Priest and Payette) are also shown.

Under the proposed 4-Year VAFO Plan, the 2016 Payette Lake VAFO spots are filled from the auction positions selected through the lottery process. The remaining cottage sites at Payette Lake are then apportioned over the final three years of the proposed 4-Year VAFO Plan. After the 2016 cycle at Payette Lake, the Department anticipates less interest than there are positions available in the proposed 4-Year VAFO Plan. As such, a random selection process would be used only if needed in a given year. The Department created an updated Auction Position sheet for Payette Lake listing positions that participated in a VAFO and adding the needed positions through 2019 (Attachment 5).

At Priest Lake, the Department proposes to use the existing selection numbers and alternates for years 2016-2018. All sites that dropped out prior to the 2016 VAFO cycle or did not opt into the selection process last year will be eligible to participate in a 2019 VAFO. Given that every lessee that does not currently hold a lottery position will be allowed to participate in the same year (2019), no selection process is needed. The Department has created an updated Auction Position sheet for Priest Lake showing positions that have participated in a VAFO and adding positions for 2019 (Attachment 6).

In 2016 unleased lots, including vacant lots and lots under a short term land use permit, will be offered at each lake through a separate process for Unleased Lands Auctions (ULA). In the remaining years, ULAs will only be processed if an application is received in time to keep the ULA in the same cycle and time line as the VAFO for that year.

On January 6, 2016 the Department provided a copy of the proposed 4-Year VAFO Plan to members of the Priest Lake State Lessees' Association (PLSLA) Board, and Payette Lake representatives Fred Shoemaker, Patrick Miller, and Steve Millemann, to seek their input (Attachment 7). Additionally, Department staff presented the proposed 4-Year VAFO Plan to the PLSLA Board on January 13, 2016.

The Department received emails from Patrick Miller and Fred Shoemaker expressing appreciation for the opportunity to provide input (Attachment 8). Patrick Miller did not provide further comment, but the Department received letters of support from the PLSLA Board and Fred Shoemaker (Attachment 9). In their letter, the PLSLA Board states the proposed 4-Year VAFO Plan met their four main concerns:

1. Lessees that opted into the lottery selection process should have priority over those that did not or those that had a lottery position but chose not to participate last year;
2. Increase the number of sites allowed to participate in a VAFO each year;
3. Complete the VAFO process for all those who want to participate as soon as possible; and
4. Maintain the Priest Lake VAFO auctions separate from the ULA auctions.

The leasing program and its future is not addressed in the proposed 4-Year VAFO Plan; however, after the lessees wanting to participate in a VAFO have had an opportunity to do so, the Land Board and the Department will evaluate the Residential Program and determine the future plans for residential leasing. In the event that a lease expires prior to the prescribed auction date, the lease will be extended through that auction.

Under the proposed 4-Year VAFO Plan, the process will remain the same:

1. Pre-application;
2. Application;
3. Appraisal and Title Work;
4. Auction Administration Agreements;
5. Legal Notice and Marketing; and
6. Auction and Close of Escrow.

A lessee must meet the following criteria to be eligible to participate in a VAFO cycle:

1. Be in good standing and not otherwise indebted to the State of Idaho;
2. Not be named in litigation against the Land Board;
3. Not have a conflicted lease (this will become relevant again when the staggered leases begin expiring at the end of 2018); and
4. Not have a mortgage or deed of trust on the property or have an executed deed of reconveyance by the lender accepting the appraised value of the personal property as payment in full to be held in escrow pending closing.

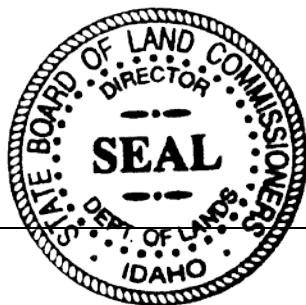
The sale of all state lands must be in Ada County or in the county seat where the land being sold is located, unless otherwise approved by the Land Board (Idaho Code Chapter 58-314). The city of Coeur d'Alene in Kootenai County is the most convenient location both for lessees and other potential purchasers of cottage sites at Priest Lake. The Department is seeking approval to auction cottage sites in Ada, Bonner, Kootenai, or Valley Counties as needed and deemed appropriate for each site.

### RECOMMENDATION

Approve the Department's proposed 4-Year VAFO Plan and approve the auctioning of future cottage sites in locations appropriate for each site to include Ada, Bonner, Kootenai, or Valley Counties.

### BOARD ACTION

A motion was made by Attorney General Wasden that the Board adopt the Department recommendation as outlined on page 3 of 4 of agenda item 6. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.



## ATTACHMENTS

1. February 16, 2010 Approved Memo
2. April 15, 2014 Approved Memo
3. October 28, 2014 Approved Memo
4. Cottage Site 4-Year VAFO Plan
5. Payette Lake 4-Year Auction Positions
6. Priest Lake 4-Year Auction Positions
7. Sample Stakeholders' Outreach Letter dated January 6, 2016
8. Patrick Miller and Fred Shoemaker Acknowledgements
9. PLSLA Board and Fred Shoemaker Responses

## Cottage Site Expiration and Appraisal Schedule

	2018	2019	2020	2021	2022	2023	2024		
Expiring Leases	Payette	7	4	2	7	5	7	0	32
	Priest	15	21	26	21	27	26	8	144
	<b>Total</b>	<b>22</b>	<b>25</b>	<b>28</b>	<b>28</b>	<b>32</b>	<b>33</b>	<b>8</b>	<b>176</b>
2018 Appraisal	Lease	5	1	1	4	6	6	1	24
	VAFO	11	11	13	7	8	14	4	68
									<b>92</b>
2019 Appraisal	Lease	0	1	1	3	4	3	0	12
	VAFO	6	12	13	14	14	10	3	72
									<b>84</b>

## **Appeal Process Lease Language**

### **1.1.b.i. LESSEE's Right to Dispute Appraisal.**

In the event LESSEE objects to the reappraisal determining the appraised value of the Leased Premises within forty-five (45) days of the mailing of notice by LESSOR to LESSEE of the reappraised value of the Leased Premises, then LESSEE shall file with the Director of the Department of Lands a statement clearly objecting to the reappraisal within said forty-five (45) day period. A LESSEE shall have the right to request and receive a copy of the reappraisal affecting the specific premises the subject of this Lease, and none other. The reappraisal shall remain the property of LESSOR and shall be used by LESSEE only for the purposes of determining whether to object to the reappraisal. If an objection to the reappraisal is timely filed with the Director, then the Department of Lands shall hire a second appraiser to review the reappraisal in accordance with USPAP standards. The appraiser hired to review the reappraisal (the "reviewer") must apply the appraisal review methods and techniques that are necessary for credible assignment results. When necessary for credible assignment results in the review of analyses, opinions, and conclusions, the reviewer must: (i) develop an opinion as to whether the analyses are appropriate within the context of the requirements applicable to that work; (ii) develop an opinion as to whether the opinions and conclusions are credible within the context of the requirements applicable to that work; and (iii) develop the reasons for any disagreement. LESSEE shall be responsible to pay the costs of the reviewer at the time of filing the objection if such cost can be determined at such time; otherwise, LESSEE shall pay such cost prior to the actual appraisal review. Failure to pay such cost for the reviewer shall result in a withdrawal of LESSEE's objection to the reappraisal. If the reviewer determines that the reappraisal the subject of review is not compliant with USPAP standards, then the noncompliant reappraisal shall be of no further effect, and LESSOR shall hire, at LESSORS's cost, a new appraiser to reappraise the Leased Premises consistent with USPAP standards. LESSEE shall then have the same right to object to any such subsequent reappraisal within forty-five (45) days of notice of such subsequent reappraisal as set forth above until a reappraisal satisfies USPAP standards.

STATE OF IDAHO

LAND USE PERMIT NO. \_\_\_\_\_

This Land Use Permit (referred to as "PERMIT") is made and entered into by and between the **STATE BOARD OF LAND COMMISSIONERS**, acting by and through the **IDAHO DEPARTMENT OF LANDS** (referred to as "**PERMITTOR**"), whose mailing address is 300 N. 6<sup>th</sup> Street, Boise, Idaho, PO Box 83720, 83720-0050, and \_\_\_\_\_ and \_\_\_\_\_, husband and wife (referred to as "**PERMITTEE**"), whose mailing address is \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.

This PERMIT is issued to PERMITTEE for and in consideration of the promises, conditions and covenants made herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged. The agreed facts, terms, and conditions of this PERMIT are as follows:

**1. PURPOSE.** PERMITTEE is the last lessee of record of that certain cottage site lot pursuant to the Residential Cottage Site Lease #R\_\_\_\_\_, pertaining to real property more particularly described as Lot \_\_, Block \_\_ of STATE SUBDIVISION - \_\_\_\_\_, according to the plat thereof, recorded in Book \_\_ of Plats, page \_\_, records of Bonner County, Idaho, with a street address of \_\_\_\_\_ (the "Premises"), and the Personal Property (as defined below).

**1.1.** PERMITTEE is the owner of all of that Personal Property located upon the Premises that would constitute improvements and fixtures if the same party owned both the underlying land and the improvements and fixtures upon said Premises (hereinafter referred to as the "Personal Property"), as well as any and all other personal belongings that may be located upon the Premises, including, but not limited to, furniture, furnishings, equipment, tools and supplies (the "Personal Belongings") As referenced herein, any discussion about the removal or disposition of the Personal Property shall include the removal or disposition of the Personal Belongings.

This PERMIT authorizes PERMITTEE to occupy the Premises and the Personal Property upon the Premises, and to allow time for:

- (1) removal of the Personal Property, as set forth in paragraph 6 below, or
- (2) an auction for the sale of the Premises, including the Personal Property interest, in an auction to be held in 2018 (or as otherwise agreed by the parties), as set forth in paragraph 7 below; or
- (3) an application for a long-term lease for the Premises is submitted to PERMITTOR, as set forth in paragraph 8 below.

**1.2.** Upon execution of this PERMIT, PERMITTOR will advertise the Premises as available for lease or sale. PERMITTEE shall cooperate in PERMITTOR's marketing of the Premises and the Personal Property.

**1.3.** During the term of this PERMIT, PERMITTEE shall remove the Personal Property from the Premises, as set forth in more detail in paragraph 6 below, unless, during the term:

- (1) a successful sale and closing of the Premises occurs as set forth in more detail in paragraph 7 below; or
- (2) an application and executed long-term lease for the Premises is received as set forth in more detail in paragraph 8 below.



2. **TERM.** The term of this PERMIT shall be for a term of two (1) years, from January 1, 2019, through December 31, 2020, unless terminated sooner because:

2.1 PERMITTEE removes the Personal Property, and PERMITTOR verifies such removal, as set forth in paragraph 6 below;

2.2 The Premises are sold at auction, as set forth in more detail in paragraph 7 below;

2.3 A long-term lease for the Premises is executed as set forth in more detail in paragraph 8 below; or

2.4 PERMITTOR terminates for PERMITTEE's default.

3. **PERMIT FEE.** The permit fee ("the "Permit Fee") shall be four percent (4%) of the appraised land value as established by the Department's appraisal:

$$(4\% \text{ rental rate}) \times (\text{appraised land value}) = \text{annual rent}$$

The most recent appraised land value for your cottage site is \$\_\_\_\_\_. Based on this land value and the formula above, your PERMIT payment shall be \$\_\_\_\_\_. The Permit Fee shall be adjusted each year following the first PERMIT year. The appraised land value shall be adjusted upwards, but never downwards, using the "Consumer Price Index, Urban, U.S. City Average, All Items 1982-1984=100" (as published by the United States Bureau of Labor Statistics at [www.bls.gov/cpi/](http://www.bls.gov/cpi/) for the twelve months preceding preparation of the annual billing)("CPI"), by multiplying the appraised value, or the adjusted value for the immediately preceding year, by a fraction, the numerator of which is the CPI for the month of the year in which the calculation is made, and the denominator of which is the CPI for the same month of the previous year, not to exceed a four percent (4%) increase of the appraised value or the adjusted value of the land from the prior year ("cap"); provided however, that the cap on the annual adjusted value shall not in any way limit or affect the market value of the land as determined by any subsequent appraisal. The Permit Fee for each such year shall be calculated at four percent (4%) of such adjusted value.

The Permit Fee accrues and shall be due and payable in full in advance, on or before execution of this Permit, and in advance on or before January 1 of any subsequent year of this PERMIT remains in effect. PERMITTOR shall pay the Permit Fee to PERMITTEE without abatement, offset, or deduction of any kind. In the event the Premises are leased or sold as provided herein prior to the end of PERMIT term, a portion of the Permit Fee paid in advance will be refunded to PERMITTEE on a pro rata basis as of the date of the closing any such sale or the execution and receipt of rent for any such lease.

4. **RENTAL PAYMENT DUE.** Rent accrues and shall be due and payable in full in advance on or before January 1 of each year; or, in the alternative, LESSEE may pay rent in two installments with one-half (1/2) of the rent due on or before January 1, and one-half (1/2) of the rent due on or before June 1, together with a deferred rent charge in the amount of 3% of the deferred payment. LESSEE shall pay the annual rental to LESSOR without abatement, offset, or deduction of any kind.

5. **LIQUIDATED DAMAGES.** The parties agree that it would be impracticable and extremely difficult to ascertain the amount of actual damages caused by PERMITTEE's failure or refusal to remove the Personal Property from the Premises and restore the Premises to its pre-lease condition as set forth in paragraph 6 below, and that and that liquidated damages herein represent a fair, reasonable, and appropriate estimate thereof. The parties agree that PERMITTEE's failure or refusal to remove the Personal Property from the Premises and restore the Premises to its pre-lease condition shall result in liquidated damages owing by PERMITTEE to PERMITTOR in the amount of \$20,000.00, without PERMITTOR being required to present any evidence of the amount or character of actual damages sustained by reason thereof. Such liquidated damages are intended to represent estimated actual damages and are not intended as a penalty, and PERMITTEE shall pay them to PERMITTOR without limiting PERMITTEE's right to terminate this PERMIT for default as provided elsewhere herein. Nothing herein limits PERMITTOR's right to pursue any other legal or

equitable remedies for damage or loss suffered as a result of PERMITTEE's or PERMITTEE's agents' activities on the sites or in connection with this PERMIT.

**6. REMOVAL OF PERSONAL PROPERTY AND REMOVAL OF CLOUDS ON TITLE UPON TERMINATION OF THIS PERMIT. :**

**6.1.** Unless, during the term of this PERMIT, an application to purchase the Premises at auction is received, as set forth in more detail in paragraph 7 below, and such application culminates in the successful auction and closing of the sale of the Premises, or an executed long-term lease of the Premises is entered, as set forth in more detail in paragraph 8 below, then PERMITTEE shall remove the Personal Property from the Premises and restore the Premises to as nearly as is reasonably practical to its pre-lease condition, all at PERMITTEE's sole cost and expense. Restoring the Premises to as nearly as is reasonably practical to its pre-lease condition prior to any leasing activities upon the Premises shall mean, but shall not necessarily be limited to, the following: 1) all Personal Property, including, but not limited to, all structures, improvements and fixtures shall be removed; 2) any damage to the land as a result of the removal of the Personal Property shall be remedied (such remedies may include, but shall not be limited to, filling in and smoothing any holes left by removal of the Personal Property, including foundations; and the land left relatively flat, without mounds of dirt resulting from any cause such as digging around a foundation); 3) fences shall be removed and holes filled and smoothed; 4) any utilities provided to the property may remain provided they are functional and are capped and stubbed at the property line in accordance with the utility's requirements or the current version of the International Building Code; 5) septic tanks shall be removed; 6) wells shall be decommissioned or capped in accordance with all applicable laws, rules and ordinances, including, but not limited to, IDAPA 37.03.10, rules of the Idaho Department of Water Resources, Idaho Code § 42-238, including the decommissioning of wells set forth in I.C. § 42-238(2), and, a well driller's report is filed in accordance with § 42-238(11); OR, in the alternative, PERMITTEE may request in writing that the well be allowed to continue without being decommissioned as set forth above; and, PERMITTOR may allow the well to remain in place without being decommissioned and may prescribe reasonable requirements for allowing the well to for public health, safety and welfare; 7) water lines shall be closed; 8) there shall be no open pipes, drains, tubes which would present any danger to persons or animals; 9) any tank or other object buried in the Premises shall be removed and holes filled; 10) driveways, cement patios, sidewalks and landscaping must be removed from the Premises unless PERMITTEE requests that PERMITTOR allow such improvements to remain, and PERMITTOR consents in writing; and 11) all garbage, refuse, wood piles, etc., shall be removed from the Premises. If, at any time prior to the end of the term of this PERMIT, PERMITTEE removes PERMITTEE's Personal Property and Personal Belongings and restores the Premises to as nearly as is reasonably practical its pre-lease condition, then the PERMITTOR, upon accepting the condition of the Premises, shall refund any pre-paid fees on a monthly pro-rated basis and this PERMIT shall terminate. Should PERMITTEE fail to remove the Personal Property or Personal Belongings, or fail to restore the Premises to as nearly as is reasonably practical to its pre-lease condition, then PERMITTOR may do so and charge PERMITTEE, all at PERMITTEE's sole cost and expense, and in such event, PERMITTOR shall be entitled to collection costs and reasonable attorney fees, even if enforced by the Office of the Attorney General.

**6.2.** Prior to, or upon the termination of this PERMIT, in the event of any adverse lien, judgment lien, cloud, claim, mortgage, deed of trust or lien interest of any kind claiming a specific monetary amount, including costs and attorney fees and costs on appeal, or any action, potential claim or threatened action by any party against PERMITTEE which could result in any amount that could constitute a lien or claim for lien on the land that constitutes the Premises PERMITTEE's leasehold interest, or the Personal Property as shown by the title commitment in the sole discretion of PERMITTOR (collectively, the "Encumbrances"), then PERMITTOR shall take all necessary and appropriate action for the title company to be able to remove and delete the Encumbrances from the title to PERMITTOR's satisfaction in PERMITTOR's sole discretion. Any title commitment referred to in this PERMIT shall be acquired by PERMITTOR from the title company of PERMITTOR's choice in PERMITTOR's sole discretion, at PERMITTEE's cost, to be paid by PERMITTEE in advance, In the

event PERMITTEE is the holder of any potentially adverse lien, judgment lien, cloud, claim, mortgage, deed of trust or lien interest of any kind claiming a specific monetary amount, including costs and attorney fees and costs on appeal, or any action, potential claim or threatened action affecting the Premises, PERMITTEE shall formally release any such lien, cloud, claim or interest upon the execution of this PERMIT.

**6.3.** PERMITTEE may terminate this PERMIT upon notice in writing to PERMITTOR sent via certified mail, return receipt requested, provided that PERMITTEE is current on all obligations owed to PERMITTOR, and the Personal Property has been removed from the Premises and the Premises has been restored to its pre-lease condition as set forth in this paragraph. The termination will take effect immediately upon written verification of the above requirements by PERMITTOR.

**7. SALE AUCTION APPLICATION.** If PERMITTEE completes PERMITTOR's Auction Application Agreement packet with PERMITTOR, as more thoroughly set forth in paragraph 7.3 below, and pays the required fees, including, but not limited to, payment of the \$1,000.00 application fee and an \$800.00 title commitment fee, or such other fees as may then be required, and the application to purchase culminates in a sale of the Premises, then PERMITTEE shall not be required to remove the Personal Property, in accordance with paragraph 6.1, prior to the end of the term of this PERMIT. PERMITTEE will be required to enter into a License Agreement with PERMITTOR's agent allowing the agent to market the Personal Property.

**7.1.** In the event of any adverse lien, cloud, claim or encumbrance on title to the land, the leasehold interest or the Personal Property, as shown by the title commitment in the sole discretion of PERMITTOR, then the Premises and the Personal Property shall not be eligible for sale auction unless PERMITTEE provides reasonable assurance acceptable to PERMITTOR, in PERMITTOR's sole discretion, that PERMITTEE has taken or will take all necessary and appropriate action for the title company to be able to remove any such adverse lien, cloud, claim or encumbrance on title, and all such adverse liens, claims, clouds or encumbrances on title shall be removed no later than 45 days prior to such auction to such degree that all such adverse liens, claims, clouds or encumbrances shall be removed and deleted from any title policy which may issue for the Premises upon a successful closing of a sale of the Premises following auction, and satisfactory to PERMITTOR in PERMITTOR's sole discretion.

**7.2.** In the event that the title commitment shows any mortgage, deed of trust or lien interest of any kind claiming a specific monetary amount, including costs and attorney fees and costs on appeal, or any action, potential claim or threatened action by any party against PERMITTEE which could result in any amount that could constitute a lien or claim for lien on the land that constitutes the Premises, PERMITTEE's leasehold interest, or the Personal Property (collectively, "Security Interests"), then, in order for the Premises and the Personal Property to be eligible for sale auction, PERMITTEE shall first provide to PERMITTOR, a written agreement with any and all such lienholders, satisfactory to PERMITTOR in PERMITTOR's sole discretion, that all such lienholders expressly agree to release and or re-convey the Security Interests in the Premises, the land, the leasehold estate and the Personal Property, on such terms as PERMITTEE and lienholders shall agree. No later than 45 days prior to the date of such auction, PERMITTEE shall provide PERMITTOR with any necessary, appropriate and acceptable fully executed releases and deeds of reconveyance or such other appropriate documentation from all such lienholders, to be held by PERMITTOR and to be recorded at the time of closing of the sale. Either the release and reconveyance, or the accompanying instructions from lienholders, must state the amount, if any, to be paid by PERMITTEE for such release and reconveyance, which amounts can be fully paid upon receipt of either the appraised or agreed value of the Personal Property to which PERMITTEE has agreed for the sale of the Personal Property.

**7.3.** This PERMIT will terminate upon the closing of any such sale.

**8. LEASE APPLICATION.** If PERMITTEE does not submit an Auction Application Agreement or if the property does not close through the VAFO process, then PERMITTEE or other third party may complete a lease application for the Premises prior to October 31, 2019, including payment of required fees, and if such

application culminates in the execution of a long-term lease for the Premises and payment of rent in accordance with the long-term lease and Idaho Code § 58-308 prior to December 31, 2019, then PERMITTEE shall not be required to remove the Personal Property as set forth in paragraph 6; provided however, that if the application to lease does not culminate in the execution of a long-term lease of the Premises, then PERMITTEE shall remove the Personal Property and restore the Premises to its pre-lease condition, in accordance with paragraph 6, prior to the end of the term of this PERMIT. PERMITTOR will advertise such lease for conflict applications. If PERMITTEE or other third party submits a lease application, then IDL will advertise the lease as available for other conflict lease applications in accordance with Idaho Code § 58-310.

**8.1.** If PERMITTOR receives a completed lease application for the Premises, then in the event of any adverse lien, cloud, claim or encumbrance on title to the land, the leasehold interest or the Personal Property, as shown by a title commitment and/or PERMITTOR's land records, in the sole discretion of PERMITTOR, then the Premises and the Personal Property shall not be eligible for lease auction unless PERMITTEE provides reasonable assurance acceptable to PERMITTOR, in PERMITTOR's sole discretion, that PERMITTEE has taken or will take all necessary and appropriate action to remove any such adverse lien, cloud, claim or encumbrance on title, and all such adverse liens, claims, clouds or encumbrances on title shall be removed no later than 45 days prior to such auction to such degree that all such adverse liens, claims, clouds or encumbrances shall be removed, satisfactory to PERMITTOR in PERMITTOR's sole discretion.

**8.2.** This PERMIT shall terminate upon such execution of a long-term lease, payment and payment of rent to PERMITTOR, in accordance with Idaho Code § 58-308.

**9. NO LIENS ON THE PREMISES.** PERMITTEE shall ensure that full payment is made for any and all materials joined or affixed to the Premises pursuant to this PERMIT and for any and all persons who perform labor on the Premises at the request or on account of PERMITTEE. With the exception of previously approved deeds of trust or mortgages, PERMITTEE shall not permit or suffer any liens, including any mechanics' lien or material supplier lien, of any kind or nature to be effected on or enforced against the Premises for any work done or materials furnished on the Premises during the term of this PERMIT at PERMITTEE's instance or request, provided that PERMITTEE may contest such lien if PERMITTEE posts a bond as required by law.

**10. CONDITION OF PREMISES AND PERSONAL PROPERTY.** During the term of this PERMIT, PERMITTEE shall maintain the Personal Property in good condition and repair and shall keep the same in a slightly manner. PERMITTEE shall not make any alterations to the land or the Personal Property during the term of this PERMIT without the prior written permission of PERMITTOR.

**11. PERMITTEE'S INSURANCE POLICY REQUIREMENTS.**

**11.1.** If available, a Homeowner's 3 (HO3), its equivalent or better including Liability Insurance policy: PERMITTEE shall maintain an HO3 policy, its equivalent or better, with a liability limit of not less than one million dollars (\$1,000,000.00) if the combined value of the Premises and Personal Property are \$1,000,000 or less, and \$2,000,000 if the combined value of the Premises and Personal Property exceed \$1,000,000. If an HO3 policy is unavailable for the Premises due to lack of access for fire suppression services, or otherwise, PERMITTEE shall provide PERMITTOR with a statement from its insurer stating specific reasons an HO3 policy is unavailable for the Premises, and, in such event, PERMITTEE shall acquire an HO2 policy, its equivalent or better, in the same limits as set forth above for an HO3 policy. If neither an HO3 or HO2 policy is available, then PERMITTEE shall provide PERMITTOR with a statement from its insurer stating specific reasons neither an HO3 or HO2 policy is unavailable for the Premises, and, in such event, PERMITTEE shall acquire such other type of policy as deemed acceptable to PERMITTOR, in the same limits as set forth above for an HO3 policy. If necessary, an umbrella policy may be used in combination with the homeowner's policy to meet the limits required, providing the homeowner's policy is listed on the underlying insurance in the umbrella, and the umbrella policy meets the requirements below.

**11.1.a.** The Homeowner's insurance and umbrella liability insurance shall be in a form and from an insurance company satisfactory to PERMITTOR and shall cover liability for bodily

injury, property damage and personal injury, arising from PERMITTEE's use and/or occupation of the Premises.

**11.1.b.** The Homeowner's insurance shall include coverage for the replacement cost of the real property and all Personal Property located on the Premises. PERMITTOR shall be included as a loss payee to the extent of its interest in any of the Personal Property upon the Premises.

**11.1.c.** PERMITTEE shall purchase insurance to cover PERMITTEE's Personal Belongings.

**11.2.** All insurance required under this PERMIT shall be with companies licensed and admitted in Idaho and approved for this PERMIT by PERMITTOR. PERMITTOR's general requirements for such approval include a Best's rating of A- or better. Prior to taking occupancy or commencing construction and at least annually thereafter, PERMITTEE shall furnish PERMITTOR with a certificate of insurance executed by a duly authorized representative of each insurer, together with a copy of each applicable policy and policy endorsement showing compliance with the insurance requirements set forth above ("proof of insurance"). All policies required under this Article shall be written as primary policies and not contributing to, not in excess of, any coverage PERMITTOR may have or choose to maintain.

**11.3.** All policies and endorsements shall provide for thirty (30) days written notice to PERMITTOR, if possible, prior to cancellation or material change of any insurance referred to therein. Notwithstanding any such notice provided by the insurance carrier to PERMITTOR prior to any cancellation or material change of any insurance, PERMITTEE agrees to promptly (but not later than ten (10) days), provide to PERMITTOR a copy of any and all such notices relative to cancellation or a material change in insurance coverage that PERMITTEE receives.

**11.3.a.** Failure of PERMITTOR to demand any required proof of insurance or full compliance with these insurance requirements, or the failure of PERMITTOR to identify a deficiency in the proof of insurance provided shall not be construed as a waiver of PERMITTEE's obligation to maintain such insurance.

**11.3.b.** Failure to maintain the required insurance shall constitute a breach and may result in termination of this PERMIT at PERMITTOR's option.

**11.3.c.** If PERMITTEE fails to maintain the insurance as required herein, PERMITTOR shall have the right, but not the obligation, to purchase said insurance at PERMITTEE's expense.

**11.3.d.** PERMITTEE shall provide certified or other acceptable copies of all insurance policies and endorsements (preferably in readily accessible electronic format) required above within ten (10) days of PERMITTOR's written request for said copies.

**11.4.** By requiring insurance herein, PERMITTOR does not represent that coverage and limits will necessarily be adequate to protect PERMITTEE and such coverage and limits shall not be deemed as a limitation on PERMITTEE's liability under the indemnities granted to PERMITTOR in this PERMIT.

**11.5.** PERMITTEE shall pay all policy premiums annually in advance, for each of the insurance policies and endorsements required under the terms of this PERMIT. PERMITTEE shall deliver to PERMITTOR proof of insurance on or before January 1 of each year during the term of this PERMIT and for each year following the termination or expiration of this PERMIT in which PERMITTEE owns or claims any ownership interest in any Personal Property or Personal Belongings on the Premises. PERMITTEE shall also cause renewals of expiring policies to be written and the policies or copies thereof, as required by this PERMIT, to be delivered to PERMITTOR at least ten (10) days before the policies' expiration dates.

## **12. INDEMNIFICATION.**

**12.1** PERMITTEE shall indemnify, defend, and save harmless PERMITTOR, the State of Idaho, its officers, agents, employees, and volunteers from and against any and all liability, claims, damages, losses, expenses, actions, settlements, attorneys' fees, and suits whatsoever caused by, arising out of, or in connection with PERMITTEE's acts or omissions under this PERMIT or PERMITTEE's failure to comply with any state or federal statute, law, regulation, or rule.

**12.2** Upon receipt of PERMITTOR, the State of Idaho's tender of indemnity and defense, PERMITTEE shall immediately take all reasonable actions necessary, including, but not limited to, providing a legal defense for PERMITTOR, the State of Idaho, to begin fulfilling its obligation to indemnify, defend, and save harmless PERMITTOR, the State of Idaho. PERMITTEE's indemnification and defense liabilities described herein shall apply regardless of any allegations that a claim or suit is attributable in whole or in part to any act or omission of PERMITTOR, the State of Idaho under this PERMIT. However, if it is determined by a final judgment that PERMITTOR, the State of Idaho's negligent act or omission is the sole proximate cause of a suit or claim, PERMITTOR, the State of Idaho shall not be entitled to indemnification from PERMITTEE with respect to such suit or claim, and PERMITTEE, the State of Idaho in its discretion, may reimburse PERMITTEE for reasonable defense costs attributable to the defense provided by any Special Deputy Attorney General appointed pursuant to Section 12.3.

**12.3** Any legal defense provided by PERMITTEE to PERMITTOR, the State of Idaho under this Section must be free of any conflicts of interest, even if retention of separate legal counsel for PERMITTEE, the State of Idaho is necessary. Any attorney appointed to represent PERMITTEE, the State of Idaho must first qualify as and be appointed by the Attorney General of the State of Idaho as a Special Deputy Attorney General pursuant to Idaho Code Sections 67-1401(13) and 67-1409(1).

**13. TERMINATION FOR PERMITTEE'S DEFAULT.** Failure to pay the Permit Fee, the title commitment fee, the demolition costs, or to comply with any term or condition of this PERMIT or any amendment hereof, may result in the immediate termination of this PERMIT in PERMITTOR's discretion upon notice to PERMITTEE. In the event of such termination, PERMITTEE shall immediately remove all Personal Property and restore the Premises to its pre-lease condition as set forth in paragraph 6.

**14. TERMINATION BY PERMITTEE.** PERMITTEE may terminate this PERMIT upon notice in writing to PERMITTOR sent via certified mail, return receipt requested, provided that, PERMITTEE is current on all obligations owed to PERMITTOR, all deferred amounts have been paid in full with any interest accrued thereon, and the Personal Property has been removed from the Premises and the Premises has been restored to its pre-lease condition as set forth in paragraph 6. The termination will take effect immediately upon written verification of the above requirements by PERMITTOR.

**15. PAYMENT OF TAXES, ASSESSMENTS OR FEES.** Unless otherwise provided, PERMITTEE shall pay all water charges, fees, assessments and taxes of whatsoever nature that may be or may have been legally levied or assessed against the Premises herein described, or any portion thereof or on any and all Personal Property thereon. If the same is not paid, such failure shall constitute a default under the PERMIT and shall further constitute a lien in favor of PERMITTOR against all Personal Property owned by PERMITTEE on the Premises. If PERMITTEE retains any interest in any of the Personal Property following the expiration or termination of the PERMIT for any reason, PERMITTEE shall continue to be responsible for, and shall pay, all taxes and assessments of any kind incurred upon, or accruing to, any such Personal Property.

**16. ENVIRONMENTAL, SAFETY AND SANITARY REQUIREMENTS.**

**16.1 No Hazardous Materials.** PERMITTEE shall neither commit nor permit the use, placement, transport or disposal of any hazardous waste, including petroleum products, such as oil, gasoline, or any other substance that is or is suspected to be a hazardous substance or material, not including the following materials kept for PERMITTEE's own residential use if this PERMIT authorizes occupation of the Premises, and only in small quantities: gasoline not to exceed fifteen (15) gallons related to the use or enjoyment of their property for uses such as lawnmowers, snow machines and small water craft; kerosene; heating oil; propane tanks or other commercial sources of heating; and other household cleaners; solvents; paints and similar materials not otherwise prohibited by law.

PERMITTEE shall be responsible and shall pay all costs for the removal and/or the taking of all other necessary or appropriate remedial action regarding any hazardous waste, substance or material which PERMITTEE may have caused to be introduced to or upon the Premises. Any such remediation or removal or storage must be conducted in accordance with applicable federal, state, or local law, regulation, rule and ordinance, and PERMITTEE shall immediately, upon the introduction of any hazardous waste, substance or material onto the Premises, contact PERMITTOR and the Idaho Department of Environmental Quality (DEQ), provided however, PERMITTEE shall not forestall commencing any necessary remediation while negotiating the terms of any consent order with DEQ unless PERMITTEE is so authorized in writing by PERMITTOR. PERMITTEE shall indemnify, defend and hold PERMITTOR harmless from all costs, expenses, damages or fines relating to pollution and hazardous substances and materials including, without limiting the generality of the foregoing, attorney fees and costs of defense and enforcement of PERMITTOR's rights hereunder.

**16.2 Fire and Safety Regulations.** PERMITTEE shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, including, but not limited to, those of the Idaho Department of Lands for fire protection and prevention, and shall at all times observe reasonable precautions to prevent fire on the Premises. PERMITTEE agrees to keep the Premises free from fire hazards. Firewood storage shall be confined to a location, away from the Residence. Roofs shall be kept clear of all debris and needles on a regular basis to minimize fire hazard. PERMITTEE is prohibited from burning garbage or household trash. Any burning on the Premises, including the burning of wood, weeds or other debris, but excepting simple campfires necessary for the use under this PERMIT, requires the prior written permission of PERMITTOR. Any burning must comply with all applicable federal, state or local laws, regulations, rules and ordinances. Barbecue devices designed for use out of doors are permitted.

**16.3 Sanitary Requirements.** PERMITTEE shall at all times keep the Premises in a clean and sanitary condition, free of trash, garbage and litter. PERMITTEE shall not dispose of sewage except in conformity with all applicable federal, state, and local laws, rules, regulations and ordinances pertinent to PERMITTEE's use, and shall dispose of sewage on the Premises only if specifically authorized by PERMITTOR and the local governmental which would otherwise have jurisdiction over such matters. PERMITTEE shall not store, dispose of, or otherwise maintain trash, garbage, litter, unused or discarded household items, or unlicensed or abandoned vehicles, boats or trailers on the Premises, and shall dispose of all such trash, garbage or other items in conformity with all legal requirements. PERMITTEE shall be responsible for all costs associated with sewage, garbage and litter disposal. PERMITTOR may require PERMITTEE to furnish a certificate or other satisfactory proof of compliance with applicable laws, rules, regulations and ordinances.

**17. NO WARRANTY OF SUITABILITY; QUIET ENJOYMENT.**

**17.1 No Warranty.** PERMITTEE acknowledges that neither PERMITTOR, nor any agent of PERMITTOR has made any representation or warranty with respect to the Premises or concerning the suitability of the Premises for the uses intended by PERMITTEE, or concerning any access or the condition of such access to the Premises. PERMITTEE acknowledges that it has accepted the Premises together with access thereto in an AS IS CONDITION, accepting any and all known and unknown faults therein.

**17.2 Quiet Enjoyment.** If this PERMIT authorizes occupation of the Premises, PERMITTOR agrees that PERMITTEE, upon payment of the rent and performing the terms of this PERMIT, may quietly have, hold and enjoy the Premises, for the purposes and uses allowed hereunder during the term hereof. PERMITTEE acknowledges that the PERMIT is non-exclusive, and PERMITTOR retains the right to use the Premises, or to grant rights to others for use of the Premises, or to authorize the public to use the Premises, to the extent any such use is not incompatible with PERMITTEE's purpose and uses allowed hereunder.

**17.3 Use Limited to Site.** PERMITTEE shall confine all Personal Property, and Personal Belongings, vehicles, and pets to the Premises. No trespass onto adjacent property, whether state land or private, will be permitted and may result in the termination of this PERMIT.

18. **REMOVAL OF HAZARD TREES.** The identification and felling of any Hazard Tree on the Premises is the responsibility of PERMITTEE. Following the identification of any Hazard Tree, and prior to the felling thereof; PERMITTEE shall obtain the express written consent of PERMITTOR; provided however, that PERMITTEE may take immediate action to remove any hazardous tree that poses immediate danger to life or property without first contacting PERMITTOR, but shall so notify PERMITTOR within five (5) days thereafter.

19. **NOXIOUS WEEDS.** PERMITTEE shall cooperate with PERMITTOR or any other agency authorized to undertake programs for the control and eradication of noxious weeds. PERMITTEE shall take measures to control noxious weeds on the Premises in accordance with Title 22, Chapter 24, Idaho Code.

20. **RESERVATIONS BY PERMITTOR**

20.1 PERMITTOR expressly reserves and excepts the following rights from the PERMIT:

20.1.a. To enter upon the Premises, or any portion thereof, during the term of this PERMIT for any reasonable purpose incident to this PERMIT or PERMITTOR's retained rights, including the purpose of inspecting the Premises. PERMITTEE shall permit inspection of the Premises by an authorized agent of PERMITTOR at any reasonable time.

20.1.b. All rights for timber, oil and gas, geothermal rights, mineral rights, easements and rights-of-way, fee title to the Premises and title to all appurtenances and Personal Property placed thereon by PERMITTOR.

20.1.c. To grant easements, rights-of-way, and leases over, under, across and upon the Premises, providing said easements, rights-of-way, and leases do not conflict or materially interfere with the use of PERMITTEE or with the Personal Property installed, maintained or operated by PERMITTEE upon the Premises. PERMITTOR shall coordinate with PERMITTEE before processing any easement, right-of-way or lease application on the Premises. This PERMIT is subject to any lease, right-of-way and easement previously granted over the Premises.

20.1.d. To require that changes be made in the use under this PERMIT, and/or to the Personal Property, including to the sanitation or other facilities, for the protection of public health, safety, preservation of property or water quality in accordance with all applicable law and rules.

20.1.e. To issue leases for development of timber resources for exploration and development of oil, gas, geothermal and mineral resources, and any other lease of the subject Premises, so long as such lease is for a higher and better use as determined by PERMITTOR, or such lease does not materially interfere with the authorized use under this PERMIT. In the event any such lease is granted by PERMITTOR, and such lease materially impairs PERMITTEE's use of any Personal Property constructed on the Premises by PERMITTEE with prior written permit from PERMITTOR, this PERMIT shall be deemed terminated with respect to such Personal Property, and the provisions of paragraph 6 shall apply with respect to such Personal Property.

20.1.f. To reserve as PERMITTOR's sole property any and all water from any source arising on state land and to hold water rights for any beneficial use that may develop as a result of this PERMIT subject to any right PERMITTEE may have to domestic water during the term of this PERMIT.

20.1.g. Rights of access, ingress and egress over, under, across and upon the Premises for PERMITTOR and its authorized agents and assigns over and across the Premises including, but not limited to, on existing roads. Said rights of access, ingress and egress may be for purposes of administration, for providing access to neighboring lots, or for any other purpose of PERMITTOR. PERMITTOR shall have no obligation to maintain any road or path, whether



dirt, gravel, paved or otherwise.

**20.1.h.** PERMITTOR reserves the right to sell or exchange all or any portion of the Premises. PERMITTEE shall be notified of a scheduled sale or land exchange at least one hundred-eighty (180) days prior to any such sale or exchange date. The execution of this PERMIT by PERMITTEE constitutes PERMITTEE's written agreement to any sale or land exchange as provided in I.C. § 58-138(3).

**20.1.i.** PERMITTOR reserves the right to reconfigure the boundaries of the Premises for any purpose that PERMITTOR deems necessary or appropriate, in its discretion, including, but not limited to, the platting or re-platting the Premises and/or surrounding any lot(s) or land. The right of reconfiguration shall include the right to increase or decrease the square footage of the Premises which may or may not also include a commensurate increase or decrease in the rental rate to be determined in the discretion of the Land Board. PERMITTEE shall be notified of PERMITTOR's intent to reconfigure the Premises at least one hundred-eighty (180) days prior to any such reconfiguration being accomplished. The Permit Fee shall be adjusted up or down to account for the reconfigured boundaries if the reconfiguration affects the value of the Premises during the year of the reconfiguration, and if the value of the Premises is reduced as a result of such reconfiguration, then the rent will be prorated to reflect the reduction of value for the remainder of such current lease year; and if the value of the Premises is increased as a result of such reconfiguration, then PERMITTEE shall pay such increased rental rate prorated for the remainder of such current lease year within thirty (30) days of notice of such increased rental by PERMITTOR. The execution of this PERMIT by PERMITTEE constitutes PERMITTEE's written agreement to any such reconfiguration.

**20.1.j.** PERMITTOR reserves the right to close any road or change any access route to the Premises for road protection, water quality protection, wildlife and fish protection, administrative purposes or any other reason deemed necessary or appropriate by PERMITTOR. Planned road closures will be reviewed with PERMITTEE prior to action by PERMITTOR. If an access route is closed permanently, another reasonable access route will be provided to the Premises. Temporary road closures may prevent, limit or restrict access for a period of time.

**21. AMOUNTS DUE ARE A LIEN ON PERSONAL PROPERTY AND PERSONAL BELONGINGS.** The amount of the unpaid Permit Fee, late charge, and interest, together with all other amounts due and owing by PERMITTEE to PERMITTOR pursuant to this PERMIT, shall be a lien on PERMITTEE's Personal Property and Personal Belongings on the Premises which shall have priority over all other liens, mortgages, deeds of trust, security interests, encumbrances or other similar instruments or transactions.

**22. NOTICES.**

**22.1. Time of Notice.** Any notice or demand given under the terms of this PERMIT shall be deemed given and delivered on the date when personally delivered or if mailed, the date same is deposited in the United States Mail, and mailed by registered or certified mail, return receipt requested, postage prepaid and properly addressed to the appropriate party.

**22.2. Addresses For Notice.** Until changed by notice in writing, all notices, demands, and communications shall be addressed to PERMITTOR, or to PERMITTEE, as the case may be, at the address set forth for the respective party at the beginning of this PERMIT. It shall be the duty and responsibility of either PERMITTOR or PERMITTEE to provide formal notice to the other of any new or changed address.

**23. ATTORNEY FEES AND COSTS.**

**23.1. Obligation to Pay.** In the event that either party to this agreement shall find it necessary to retain counsel (including PERMITTOR using the Office of the Attorney General of the State of Idaho), or to incur costs to interpret or enforce any of the provisions hereof, including, but not limited to, any

action at law or in equity, the prevailing party (as defined and interpreted under Idaho Rule of Civil Procedure 54) shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorney fees (including, in the case of PERMITTOR, fees of the Office of the Attorney General of the State of Idaho), accountant fees and fees of appraisers or other experts, incurred therein by the prevailing party, including all such costs and expenses incurred with respect to any appeal and such may be included in any judgment entered in any action.

**23.2. Additional Obligations.** In the event PERMITTEE fails to perform any act or do anything which PERMITTEE is required to do under the terms of this PERMIT, PERMITTOR shall have the right, but not the obligation, to perform any such action on behalf of PERMITTEE, and PERMITTEE shall reimburse PERMITTOR for all costs and expenses, including attorney fees, (including fees from the Office of the Attorney General of the State of Idaho), incurred by PERMITTOR in performing such act or thing, with such reimbursement made within thirty (30) days of written demand for payment by PERMITTOR. PERMITTEE's obligation hereunder shall be deemed to be additional rent fully due and payable on demand from PERMITTOR. Any time money is due and owing and interest accrues pursuant to the terms of this PERMIT, interest shall accrue at the legal rate of interest pursuant to Idaho Code § 28-22-104(1).

**24. PERMITTEE's COMPLIANCE WITH APPLICABLE LAWS AND RULES.**

**24.1. Full Compliance.** PERMITTEE's use of the leased Premises shall fully comply with all applicable statutes, ordinances, rules, regulations and laws of federal, state and local governmental authorities. PERMITTEE shall comply with all applicable rules and regulations and standards promulgated by the State Land Board or the Idaho Department of Lands including, but not limited to, the Department's rules governing the installation of docks and other lake encroachments below the ordinary high water mark of any navigable lake.

**24.2. No Waste or Nuisance.** PERMITTEE shall not use the leased Premises in any manner that would constitute loss or waste, nor shall PERMITTEE allow the same to be committed thereon. PERMITTEE shall not do anything which will create a nuisance or a danger to persons or property.

**24.3. Compliance with CC&Rs.** PERMITTEE shall be obligated to comply with the terms and conditions set forth in the CC&Rs, if any, including by reference any instrument identified therein. Upon the execution of this PERMIT, PERMITTEE shall automatically become a "Member" of the *homeowner's association (Association)* defined in the CC&Rs, established to operate and maintain certain properties and facilities within the "Plat" as defined therein, and PERMITTEE shall be obligated as a Member to such terms and conditions set forth and required in the CC&Rs. Any breach of the terms or conditions of the CC&Rs shall constitute a breach of this PERMIT.

**24.4. Interference with Application, Auction or Bid Process.** Neither PERMITTEE, nor any person or entity acting on PERMITTEE's behalf shall intimidate, hinder, prevent or attempt to intimidate, hinder or prevent, any person from 1) filing an application to lease or to purchase the Premises or to enter any bid therefor, and/or 2) attending or submitting any bid at any public auction held to lease or purchase any land consisting of, or including the Premises, or any portion thereof. Violation of this Section or any provision of Idaho Code § 58-154 shall constitute a breach of this PERMIT subject to immediate termination, and PERMITTEE shall be disqualified from bidding on any future auction for the sale or lease of the Premises.

**25. MISCELLANEOUS.**

**25.1. Multiple Persons Constituting PERMITTEE.** If PERMITTEE consists of more than one natural person, each such person constituting PERMITTEE shall be jointly and severally liable for each and every obligation of PERMITTEE under the terms and conditions of this PERMIT.

**25.2. Modification.** This PERMIT may be modified only by a fully executed lease adjustment on a form provided by PERMITTOR.

**25.3. Parties Non-Discrimination.** No party shall discriminate against any person because of race, creed, religion, color, sex, national origin or disability.

**25.4. Paragraph Headings.** The paragraph headings, titles and captions used in this PERMIT are for convenience only and are not part of the PERMIT.

**25.5. Entire Agreement.** This PERMIT, including all exhibits or attachments attached hereto, contains the entire agreement between the parties concerning the subject matter hereof and supersedes any and all prior agreements. The execution of this PERMIT has not been induced by either party, or any agent of either party, by representations, promises or undertakings not expressed herein and, further, there are no collateral agreements, stipulations, covenants, promises, inducements or undertakings whatsoever between the respective parties concerning this PERMIT except those which are expressly contained herein. No other understanding, whether oral or written, whether made prior to or contemporaneously with this PERMIT, shall be deemed to enlarge, limit, or otherwise effect the operation of this PERMIT.

**25.6. Governing Law and Forum.** This PERMIT shall be construed in accordance with and governed by the laws of the State of Idaho. In the event of any dispute with respect to this PERMIT, the parties consent to the venue and jurisdiction of Idaho State courts located in Ada County, or in either Valley County or Bonner County, the county in which the leased Premises are located.

**25.7. Binding on Heirs and Successors.** It is understood and agreed that all terms, covenants and conditions hereof shall be binding upon all heirs and approved successors, if any.

**25.8. Severability.** In the event any provision of this PERMIT shall be held invalid or unenforceable according to law, for any reason whatsoever, then the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

**25.9. Counterparts.** This PERMIT may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one and the same instrument.

**25.10. Sovereign Immunity.** Nothing in this PERMIT shall be deemed a waiver of sovereign immunity, which immunity is hereby expressly reserved.

**25.11. No Assignment.** This PERMIT is not assignable or subject to conflict auction.

**25.12. No Waiver.** The waiver by PERMITTOR of any breach of any term, covenant or condition of this PERMIT shall not be deemed to be a waiver of any past, present or future breach of the same or any other term, covenant or condition of this PERMIT. The acceptance of rent by PERMITTOR hereunder shall not be construed to be a waiver of any violation of any term, covenant or condition of this PERMIT. No payment by PERMITTEE of a lesser amount than due according to the terms of this PERMIT shall be deemed or construed to be other than a part payment on account of the most recent rent due, nor shall any endorsement or statement on any check or letter accompanying any payment be deemed to create an accord and satisfaction.

**25.13. Relations Of The Parties.** PERMITTEE is not an officer, employee, or agent of PERMITTOR.

THIS PERMIT IS ISSUED upon the promises and covenants made by PERMITTEE and the terms and conditions set forth herein this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**PERMITTEE:**

\_\_\_\_\_ Dated: \_\_\_\_\_

\_\_\_\_\_ Dated: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ):ss  
COUNTY OF \_\_\_\_\_ )

On this day \_\_\_\_\_ of \_\_\_\_\_, in the year 2018, before me, a Notary Public in and for said State, personally appeared \_\_\_\_\_, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that said person(s) executed the same.

IN W ITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last above written.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
Residing at: \_\_\_\_\_  
Commission expires: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ):ss  
COUNTY OF \_\_\_\_\_ )

On this day \_\_\_\_\_ of \_\_\_\_\_, in the year 2018, before me, a Notary Public in and for said State, personally appeared \_\_\_\_\_, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that said person(s) executed the same.

IN W ITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last above written.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
Residing at: \_\_\_\_\_  
Commission expires: \_\_\_\_\_

**PERMITTOR:**

**IDAHO DEPARTMENT OF LANDS**

\_\_\_\_\_  
**BUREAU CHIEF**  
ENDOWMENT LEASING

STATE OF IDAHO

LAND USE PERMIT NO. \_\_\_\_\_

This Land Use Permit (referred to as "PERMIT") is made and entered into by and between the **STATE BOARD OF LAND COMMISSIONERS**, acting by and through the **IDAHO DEPARTMENT OF LANDS** (referred to as "**PERMITTOR**"), whose mailing address is 300 N. 6<sup>th</sup> Street, Boise, Idaho, PO Box 83720, 83720-0050, and \_\_\_\_\_ and \_\_\_\_\_, husband and wife (referred to as "**PERMITTEE**"), whose mailing address is \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.

This PERMIT is issued to PERMITTEE for and in consideration of the promises, conditions and covenants made herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged. The agreed facts, terms, and conditions of this PERMIT are as follows:

**1. PURPOSE.** PERMITTEE is the last lessee of record of that certain cottage site lot pursuant to the Residential Cottage Site Lease #R\_\_\_\_\_, pertaining to real property more particularly described as Lot \_\_, Block \_\_ of STATE SUBDIVISION - \_\_\_\_\_, according to the plat thereof, recorded in Book \_\_ of Plats, page \_\_, records of Bonner County, Idaho, with a street address of \_\_\_\_\_ (the "Premises"), and the Personal Property (as defined below).

**1.1.** PERMITTEE is the owner of all of that Personal Property located upon the Premises that would constitute improvements and fixtures if the same party owned both the underlying land and the improvements and fixtures upon said Premises (hereinafter referred to as the "Personal Property"), as well as any and all other personal belongings that may be located upon the Premises, including, but not limited to, furniture, furnishings, equipment, tools and supplies (the "Personal Belongings") As referenced herein, any discussion about the removal or disposition of the Personal Property shall include the removal or disposition of the Personal Belongings.

This PERMIT authorizes PERMITTEE to occupy the Premises and the Personal Property upon the Premises, and to allow time for:

- (1) removal of the Personal Property, as set forth in paragraph 6 below, or
- (2) an auction for the sale of the Premises, including the Personal Property interest, in an auction to be held in 2018 (or as otherwise agreed by the parties), as set forth in paragraph 7 below; or
- (3) an application for a long-term lease for the Premises is submitted to PERMITTOR, as set forth in paragraph 8 below.

**1.2.** Upon execution of this PERMIT, PERMITTOR will advertise the Premises as available for lease or sale. PERMITTEE shall cooperate in PERMITTOR's marketing of the Premises and the Personal Property.

**1.3.** During the term of this PERMIT, PERMITTEE shall remove the Personal Property from the Premises, as set forth in more detail in paragraph 6 below, unless, during the term:

- (1) a successful sale and closing of the Premises occurs as set forth in more detail in paragraph 7 below; or
- (2) an application and executed long-term lease for the Premises is received as set forth in more detail in paragraph 8 below.

2. **TERM.** The term of this PERMIT shall be for a term of one (1) year, from January 1, 2019, through December 31, 2019, unless terminated sooner because:

2.1 PERMITTEE removes the Personal Property, and PERMITTOR verifies such removal, as set forth in paragraph 6 below;

2.2 The Premises are sold at auction, as set forth in more detail in paragraph 7 below;

2.3 A long-term lease for the Premises is executed as set forth in more detail in paragraph 8 below; or

2.4 PERMITTOR terminates for PERMITTEE's default.

3. **PERMIT FEE.** The permit fee ("the "Permit Fee") shall be four percent (4%) of the appraised land value as established by the Department's appraisal:

$$(4\% \text{ rental rate}) \times (\text{appraised land value}) = \text{annual rent}$$

The most recent appraised land value for your cottage site is \$\_\_\_\_\_. Based on this land value and the formula above, your PERMIT payment shall be \$\_\_\_\_\_.

The Permit Fee accrues and shall be due and payable in full in advance, on or before execution of this Permit. PERMITTOR shall pay the Permit Fee to PERMITTOR without abatement, offset, or deduction of any kind. In the event the Premises are leased or sold as provided herein prior to the end of PERMIT term, a portion of the Permit Fee paid in advance will be refunded to PERMITTEE on a pro rata basis as of the date of the closing any such sale or the execution and receipt of rent for any such lease.

4. **RENTAL PAYMENT DUE.** Rent accrues and shall be due and payable in full in advance on or before January 1 of each year; or, in the alternative, LESSEE may pay rent in two installments with one-half (½) of the rent due on or before January 1, and one-half (½) of the rent due on or before June 1, together with a deferred rent charge in the amount of 3% of the deferred payment. LESSEE shall pay the annual rental to LESSOR without abatement, offset, or deduction of any kind.

5. **LIQUIDATED DAMAGES.** The parties agree that it would be impracticable and extremely difficult to ascertain the amount of actual damages caused by PERMITTEE's failure or refusal to remove the Personal Property from the Premises and restore the Premises to its pre-lease condition as set forth in paragraph 6 below, and that and that liquidated damages herein represent a fair, reasonable, and appropriate estimate thereof. The parties agree that PERMITTEE's failure or refusal to remove the Personal Property from the Premises and restore the Premises to its pre-lease condition shall result in liquidated damages owing by PERMITTEE to PERMITTOR in the amount of \$20,000.00, without PERMITTOR being required to present any evidence of the amount or character of actual damages sustained by reason thereof. Such liquidated damages are intended to represent estimated actual damages and are not intended as a penalty, and PERMITTEE shall pay them to PERMITTOR without limiting PERMITTEE's right to terminate this PERMIT for default as provided elsewhere herein. Nothing herein limits PERMITTOR's right to pursue any other legal or equitable remedies for damage or loss suffered as a result of PERMITTEE's or PERMITTEE's agents' activities on the sites or in connection with this PERMIT.

6. **REMOVAL OF PERSONAL PROPERTY AND REMOVAL OF CLOUDS ON TITLE UPON TERMINATION OF THIS PERMIT.** :

6.1. Unless, during the term of this PERMIT, an application to purchase the Premises at auction is received, as set forth in more detail in paragraph 7 below, and such application culminates in the successful auction and closing of the sale of the Premises, or an executed long-term lease of the Premises is entered, as set forth in more detail in paragraph 8 below, then PERMITTEE shall remove the Personal Property from the Premises and restore the Premises to as nearly as is reasonably

practical to its pre-lease condition, all at PERMITTEE's sole cost and expense. Restoring the Premises to as nearly as is reasonably practical to its pre-lease condition prior to any leasing activities upon the Premises shall mean, but shall not necessarily be limited to, the following: 1) all Personal Property, including, but not limited to, all structures, improvements and fixtures shall be removed; 2) any damage to the land as a result of the removal of the Personal Property shall be remedied (such remedies may include, but shall not be limited to, filling in and smoothing any holes left by removal of the Personal Property, including foundations; and the land left relatively flat, without mounds of dirt resulting from any cause such as digging around a foundation); 3) fences shall be removed and holes filled and smoothed; 4) any utilities provided to the property may remain provided they are functional and are capped and stubbed at the property line in accordance with the utility's requirements or the current version of the International Building Code; 5) septic tanks shall be removed; 6) wells shall be decommissioned or capped in accordance with all applicable laws, rules and ordinances, including, but not limited to, IDAPA 37.03.10, rules of the Idaho Department of Water Resources, Idaho Code § 42-238, including the decommissioning of wells set forth in I.C. § 42-238(2), and, a well driller's report is filed in accordance with § 42-238(11); OR, in the alternative, PERMITTEE may request in writing that the well be allowed to continue without being decommissioned as set forth above; and, PERMITTOR may allow the well to remain in place without being decommissioned and may prescribe reasonable requirements for allowing the well to for public health, safety and welfare; 7) water lines shall be closed; 8) there shall be no open pipes, drains, tubes which would present any danger to persons or animals; 9) any tank or other object buried in the Premises shall be removed and holes filled; 10) driveways, cement patios, sidewalks and landscaping must be removed from the Premises unless PERMITTEE requests that PERMITTOR allow such improvements to remain, and PERMITTOR consents in writing; and 11) all garbage, refuse, wood piles, etc., shall be removed from the Premises. If, at any time prior to the end of the term of this PERMIT, PERMITTEE removes PERMITTEE's Personal Property and Personal Belongings and restores the Premises to as nearly as is reasonably practical its pre-lease condition, then the PERMITTOR, upon accepting the condition of the Premises, shall refund any pre-paid fees on a monthly pro-rated basis and this PERMIT shall terminate. Should PERMITTEE fail to remove the Personal Property or Personal Belongings, or fail to restore the Premises to as nearly as is reasonably practical to its pre-lease condition, then PERMITTOR may do so and charge PERMITTEE, all at PERMITTEE's sole cost and expense, and in such event, PERMITTOR shall be entitled to collection costs and reasonable attorney fees, even if enforced by the Office of the Attorney General.

**6.2.** Prior to, or upon the termination of this PERMIT, in the event of any adverse lien, judgment lien, cloud, claim, mortgage, deed of trust or lien interest of any kind claiming a specific monetary amount, including costs and attorney fees and costs on appeal, or any action, potential claim or threatened action by any party against PERMITTEE which could result in any amount that could constitute a lien or claim for lien on the land that constitutes the Premises PERMITTEE's leasehold interest, or the Personal Property as shown by the title commitment in the sole discretion of PERMITTOR (collectively, the "Encumbrances"), then PERMITTOR shall take all necessary and appropriate action for the title company to be able to remove and delete the Encumbrances from the title to PERMITTOR's satisfaction in PERMITTOR's sole discretion. Any title commitment referred to in this PERMIT shall be acquired by PERMITTOR from the title company of PERMITTOR's choice in PERMITTOR's sole discretion, at PERMITTEE's cost, to be paid by PERMITTEE in advance. In the event PERMITTEE is the holder of any potentially adverse lien, judgment lien, cloud, claim, mortgage, deed of trust or lien interest of any kind claiming a specific monetary amount, including costs and attorney fees and costs on appeal, or any action, potential claim or threatened action affecting the Premises, PERMITTEE shall formally release any such lien, cloud, claim or interest upon the execution of this PERMIT.

**6.3.** PERMITTEE may terminate this PERMIT upon notice in writing to PERMITTOR sent via certified mail, return receipt requested, provided that PERMITTEE is current on all obligations owed to PERMITTOR, and the Personal Property has been removed from the Premises and the Premises has been restored to its pre-lease condition as set forth in this paragraph. The termination will take effect immediately upon written verification of the above requirements by PERMITTOR.

**7. SALE AUCTION APPLICATION.** If PERMITTEE completes PERMITTOR's Auction Application Agreement packet with PERMITTOR, as more thoroughly set forth in paragraph 7.3 below, and pays the required fees, including, but not limited to, payment of the \$1,000.00 application fee and an \$800.00 title commitment fee, or such other fees as may then be required, and the application to purchase culminates in a sale of the Premises, then PERMITTEE shall not be required to remove the Personal Property, in accordance with paragraph 6.1, prior to the end of the term of this PERMIT. PERMITTEE will be required to enter into a License Agreement with PERMITTOR's agent allowing the agent to market the Personal Property.

**7.1.** In the event of any adverse lien, cloud, claim or encumbrance on title to the land, the leasehold interest or the Personal Property, as shown by the title commitment in the sole discretion of PERMITTOR, then the Premises and the Personal Property shall not be eligible for sale auction unless PERMITTEE provides reasonable assurance acceptable to PERMITTOR, in PERMITTOR's sole discretion, that PERMITTEE has taken or will take all necessary and appropriate action for the title company to be able to remove any such adverse lien, cloud, claim or encumbrance on title, and all such adverse liens, claims, clouds or encumbrances on title shall be removed no later than 45 days prior to such auction to such degree that all such adverse liens, claims, clouds or encumbrances shall be removed and deleted from any title policy which may issue for the Premises upon a successful closing of a sale of the Premises following auction, and satisfactory to PERMITTOR in PERMITTOR's sole discretion.

**7.2.** In the event that the title commitment shows any mortgage, deed of trust or lien interest of any kind claiming a specific monetary amount, including costs and attorney fees and costs on appeal, or any action, potential claim or threatened action by any party against PERMITTEE which could result in any amount that could constitute a lien or claim for lien on the land that constitutes the Premises, PERMITTEE's leasehold interest, or the Personal Property (collectively, "Security Interests"), then, in order for the Premises and the Personal Property to be eligible for sale auction, PERMITTEE shall first provide to PERMITTOR, a written agreement with any and all such lienholders, satisfactory to PERMITTOR in PERMITTOR's sole discretion, that all such lienholders expressly agree to release and or re-convey the Security Interests in the Premises, the land, the leasehold estate and the Personal Property, on such terms as PERMITTEE and lienholders shall agree. No later than 45 days prior to the date of such auction, PERMITTEE shall provide PERMITTOR with any necessary, appropriate and acceptable fully executed releases and deeds of reconveyance or such other appropriate documentation from all such lienholders, to be held by PERMITTOR and to be recorded at the time of closing of the sale. Either the release and reconveyance, or the accompanying instructions from lienholders, must state the amount, if any, to be paid by PERMITTEE for such release and reconveyance, which amounts can be fully paid upon receipt of either the appraised or agreed value of the Personal Property to which PERMITTEE has agreed for the sale of the Personal Property.

**7.3.** This PERMIT will terminate upon the closing of any such sale.

**8. LEASE APPLICATION.** If PERMITTEE does not submit an Auction Application Agreement or if the property does not close through the VAFO process, then PERMITTEE or other third party may complete a lease application for the Premises prior to October 31, 2019, including payment of required fees, and if such application culminates in the execution of a long-term lease for the Premises and payment of rent in accordance with the long-term lease and Idaho Code § 58-308 prior to December 31, 2019, then PERMITTEE shall not be required to remove the Personal Property as set forth in paragraph 6; provided however, that if the application to lease does not culminate in the execution of a long-term lease of the Premises, then PERMITTEE shall remove the Personal Property and restore the Premises to its pre-lease condition, in accordance with paragraph 6, prior to the end of the term of this PERMIT. PERMITTOR will advertise such lease for conflict applications. If PERMITTEE or other third party submits a lease application, then IDL will advertise the lease as available for other conflict lease applications in accordance with Idaho Code § 58-310.

**8.1.** If PERMITTOR receives a completed lease application for the Premises, then in the event of any adverse lien, cloud, claim or encumbrance on title to the land, the leasehold interest or the



Personal Property, as shown by a title commitment and/or PERMITTOR's land records, in the sole discretion of PERMITTOR, then the Premises and the Personal Property shall not be eligible for lease auction unless PERMITTEE provides reasonable assurance acceptable to PERMITTOR, in PERMITTOR's sole discretion, that PERMITTEE has taken or will take all necessary and appropriate action to remove any such adverse lien, cloud, claim or encumbrance on title, and all such adverse liens, claims, clouds or encumbrances on title shall be removed no later than 45 days prior to such auction to such degree that all such adverse liens, claims, clouds or encumbrances shall be removed, satisfactory to PERMITTOR in PERMITTOR's sole discretion.

**8.2.** This PERMIT shall terminate upon such execution of a long-term lease, payment and payment of rent to PERMITTOR, in accordance with Idaho Code § 58-308.

**9. NO LIENS ON THE PREMISES.** PERMITTEE shall ensure that full payment is made for any and all materials joined or affixed to the Premises pursuant to this PERMIT and for any and all persons who perform labor on the Premises at the request or on account of PERMITTEE. With the exception of previously approved deeds of trust or mortgages, PERMITTEE shall not permit or suffer any liens, including any mechanics' lien or material supplier lien, of any kind or nature to be effected on or enforced against the Premises for any work done or materials furnished on the Premises during the term of this PERMIT at PERMITTEE's instance or request, provided that PERMITTEE may contest such lien if PERMITTEE posts a bond as required by law.

**10. CONDITION OF PREMISES AND PERSONAL PROPERTY.** During the term of this PERMIT, PERMITTEE shall maintain the Personal Property in good condition and repair and shall keep the same in a sightly manner. PERMITTEE shall not make any alterations to the land or the Personal Property during the term of this PERMIT without the prior written permission of PERMITTOR.

**11. PERMITTEE'S INSURANCE POLICY REQUIREMENTS.**

**11.1.** If available, a Homeowner's 3 (HO3), its equivalent or better including Liability Insurance policy: PERMITTEE shall maintain an HO3 policy, its equivalent or better, with a liability limit of not less than one million dollars (\$1,000,000.00) if the combined value of the Premises and Personal Property are \$1,000,000 or less, and \$2,000,000 if the combined value of the Premises and Personal Property exceed \$1,000,000. If an HO3 policy is unavailable for the Premises due to lack of access for fire suppression services, or otherwise, PERMITTEE shall provide PERMITTOR with a statement from its insurer stating specific reasons an HO3 policy is unavailable for the Premises, and, in such event, PERMITTEE shall acquire an HO2 policy, its equivalent or better, in the same limits as set forth above for an HO3 policy. If neither an HO3 or HO2 policy is available, then PERMITTEE shall provide PERMITTOR with a statement from its insurer stating specific reasons neither an HO3 or HO2 policy is unavailable for the Premises, and, in such event, PERMITTEE shall acquire such other type of policy as deemed acceptable to PERMITTOR, in the same limits as set forth above for an HO3 policy. If necessary, an umbrella policy may be used in combination with the homeowner's policy to meet the limits required, providing the homeowner's policy is listed on the underlying insurance in the umbrella, and the umbrella policy meets the requirements below.

**11.1.a.** The Homeowner's insurance and umbrella liability insurance shall be in a form and from an insurance company satisfactory to PERMITTOR and shall cover liability for bodily injury, property damage and personal injury, arising from PERMITTEE's use and/or occupation of the Premises.

**11.1.b.** The Homeowner's insurance shall include coverage for the replacement cost of the real property and all Personal Property located on the Premises. PERMITTOR shall be included as a loss payee to the extent of its interest in any of the Personal Property upon the Premises.

**11.1.c.** PERMITTEE shall purchase insurance to cover PERMITTEE's Personal Belongings.

**11.2.** All insurance required under this PERMIT shall be with companies licensed and admitted in

Idaho and approved for this PERMIT by PERMITTOR. PERMITTOR's general requirements for such approval include a Best's rating of A- or better. Prior to taking occupancy or commencing construction and at least annually thereafter, PERMITTEE shall furnish PERMITTOR with a certificate of insurance executed by a duly authorized representative of each insurer, together with a copy of each applicable policy and policy endorsement showing compliance with the insurance requirements set forth above ("proof of insurance"). All policies required under this Article shall be written as primary policies and not contributing to, not in excess of, any coverage PERMITTOR may have or choose to maintain.

**11.3.** All policies and endorsements shall provide for thirty (30) days written notice to PERMITTOR, if possible, prior to cancellation or material change of any insurance referred to therein. Notwithstanding any such notice provided by the insurance carrier to PERMITTOR prior to any cancellation or material change of any insurance, PERMITTEE agrees to promptly (but not later than ten (10) days), provide to PERMITTOR a copy of any and all such notices relative to cancellation or a material change in insurance coverage that PERMITTEE receives.

**11.3.a.** Failure of PERMITTOR to demand any required proof of insurance or full compliance with these insurance requirements, or the failure of PERMITTOR to identify a deficiency in the proof of insurance provided shall not be construed as a waiver of PERMITTEE's obligation to maintain such insurance.

**11.3.b.** Failure to maintain the required insurance shall constitute a breach and may result in termination of this PERMIT at PERMITTOR's option.

**11.3.c.** If PERMITTEE fails to maintain the insurance as required herein, PERMITTOR shall have the right, but not the obligation, to purchase said insurance at PERMITTEE's expense.

**11.3.d.** PERMITTEE shall provide certified or other acceptable copies of all insurance policies and endorsements (preferably in readily accessible electronic format) required above within ten (10) days of PERMITTOR's written request for said copies.

**11.4.** By requiring insurance herein, PERMITTOR does not represent that coverage and limits will necessarily be adequate to protect PERMITTEE and such coverage and limits shall not be deemed as a limitation on PERMITTEE's liability under the indemnities granted to PERMITTOR in this PERMIT.

**11.5.** PERMITTEE shall pay all policy premiums annually in advance, for each of the insurance policies and endorsements required under the terms of this PERMIT. PERMITTEE shall deliver to PERMITTOR proof of insurance on or before January 1 of each year during the term of this PERMIT and for each year following the termination or expiration of this PERMIT in which PERMITTEE owns or claims any ownership interest in any Personal Property or Personal Belongings on the Premises. PERMITTEE shall also cause renewals of expiring policies to be written and the policies or copies thereof, as required by this PERMIT, to be delivered to PERMITTOR at least ten (10) days before the policies' expiration dates.

## **12. INDEMNIFICATION.**

**12.1** PERMITTEE shall indemnify, defend, and save harmless PERMITTOR, the State of Idaho, its officers, agents, employees, and volunteers from and against any and all liability, claims, damages, losses, expenses, actions, settlements, attorneys' fees, and suits whatsoever caused by, arising out of, or in connection with PERMITTEE's acts or omissions under this PERMIT or PERMITTEE's failure to comply with any state or federal statute, law, regulation, or rule.

**12.2** Upon receipt of PERMITTOR, the State of Idaho's tender of indemnity and defense, PERMITTEE shall immediately take all reasonable actions necessary, including, but not limited to, providing a legal defense for PERMITTOR, the State of Idaho, to begin fulfilling its obligation to indemnify, defend, and save harmless PERMITTOR, the State of Idaho. PERMITTEE's indemnification and defense liabilities described herein shall apply regardless of any allegations that a claim or suit is attributable in whole or in part to any act or omission of PERMITTOR, the State of

Idaho under this PERMIT. However, if it is determined by a final judgment that PERMITTOR, the State of Idaho's negligent act or omission is the sole proximate cause of a suit or claim, PERMITTOR, the State of Idaho shall not be entitled to indemnification from PERMITTEE with respect to such suit or claim, and PERMITTEE, the State of Idaho in its discretion, may reimburse PERMITTEE for reasonable defense costs attributable to the defense provided by any Special Deputy Attorney General appointed pursuant to Section 12.3.

**12.3** Any legal defense provided by PERMITTEE to PERMITTOR, the State of Idaho under this Section must be free of any conflicts of interest, even if retention of separate legal counsel for PERMITTEE, the State of Idaho is necessary. Any attorney appointed to represent PERMITTEE, the State of Idaho must first qualify as and be appointed by the Attorney General of the State of Idaho as a Special Deputy Attorney General pursuant to Idaho Code Sections 67-1401(13) and 67-1409(1).

**13. TERMINATION FOR PERMITTEE'S DEFAULT.** Failure to pay the Permit Fee, the title commitment fee, the demolition costs, or to comply with any term or condition of this PERMIT or any amendment hereof, may result in the immediate termination of this PERMIT in PERMITTOR's discretion upon notice to PERMITTEE. In the event of such termination, PERMITTEE shall immediately remove all Personal Property and restore the Premises to its pre-lease condition as set forth in paragraph 6.

**14. TERMINATION BY PERMITTEE.** PERMITTEE may terminate this PERMIT upon notice in writing to PERMITTOR sent via certified mail, return receipt requested, provided that, PERMITTEE is current on all obligations owed to PERMITTOR, all deferred amounts have been paid in full with any interest accrued thereon, and the Personal Property has been removed from the Premises and the Premises has been restored to its pre-lease condition as set forth in paragraph 6. The termination will take effect immediately upon written verification of the above requirements by PERMITTOR.

**15. PAYMENT OF TAXES, ASSESSMENTS OR FEES.** Unless otherwise provided, PERMITTEE shall pay all water charges, fees, assessments and taxes of whatsoever nature that may be or may have been legally levied or assessed against the Premises herein described, or any portion thereof or on any and all Personal Property thereon. If the same is not paid, such failure shall constitute a default under the PERMIT and shall further constitute a lien in favor of PERMITTOR against all Personal Property owned by PERMITTEE on the Premises. If PERMITTEE retains any interest in any of the Personal Property following the expiration or termination of the PERMIT for any reason, PERMITTEE shall continue to be responsible for, and shall pay, all taxes and assessments of any kind incurred upon, or accruing to, any such Personal Property.

**16. ENVIRONMENTAL, SAFETY AND SANITARY REQUIREMENTS.**

**16.1 No Hazardous Materials.** PERMITTEE shall neither commit nor permit the use, placement, transport or disposal of any hazardous waste, including petroleum products, such as oil, gasoline, or any other substance that is or is suspected to be a hazardous substance or material, not including the following materials kept for PERMITTEE's own residential use if this PERMIT authorizes occupation of the Premises, and only in small quantities: gasoline not to exceed fifteen (15) gallons related to the use or enjoyment of their property for uses such as lawnmowers, snow machines and small water craft; kerosene; heating oil; propane tanks or other commercial sources of heating; and other household cleaners; solvents; paints and similar materials not otherwise prohibited by law. PERMITTEE shall be responsible and shall pay all costs for the removal and/or the taking of all other necessary or appropriate remedial action regarding any hazardous waste, substance or material which PERMITTEE may have caused to be introduced to or upon the Premises. Any such remediation or removal or storage must be conducted in accordance with applicable federal, state, or local law, regulation, rule and ordinance, and PERMITTEE shall immediately, upon the introduction of any hazardous waste, substance or material onto the Premises, contact PERMITTOR and the Idaho Department of Environmental Quality (DEQ), provided however, PERMITTEE shall not forestall commencing any necessary remediation while negotiating the terms of any consent order with DEQ unless PERMITTEE is so authorized in writing by PERMITTOR. PERMITTEE shall indemnify, defend and hold PERMITTOR harmless from all costs, expenses, damages or fines relating to pollution and hazardous substances and materials including, without limiting the generality of the foregoing, attorney fees and costs of defense and enforcement of PERMITTOR's rights hereunder.

**16.2 Fire and Safety Regulations.** PERMITTEE shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, including, but not limited to, those of the Idaho Department of Lands for fire protection and prevention, and shall at all times observe reasonable precautions to prevent fire on the Premises. PERMITTEE agrees to keep the Premises free from fire hazards. Firewood storage shall be confined to a location, away from the Residence. Roofs shall be kept clear of all debris and needles on a regular basis to minimize fire hazard. PERMITTEE is prohibited from burning garbage or household trash. Any burning on the Premises, including the burning of wood, weeds or other debris, but excepting simple campfires necessary for the use under this PERMIT, requires the prior written permission of PERMITTOR. Any burning must comply with all applicable federal, state or local laws, regulations, rules and ordinances. Barbecue devices designed for use out of doors are permitted.

**16.3 Sanitary Requirements.** PERMITTEE shall at all times keep the Premises in a clean and sanitary condition, free of trash, garbage and litter. PERMITTEE shall not dispose of sewage except in conformity with all applicable federal, state, and local laws, rules, regulations and ordinances pertinent to PERMITTEE's use, and shall dispose of sewage on the Premises only if specifically authorized by PERMITTOR and the local governmental which would otherwise have jurisdiction over such matters. PERMITTEE shall not store, dispose of, or otherwise maintain trash, garbage, litter, unused or discarded household items, or unlicensed or abandoned vehicles, boats or trailers on the Premises, and shall dispose of all such trash, garbage or other items in conformity with all legal requirements. PERMITTEE shall be responsible for all costs associated with sewage, garbage and litter disposal. PERMITTOR may require PERMITTEE to furnish a certificate or other satisfactory proof of compliance with applicable laws, rules, regulations and ordinances.

**17. NO WARRANTY OF SUITABILITY; QUIET ENJOYMENT.**

**17.1 No Warranty.** PERMITTEE acknowledges that neither PERMITTOR, nor any agent of PERMITTOR has made any representation or warranty with respect to the Premises or concerning the suitability of the Premises for the uses intended by PERMITTEE, or concerning any access or the condition of such access to the Premises. PERMITTEE acknowledges that it has accepted the Premises together with access thereto in an AS IS CONDITION, accepting any and all known and unknown faults therein.

**17.2 Quiet Enjoyment.** If this PERMIT authorizes occupation of the Premises, PERMITTOR agrees that PERMITTEE, upon payment of the rent and performing the terms of this PERMIT, may quietly have, hold and enjoy the Premises, for the purposes and uses allowed hereunder during the term hereof. PERMITTEE acknowledges that the PERMIT is non-exclusive, and PERMITTOR retains the right to use the Premises, or to grant rights to others for use of the Premises, or to authorize the public to use the Premises, to the extent any such use is not incompatible with PERMITTEE's purpose and uses allowed hereunder.

**17.3 Use Limited to Site.** PERMITTEE shall confine all Personal Property, and Personal Belongings, vehicles, and pets to the Premises. No trespass onto adjacent property, whether state land or private, will be permitted and may result in the termination of this PERMIT.

**18. REMOVAL OF HAZARD TREES.** The identification and felling of any Hazard Tree on the Premises is the responsibility of PERMITTEE. Following the identification of any Hazard Tree, and prior to the felling thereof; PERMITTEE shall obtain the express written consent of PERMITTOR; provided however, that PERMITTEE may take immediate action to remove any hazardous tree that poses immediate danger to life or property without first contacting PERMITTOR, but shall so notify PERMITTOR within five (5) days thereafter.

**19. NOXIOUS WEEDS.** PERMITTEE shall cooperate with PERMITTOR or any other agency authorized to undertake programs for the control and eradication of noxious weeds. PERMITTEE shall take measures to control noxious weeds on the Premises in accordance with Title 22, Chapter 24, Idaho Code.

**20. RESERVATIONS BY PERMITTOR**

**20.1** PERMITTOR expressly reserves and excepts the following rights from the PERMIT:

**20.1.a.** To enter upon the Premises, or any portion thereof, during the term of this PERMIT for any reasonable purpose incident to this PERMIT or PERMITTOR's retained rights, including the purpose of inspecting the Premises. PERMITTEE shall permit inspection of the Premises by an authorized agent of PERMITTOR at any reasonable time.

**20.1.b.** All rights for timber, oil and gas, geothermal rights, mineral rights, easements and rights-of-way, fee title to the Premises and title to all appurtenances and Personal Property placed thereon by PERMITTOR.

**20.1.c.** To grant easements, rights-of-way, and leases over, under, across and upon the Premises, providing said easements, rights-of-way, and leases do not conflict or materially interfere with the use of PERMITTEE or with the Personal Property installed, maintained or operated by PERMITTEE upon the Premises. PERMITTOR shall coordinate with PERMITTEE before processing any easement, right-of-way or lease application on the Premises. This PERMIT is subject to any lease, right-of-way and easement previously granted over the Premises.

**20.1.d.** To require that changes be made in the use under this PERMIT, and/or to the Personal Property, including to the sanitation or other facilities, for the protection of public health, safety, preservation of property or water quality in accordance with all applicable law and rules.

**20.1.e.** To issue leases for development of timber resources for exploration and development of oil, gas, geothermal and mineral resources, and any other lease of the subject Premises, so long as such lease is for a higher and better use as determined by PERMITTOR, or such lease does not materially interfere with the authorized use under this PERMIT. In the event any such lease is granted by PERMITTOR, and such lease materially impairs PERMITTEE's use of any Personal Property constructed on the Premises by PERMITTEE with prior written permit from PERMITTOR, this PERMIT shall be deemed terminated with respect to such Personal Property, and the provisions of paragraph 6 shall apply with respect to such Personal Property.

**20.1.f.** To reserve as PERMITTOR's sole property any and all water from any source arising on state land and to hold water rights for any beneficial use that may develop as a result of this PERMIT subject to any right PERMITTEE may have to domestic water during the term of this PERMIT.

**20.1.g.** Rights of access, ingress and egress over, under, across and upon the Premises for PERMITTOR and its authorized agents and assigns over and across the Premises including, but not limited to, on existing roads. Said rights of access, ingress and egress may be for purposes of administration, for providing access to neighboring lots, or for any other purpose of PERMITTOR. PERMITTOR shall have no obligation to maintain any road or path, whether dirt, gravel, paved or otherwise.

**20.1.h.** PERMITTOR reserves the right to sell or exchange all or any portion of the Premises. PERMITTEE shall be notified of a scheduled sale or land exchange at least one hundred-eighty (180) days prior to any such sale or exchange date. The execution of this PERMIT by PERMITTEE constitutes PERMITTEE's written agreement to any sale or land exchange as provided in I.C. § 58-138(3).

**20.1.i.** PERMITTOR reserves the right to reconfigure the boundaries of the Premises for any purpose that PERMITTOR deems necessary or appropriate, in its discretion, including, but not limited to, the platting or re-platting the Premises and/or surrounding any lot(s) or land. The right of reconfiguration shall include the right to increase or decrease the square footage

of the Premises which may or may not also include a commensurate increase or decrease in the rental rate to be determined in the discretion of the Land Board. PERMITTEE shall be notified of PERMITTOR's intent to reconfigure the Premises at least one hundred-eighty (180) days prior to any such reconfiguration being accomplished. The Permit Fee shall be adjusted up or down to account for the reconfigured boundaries if the reconfiguration affects the value of the Premises during the year of the reconfiguration, and if the value of the Premises is reduced as a result of such reconfiguration, then the rent will be prorated to reflect the reduction of value for the remainder of such current lease year; and if the value of the Premises is increased as a result of such reconfiguration, then PERMITTEE shall pay such increased rental rate prorated for the remainder of such current lease year within thirty (30) days of notice of such increased rental by PERMITTOR. The execution of this PERMIT by PERMITTEE constitutes PERMITTEE's written agreement to any such reconfiguration.

**20.1.j.** PERMITTOR reserves the right to close any road or change any access route to the Premises for road protection, water quality protection, wildlife and fish protection, administrative purposes or any other reason deemed necessary or appropriate by PERMITTOR. Planned road closures will be reviewed with PERMITTEE prior to action by PERMITTOR. If an access route is closed permanently, another reasonable access route will be provided to the Premises. Temporary road closures may prevent, limit or restrict access for a period of time.

**21. AMOUNTS DUE ARE A LIEN ON PERSONAL PROPERTY AND PERSONAL BELONGINGS.** The amount of the unpaid Permit Fee, late charge, and interest, together with all other amounts due and owing by PERMITTEE to PERMITTOR pursuant to this PERMIT, shall be a lien on PERMITTEE's Personal Property and Personal Belongings on the Premises which shall have priority over all other liens, mortgages, deeds of trust, security interests, encumbrances or other similar instruments or transactions.

**22. NOTICES.**

**22.1. Time of Notice.** Any notice or demand given under the terms of this PERMIT shall be deemed given and delivered on the date when personally delivered or if mailed, the date same is deposited in the United States Mail, and mailed by registered or certified mail, return receipt requested, postage prepaid and properly addressed to the appropriate party.

**22.2. Addresses For Notice.** Until changed by notice in writing, all notices, demands, and communications shall be addressed to PERMITTOR, or to PERMITTEE, as the case may be, at the address set forth for the respective party at the beginning of this PERMIT. It shall be the duty and responsibility of either PERMITTOR or PERMITTEE to provide formal notice to the other of any new or changed address.

**23. ATTORNEY FEES AND COSTS.**

**23.1. Obligation to Pay.** In the event that either party to this agreement shall find it necessary to retain counsel (including PERMITTOR using the Office of the Attorney General of the State of Idaho), or to incur costs to interpret or enforce any of the provisions hereof, including, but not limited to, any action at law or in equity, the prevailing party (as defined and interpreted under Idaho Rule of Civil Procedure 54) shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorney fees (including, in the case of PERMITTOR, fees of the Office of the Attorney General of the State of Idaho), accountant fees and fees of appraisers or other experts, incurred therein by the prevailing party, including all such costs and expenses incurred with respect to any appeal and such may be included in any judgment entered in any action.

**23.2. Additional Obligations.** In the event PERMITTEE fails to perform any act or do anything which PERMITTEE is required to do under the terms of this PERMIT, PERMITTOR shall have the right, but not the obligation, to perform any such action on behalf of PERMITTEE, and PERMITTEE shall reimburse PERMITTOR for all costs and expenses, including attorney fees, (including fees from the Office of the Attorney General of the State of Idaho), incurred by PERMITTOR in performing such

act or thing, with such reimbursement made within thirty (30) days of written demand for payment by PERMITTOR. PERMITTEE's obligation hereunder shall be deemed to be additional rent fully due and payable on demand from PERMITTOR. Any time money is due and owing and interest accrues pursuant to the terms of this PERMIT, interest shall accrue at the legal rate of interest pursuant to Idaho Code § 28-22-104(1).

**24. PERMITTEE's COMPLIANCE WITH APPLICABLE LAWS AND RULES.**

**24.1. Full Compliance.** PERMITTEE's use of the leased Premises shall fully comply with all applicable statutes, ordinances, rules, regulations and laws of federal, state and local governmental authorities. PERMITTEE shall comply with all applicable rules and regulations and standards promulgated by the State Land Board or the Idaho Department of Lands including, but not limited to, the Department's rules governing the installation of docks and other lake encroachments below the ordinary high water mark of any navigable lake.

**24.2. No Waste or Nuisance.** PERMITTEE shall not use the leased Premises in any manner that would constitute loss or waste, nor shall PERMITTEE allow the same to be committed thereon. PERMITTEE shall not do anything which will create a nuisance or a danger to persons or property.

**24.3. Compliance with CC&Rs.** PERMITTEE shall be obligated to comply with the terms and conditions set forth in the CC&Rs, if any, including by reference any instrument identified therein. Upon the execution of this PERMIT, PERMITTEE shall automatically become a "Member" of the *homeowner's association (Association)* defined in the CC&Rs, established to operate and maintain certain properties and facilities within the "Plat" as defined therein, and PERMITTEE shall be obligated as a Member to such terms and conditions set forth and required in the CC&Rs. Any breach of the terms or conditions of the CC&Rs shall constitute a breach of this PERMIT.

**24.4. Interference with Application, Auction or Bid Process.** Neither PERMITTEE, nor any person or entity acting on PERMITTEE's behalf shall intimidate, hinder, prevent or attempt to intimidate, hinder or prevent, any person from 1) filing an application to lease or to purchase the Premises or to enter any bid therefor, and/or 2) attending or submitting any bid at any public auction held to lease or purchase any land consisting of, or including the Premises, or any portion thereof. Violation of this Section or any provision of Idaho Code § 58-154 shall constitute a breach of this PERMIT subject to immediate termination, and PERMITTEE shall be disqualified from bidding on any future auction for the sale or lease of the Premises.

**25. MISCELLANEOUS.**

**25.1. Multiple Persons Constituting PERMITTEE.** If PERMITTEE consists of more than one natural person, each such person constituting PERMITTEE shall be jointly and severally liable for each and every obligation of PERMITTEE under the terms and conditions of this PERMIT.

**25.2. Modification.** This PERMIT may be modified only by a fully executed lease adjustment on a form provided by PERMITTOR.

**25.3. Parties Non-Discrimination.** No party shall discriminate against any person because of race, creed, religion, color, sex, national origin or disability.

**25.4. Paragraph Headings.** The paragraph headings, titles and captions used in this PERMIT are for convenience only and are not part of the PERMIT.

**25.5. Entire Agreement.** This PERMIT, including all exhibits or attachments attached hereto, contains the entire agreement between the parties concerning the subject matter hereof and supersedes any and all prior agreements. The execution of this PERMIT has not been induced by either party, or any agent of either party, by representations, promises or undertakings not expressed herein and, further, there are no collateral agreements, stipulations, covenants, promises, inducements or undertakings whatsoever between the respective parties concerning this PERMIT

except those which are expressly contained herein. No other understanding, whether oral or written, whether made prior to or contemporaneously with this PERMIT, shall be deemed to enlarge, limit, or otherwise effect the operation of this PERMIT.

**25.6. Governing Law and Forum.** This PERMIT shall be construed in accordance with and governed by the laws of the State of Idaho. In the event of any dispute with respect to this PERMIT, the parties consent to the venue and jurisdiction of Idaho State courts located in Ada County, or in either Valley County or Bonner County, the county in which the leased Premises are located.

**25.7. Binding on Heirs and Successors.** It is understood and agreed that all terms, covenants and conditions hereof shall be binding upon all heirs and approved successors, if any.

**25.8. Severability.** In the event any provision of this PERMIT shall be held invalid or unenforceable according to law, for any reason whatsoever, then the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

**25.9. Counterparts.** This PERMIT may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one and the same instrument.

**25.10. Sovereign Immunity.** Nothing in this PERMIT shall be deemed a waiver of sovereign immunity, which immunity is hereby expressly reserved.

**25.11. No Assignment.** This PERMIT is not assignable or subject to conflict auction.

**25.12. No Waiver.** The waiver by PERMITTOR of any breach of any term, covenant or condition of this PERMIT shall not be deemed to be a waiver of any past, present or future breach of the same or any other term, covenant or condition of this PERMIT. The acceptance of rent by PERMITTOR hereunder shall not be construed to be a waiver of any violation of any term, covenant or condition of this PERMIT. No payment by PERMITTEE of a lesser amount than due according to the terms of this PERMIT shall be deemed or construed to be other than a part payment on account of the most recent rent due, nor shall any endorsement or statement on any check or letter accompanying any payment be deemed to create an accord and satisfaction.

**25.13. Relations Of The Parties.** PERMITTEE is not an officer, employee, or agent of PERMITTOR.

THIS PERMIT IS ISSUED upon the promises and covenants made by PERMITTEE and the terms and conditions set forth herein this \_\_\_\_\_ day of \_\_\_\_\_, 2018.



**PERMITTEE:**

\_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_

Dated: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ):ss  
COUNTY OF \_\_\_\_\_ )

On this day \_\_\_\_\_ of \_\_\_\_\_, in the year 2018, before me, a Notary Public in and for said State, personally appeared \_\_\_\_\_, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that said person(s) executed the same.

IN W ITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last above written.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
Residing at: \_\_\_\_\_  
Commission expires: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ):ss  
COUNTY OF \_\_\_\_\_ )

On this day \_\_\_\_\_ of \_\_\_\_\_, in the year 2018, before me, a Notary Public in and for said State, personally appeared \_\_\_\_\_, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that said person(s) executed the same.

IN W ITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last above written.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
Residing at: \_\_\_\_\_  
Commission expires: \_\_\_\_\_

**PERMITTOR:**

**IDAHO DEPARTMENT OF LANDS**

\_\_\_\_\_  
**BUREAU CHIEF**  
ENDOWMENT LEASING



**RESIDENTIAL COTTAGE SITE LEASE**  
**No. R**  
**LESSEE OF RECORD, LEGAL NAME NATURAL PERSON(S)**

LESSOR Name and Address: State Board of Land Commissioners, acting by and through the Idaho Department of Lands  
300 North 6<sup>th</sup> Street, Suite 103  
PO Box 83720  
Boise ID 83720-0050

LESSEE Name and Address: Lessee of Record, Legal Name Natural Person(s)  
Address 1  
Address 2  
City, State, Zip, Country if not USA

Lease Term: Commencement: January 1, 20xx  
Expiration: December 31, 20xx

Rent: The annual rent payment is due on January 1st of each year or in accordance with Section D.1.2 on Attachment A.  
  
Rent terms are more particularly described in Section D. Rental Rate within the Lease Provisions.

Land Legal Description: See Attachment B of this Lease.  
  
LESSOR, in consideration of the rent paid and the covenants, conditions and restrictions hereinafter set forth, in the Lease (including all Attachments), does hereby lease and demise unto LESSEE the lands described in Attachment B of this Lease for the uses specified herein.

Use of Premises: Residential Cottage Site  
See Section B. Use of Leased Premises within the Lease Provisions

Bond: Not Applicable

Liability Insurance: See Section M. Insurance in the Lease Provisions, Attachment A.

Lease Index: LEASE DATA  
SIGNATURE PAGE  
ATTACHMENT A – LEASE PROVISIONS  
ATTACHMENT B – LEGAL DESCRIPTION

This lease agreement (Lease), including the Lease Data, Signature Page and all Attachments (which are incorporated herein in their entirety) is made and entered into by and between LESSOR and LESSEE.

**LESSOR SIGNATURES**

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed the day and year first above written.

COUNTERSIGNED: STATE BOARD OF LAND COMMISSIONERS OF THE STATE OF IDAHO

\_\_\_\_\_  
Secretary of the State of Idaho

\_\_\_\_\_  
President of the State Board of Land Commissioners  
and Governor of the State of Idaho

\_\_\_\_\_  
Director Department of Lands

STATE OF IDAHO)  
  :s  
COUNTY OF ADA)

(SEAL)

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me, a Notary Public in and for said State, personally appeared C. L. "Butch" Otter, known to me to be the president of the State Board of Land Commissioners of the State of Idaho and the Governor of the state of Idaho; and Lawrence E. Denney, known to me to be the Secretary of the State of Idaho and Thomas M. Schultz, Jr., known to me to be the Director, that executed the within instrument, and acknowledged to me that the State Board of Land Commissioners of the State of Idaho and the State of Idaho executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last above written.

\_\_\_\_\_  
Notary Public for the State of Idaho  
Commission expires:

**LESSEE SIGNATURES**

X \_\_\_\_\_  
X \_\_\_\_\_  
(LESSEE) (LESSEE)

X \_\_\_\_\_  
X \_\_\_\_\_  
(LESSEE) (LESSEE)

STATE OF \_\_\_\_\_)  
  :s  
COUNTY OF \_\_\_\_\_)

(SEAL)

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me, a Notary Public in and for said State, personally appeared \_\_\_\_\_  
\_\_\_\_\_ known to me to be the person(s) who executed the instrument as LESSEE, and acknowledged to me that such person(s) executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last above written.

\_\_\_\_\_  
Notary Public  
Commission expires:

# Attachment A

## Lease Provisions

### A. DEFINITIONS

1.1 **Definitions.** For purposes of this Lease, the following definitions shall apply:

- 1.1.a. **“Abandonment”** means the relinquishment of all interests in Personal Property, Non-Approved Personal Property or Personal Belongings located upon the Leased Premises with no intention to reclaim or reuse. Following any termination of the Lease, abandonment shall be deemed conclusive upon the occurrence of any of the following events: 1) LESSEE fails to maintain with LESSOR proof of insurance on all Personal Property and Non-Approved Personal Property located upon the Leased Premises upon any termination of the Lease following notice of default for lack of proof of insurance by LESSOR; or, 2) LESSEE fails to remove Personal Property, Non-Approved Personal Property or Personal Belongings prior to termination of the Lease, and LESSEE fails to acquire a land use permit from LESSOR within two (2) months of any termination of the Lease to provide LESSEE time for removal not to exceed six (6) months, provided however, LESSOR may allow a reasonable extension for removal of the Personal Property if such removal is prevented due to weather or other circumstance determined acceptable in LESSOR’s sole discretion.
- 1.1.b. **“Appraised Value”** means the market value of the Leased Premises in its vacant and unimproved state (unless Improvements are owned by LESSOR, in which event the Improvements shall be included) and/or Personal Property as determined by qualified licensed appraisers hired by LESSOR to make such determination.
- 1.1.c. **“Commercial Use”** means any use of the Leased Premises for profit; provided however, that such use shall not include the following:
- 1.1.c.i. limited home-office use of the Leased Premises which does not result in increased vehicular traffic, and does not hold the Leased Premises out as a commercial or professional establishment or a place to regularly meet with customers or clients for business purposes; or
- 1.1.c.ii the rental of the Leased Premises to third parties for residential or vacation purposes; provided however, that the Leased Premises shall not be rented to third parties for more than an aggregate of sixty (60) days in any calendar year.
- 1.1.d. **“Improvement”** or **“Improvements”** means all buildings, structures, additions or developments owned by LESSOR that have been erected upon, affixed or attached to, the Leased Premises, including, but not limited to, buildings, garages, fences, sheds, homes, driveways, decks, and docks owned by LESSOR. Any Improvement owned by LESSOR is and shall be part of the underlying real property interest of LESSOR in the fee simple title to the land.
- 1.1.e. **“Leased Premises”** means that particularly described lot or parcel of state endowment land owned by LESSOR in fee simple and which has been made available to private individuals through this Lease for the purpose of constructing and maintaining a Residence, together with any Improvements owned by LESSOR.
- 1.1.f. **“LESSOR”** means the State Board of Land Commissioners and the Idaho Department of Lands, collectively.
- 1.1.g. **“Non-Approved Personal Property”** means all buildings, structures, additions or developments belonging to LESSEE that have been erected upon, affixed or attached to, the Leased Premises after January 1, 20xx, without the express written consent of LESSOR, and those which were erected upon, affixed or attached to the Leased Premises prior to January 1, 20xx, that were not expressly approved in writing by LESSOR and would not have been approved by LESSOR, including, but not limited to, buildings, garages, fences, sheds, homes, driveways, decks, and docks. All Non-Approved Personal Property

shall be subject to removal by LESSEE, or by LESSOR and charged to LESSEE, upon notice by LESSOR. Any interest LESSEE has in Non-Approved Personal Property remain the personal property of LESSEE until Abandonment or other transfer of title thereto, even though such Non-Approved Personal Property, if owned by LESSOR, would immediately become part of LESSOR's real property interest in fee simple title to the land.

- 1.1.h. **"Personal Belongings"** means all movable personal property belonging to LESSEE not affixed or attached to the Leased Premises, including, but not limited to, household goods and furnishings.
- 1.1.i. **"Personal Property"** means all buildings, structures, additions or developments belonging to LESSEE that have been erected upon, affixed or attached to, the Leased Premises with the written consent of LESSOR, or Non-Approved Personal Property placed on the lease site prior to January 1, 20xx, that otherwise would have been permitted by LESSOR, including, but not limited to, buildings, garages, fences, sheds, homes, driveways, decks, and docks. Any interest LESSEE has in Personal Property remain the personal property of LESSEE until Abandonment or other transfer of title thereto, even though such Personal Property, if owned by LESSOR, would immediately become part of LESSOR's real property interest in fee simple title to the land.
- 1.1.j. **"Residence"** means a cabin, house or other structure used by LESSEE to provide living accommodations upon the Leased Premises for LESSEE occupancy only, and not for Commercial Use. Mobile homes, motor homes, and trailers shall not be considered a Residence for purposes of this Lease; provided however, manufactured homes that conform to applicable state or local building codes, ordinances, and any applicable CC&Rs may be allowed.
- 1.1.k. **"Hazard Tree"** means any tree that is dead, diseased or with structural defects likely to cause failure of all or part of the tree that would reasonably be determined to be a hazard from falling and causing damage to person or property.
- 1.1.l. **"Restore the Leased Premises"** or **"Restoration of the Leased Premises"** means the restoration of the Leased Premises to that state and condition as nearly as reasonably possible to the condition of the premises as they existed prior to the placement or construction of any Personal Property or Non-Approved Personal Property thereon.
- 1.1.m. **"CC&Rs"** shall mean any "Addendum to Declaration of Covenants, Conditions and Restrictions" which may be recorded in the respective office of the county recorder for either Valley County or Bonner County, Idaho, which may be applicable to the Leased Premises.

## **B. USE OF LEASED PREMISES**

- 1.1 **Residential Use Only.** The Leased Premises and any Personal Property, Non-Approved Personal Property and Improvements thereon shall be used by LESSEE solely for residential purposes, and/or for limited home office purposes and rentals as described in Section A.1.1.c.
- 1.2 **All Other Uses Prohibited.** No other uses shall be made of the Leased Premises or Personal Property or Non-Approved Personal Property by LESSEE without the prior written approval of LESSOR. In no event shall the Leased Premises be devoted to any business or Commercial Use, nor shall any enterprise of a commercial nature be permitted to exist thereon; except as otherwise provided herein. Any rental of the Leased Premises in violation of this Lease, including for any Commercial Use, shall result in the termination of the Lease upon notice to LESSEE.
  - 1.2.a. **Rental Agreement Subordinate.** Any rental of the Leased Premises shall be subordinate to the terms of this Lease regardless of whether specified in such rental agreement, and shall terminate upon the termination of this Lease for any reason whatsoever.

**C. LEASE TERM/RENEWAL**

1.1 **Term.** The term of this Lease shall be \_\_\_\_\_ years.

**D. RENTAL RATE**

1.1 **Annual Rent Formula.** The annual rent shall be calculated as follows:

1.1.a. **Rent.** The initial annual lease payment shall be calculated at four percent (4%) of the Appraised Value of the Leased Premises as follows:

$$(4\% \text{ rental rate}) \times (\text{_____ appraised land value}) = \text{_____ rent}$$

The current appraised land value for your cottage site is \$\_\_\_\_\_. Based on this land value and the formula above, your initial annual lease payment shall be \$\_\_\_\_\_.

1.1.b. **Annual Market Value Adjustment.** The market value of the Leased Premises shall be adjusted each year following the commencement of the lease year. The value of the Leased Premises shall be adjusted upwards, but never downwards, using the "Consumer Price Index, Urban, U.S. City Average, All Items 1982-1984=100" (as published by the United States Bureau of Labor Statistics at [www.bls.gov/cpi/](http://www.bls.gov/cpi/) for the twelve months preceding preparation of the annual billing)("CPI"), by multiplying the appraised value, or the adjusted value for the immediately preceding year, by a fraction, the numerator of which is the CPI for the month of the year in which the calculation is made, and the denominator of which is the CPI for the same month of the previous year, not to exceed a four percent (4%) increase of the appraised value or the adjusted value of the Leased Premises from the prior year ("cap"); provided however, that the cap on the annual adjusted value shall not in any way limit or affect the market value of the Leased Premises as determined by any appraisal. Rent for each such year shall be calculated at four percent (4%) of such adjusted value.

1.1.c. **Billing Statement.** Changes in the annual rent will be reflected on the annual billing statement that shall be mailed by LESSOR to LESSEE at LESSEE's address of record at least thirty (30) days prior to the due date on the billing statement.

1.2 **Rental Payment Due.** Rent accrues and shall be due and payable in full in advance on or before January 1 of each year; or, in the alternative, provided one-half (1/2) of the rent is paid on or before January 1, then LESSEE may pay the second one-half (1/2) of the rent due on or before June 1, together with a deferred rent charge in the amount of 3% of the deferred payment. LESSEE shall pay the annual rental to LESSOR without abatement, offset, or deduction of any kind.

1.3 **Valuation.**

1.3.a. **Valuation Process.** The Leased Premises shall be valued by a qualified licensed appraiser hired by LESSOR. The Land Board may adopt a valuation process that does not require each lot to be individually valued or appraised each year or approximately every five (5) years; methods which annually value representative lots or annually apply an indexing value may be adopted.

1.3.b. **Reserved Right of Valuation.** LESSOR reserves the final right to determine the value of the Leased Premises or any portion thereof in accordance with its fiduciary duties under Article IX, Section 8 of the Idaho Constitution.

1.3.c. **Adjustment of Lot Valuation.** If a portion of the Leased Premises is sold, exchanged or reconfigured pursuant to paragraph N.1.1.h or paragraph N.1.1.i, the value of the Leased Premises shall be determined by a qualified licensed appraiser hired by LESSOR, and the rental rate shall be adjusted to account for the effect, if any, of any sold, exchanged or reconfigured portion of the Leased Premises in the year of any such sale, exchange or reconfiguration; and, if there is any reduction in the value of the Leased Premises due to such adjustment, the annual lease payment shall be adjusted for the remaining portion of the lease year, and LESSEE shall be credited in the amount of the prorated effect on the

annual lease payment paid, or such prorated portion may be returned to LESSEE, in LESSOR's discretion. If the value of the Leased Premises is increased as a result of any such reconfiguration, then LESSEE shall pay rent in an additional amount to reflect the increase in value to the Leased Premises within thirty (30) days of receiving notice of such additional rental amount by LESSOR.

- 1.4 Late Charge and Interest.** If annual rental is not paid in full by the due date, LESSOR may declare a default and terminate the Lease upon thirty (30) days written notice to LESSEE. In the event any rent due hereunder is not paid in full when due, LESSEE shall pay, in addition to such rent, a late charge in the first calendar month of such delinquency the amount of Twenty Five Dollars (\$25.00) or one percent (1%) of the unpaid rent, whichever is greater. For each subsequent calendar month, or any portion thereof, of such delinquency, LESSEE shall pay an additional late charge equal to one percent (1%) of the then unpaid rent, plus interest.

The parties acknowledge and agree that the late charge described herein is a reasonable attempt to estimate and to compensate LESSOR for higher administration costs associated with administering such late payments and is not intended as a penalty. By assessing this late charge, LESSOR does not waive any right to declare a default and to pursue any right or remedy available to LESSOR by reason of such default, after expiration of any applicable notice or cure period. Payments shall be applied first to late charges and interest accruing to the date of payment, and then to the reduction of the outstanding principal amount of rent owing.

- 1.5 Lien.** The amount of any unpaid rent, late charge, and interest, together with all other amounts due and owing by LESSEE to LESSOR pursuant to this Lease, shall be a lien on LESSEE's Personal Property and Non-Approved Personal Property and Personal Belongings on the Leased Premises which shall have priority over all other liens, mortgages, deeds of trust, security interests, encumbrances or other similar instruments or transactions.
- 1.6 Land Transaction.** At any time during the term of this Lease, LESSEE may apply to acquire the Leased Premises through a land exchange or auction, which may be agreed to by LESSOR, in LESSOR's sole discretion. In the event of a pending sale or exchange transaction, LESSEE shall continue to timely pay and fulfill all other terms and conditions of this Lease until such time as a sale or exchange is consummated. If a sale or exchange occurs during the term of this Lease, the lease payment shall be prorated through the date of closing or consummation of such sale or exchange.

## **E. ASSIGNMENT**

### **1.1 Assignment Generally.**

- 1.1.a. Assignment.** LESSEE shall not assign the Lease, or any interest therein, without obtaining the prior written consent of LESSOR, which consent may be withheld in LESSOR's sole discretion. Prior to any such assignment or request for assignment, LESSEE shall remove or cause to be removed of record any and all liens or encumbrances affecting the leasehold interest or Personal Property caused to be placed by or against LESSEE, or resulting from LESSEE's use or occupation of the Leased Premises; or, LESSEE shall provide adequate assurance to LESSOR that any such liens or encumbrances have been adequately addressed and will be adequately taken care of or removed by any successor-in-interest or by LESSEE if any such successor-in-interest shall fail to do so, all to LESSOR's satisfaction and in LESSOR's sole discretion. LESSEE shall provide to LESSOR, for LESSOR's review, a copy of all assignment documents and agreements. If LESSOR consents to the assignment of this Lease, then: (i) LESSEE shall remain liable to LESSOR for full performance of LESSEE's obligations through the remaining term of the Lease unless LESSOR shall approve the release as provided in Section E.1.2 below; (ii) the assignee of LESSEE ("Assignee"), by accepting the assignment of this Lease, does assume, and shall be deemed to have assumed, all of LESSEE's obligations under this Lease, and agrees to abide by all terms and conditions of this Lease; and, (iii) such assignment shall be subject to the terms and conditions of this Lease. If LESSEE transfers or assigns its interest in the Lease, or any interest therein, following the written approval of LESSOR, LESSEE shall provide to LESSOR one true and correct executed copy of all assignment documents and agreements, including any

purchase agreement, contract of sale or assignment, signed and acknowledged by LESSEE and Assignee. LESSOR may require additional documentation as LESSOR deems appropriate. Any assignment executed without LESSOR's prior written consent shall be void and unenforceable at the option of LESSOR and may result in the termination of this Lease upon notice to LESSEE.

- 1.1.b. Necessary Forms.** LESSEE shall provide prior written notice to LESSOR, and must receive the prior written consent of LESSOR, prior to LESSEE's execution of any assignment, mortgage, deed of trust or security interest which may affect LESSEE's leasehold interest or any Personal Property and Non-Approved Personal Property owned by LESSEE, using forms provided by LESSOR and accompanied by a processing fee in such amount as determined from time to time by any applicable rule or policy of LESSOR.
- 1.1.c. Good Standing Required.** No request for LESSOR's approval of any assignment or release will be considered unless all rent due, late payment charges, and interest have been paid in full, and LESSEE is in good standing under all other terms and conditions of the Lease.
- 1.1.d. Personal Property.** Upon an approved assignment, the ownership of all existing Personal Property and Non-Approved Personal Property of LESSEE under this Lease may be separately negotiated between LESSEE and such Assignee; provided however, that ownership of any Personal Property and Non-Approved Personal Property which remains on the Leased Premises after such assignment shall be presumed and treated by LESSOR as being owned by Assignee for all purposes under this Lease, including, but not limited to, the obligation for the removal thereof in accordance with this Lease, together with the duty to Restore the Leased Premises, and relating to the enforcement of any term, condition or payment, due or owing by LESSEE, as well as any payment which may be made to LESSEE, if any, under paragraph K.1.4.c. below, relative to any such Personal Property, and Assignee shall be responsible for all such duties and obligations relative to the Personal Property and Non-Approved Personal Property regardless of any agreement between LESSEE and Assignee therefor.
- 1.1.e. Specific Transaction Only.** Any consent or acknowledgment by LESSOR herein provided or hereafter given to any act or assignment, mortgage, deed of trust, security interest, pledge, or encumbrance in LESSEE's leasehold interest or to Personal Property and Non-Approved Personal Property shall be held to apply only to the specific transaction thereby approved. LESSEE shall be obligated to obtain the immediate release of any instrument, lien or encumbrance caused by, or related to, LESSEE which may be recorded against LESSEE's interest in the leasehold interest or any Personal Property or Non-Approved Personal Property without LESSOR's prior written consent or otherwise in violation of the terms of this Lease.
- 1.1.f. Assignment to Natural Persons.** An assignment of this Lease shall be limited to natural persons. In the event LESSEE's interest in this Lease is to be passed to LESSEE's heirs and successors through probate, any such transfer or assignment must be approved by LESSOR, which approval shall not be unreasonably withheld.

## **1.2 Release.**

- 1.2.a. No Release for Assignment.** No assignment shall act as a release of LESSEE's obligations hereunder unless LESSOR executes a separate written Release of LESSEE. LESSOR has no obligation to release LESSEE, and LESSOR may withhold such release at LESSOR's sole discretion. Assignments of this Lease must be done on forms provided by LESSOR.
- 1.2.b. Request for Release upon Assignment.** If LESSEE assigns its interest in this Lease and if LESSEE desires to be released from its obligations under this Lease, LESSEE shall provide a written request to LESSOR requesting that LESSEE be released from all obligations arising under this Lease from and after the date of such assignment, together with a copy of the fully executed assignment and assumption of Lease whereby LESSEE assigned its interest in the Lease to Assignee and Assignee assumed all of LESSEE's



obligations under this Lease, agreed to be solely responsible for all of the obligations of LESSEE under this Lease, and such other information as LESSOR may reasonably request ("Release Request"). LESSOR shall have sixty (60) days after receipt of the Release Request to either (i) grant the Release Request, in which event LESSEE shall be released from all obligations arising under this Lease from and after the date of such assignment, or (ii) deny the Release Request, in which event LESSEE shall remain liable to LESSOR under this Lease; provided however, that the failure to grant the Release Request within sixty (60) days shall be deemed a denial. LESSOR's denial of a Release Request shall not invalidate or void the assignment and shall not prohibit LESSEE from making subsequent Release Requests thereafter. A request for release upon assignment shall be granted or denied within LESSOR's sole discretion.

### **1.3 Leasehold Mortgage.**

**1.3.a. Leasehold Mortgage.** LESSEE shall not allow any mortgage, deed of trust or security interest, lien, encumbrance or other similar instrument or transaction ("Leasehold Mortgage"), to be filed or recorded in the Office of the Department of Lands, with any County Recorder's Office, or with the Office of the Secretary of State without first obtaining LESSOR's prior written consent therefor, which consent may be withheld or denied in LESSOR's sole discretion. Any Leasehold Mortgage may only encumber LESSEE's leasehold interest in this Lease and/or LESSEE's interest in any Personal Property owned by LESSEE, provided such Leasehold Mortgage is properly perfected, including in the office of the Secretary of State, and provided the Leasehold Mortgage acknowledges LESSOR's priority in any proceeds of Personal Property and Personal Belongings as provided for in this Lease, including, but not limited to, Section K. Personal Property shall retain its character as personal property of LESSEE. The Leasehold Mortgage shall be subject to the terms and conditions in this Lease. The Leasehold Mortgage shall terminate upon the termination of this Lease for any reason, and such Leasehold Mortgage shall not encumber or require subordination of LESSOR's fee title to the Leased Premises. Any Leasehold Mortgage shall be limited to the amount of an appraisal of the Personal Property by the lender of the Personal Property, and subject to approval of the appraisal and amount by LESSOR. In the event LESSEE breaches its obligations under this Lease, LESSOR agrees to provide the holder of such Leasehold Mortgage ("Lienholder") with a copy of any Notice of Default and/or Notice of Termination provided by LESSOR to LESSEE under Section Q below, provided LESSEE has provided LESSOR with the name and address for such Lienholder prior to the date of such notice. In the event Lienholder shall consist of more than one person or entity, Lienholder shall provide notice to LESSOR identifying one such person or entity which shall receive notice from LESSOR, and which notice to said person or entity shall constitute notice upon each and every person or entity constituting Lienholder; otherwise, if Lienholder does not identify any one person or entity for the receipt of notice, then notice upon any one person or entity constituting Lienholder shall constitute notice on all persons and entities constituting Lienholder. Lienholder shall have the right to cure any default specified in the Notice of Default or Notice of Termination during the same time allowed to LESSEE or within thirty (30) days after the receipt of said notice by the Lienholder, whichever is greater. Upon the termination of this Lease for any reason, the Leasehold Mortgage shall terminate and LESSEE shall immediately acquire the written release in recordable form (and record and/or file the same in any office as may be required) to effect the release of any Leasehold Mortgage or lien of any kind affecting any interest of LESSEE in the Lease, the Leased Premises, and/or in any Personal Property and Non-Approved Personal Property thereon. Lienholder shall acknowledge this requirement in the Leasehold Mortgage, and shall, upon the execution of a Leasehold Mortgage involving LESSEE or this Lease, agree to, and shall, immediately release any Leasehold Mortgage upon the termination of this Lease. In the event LESSEE or Lienholder fail to provide said release of any such Leasehold Mortgage as provided herein following notice from LESSOR to LESSEE and Lienholder, and thirty (30) days to cure by providing and recording the release of the Leasehold Mortgage, then LESSOR may record a certification of termination of lease or LESSEE's interest in the Lease, which shall effect the termination of the Leasehold Mortgage. Notwithstanding the foregoing, a Leasehold Mortgage may remain upon LESSEE's leasehold interest in the Lease or LESSEE's Personal Property interest upon an assignment approved in writing by LESSOR of all of LESSEE's interest in the Lease and all Personal Property and Non-Approved Personal

Property upon the Leased Premises provided such assignment specifically provides therefore, and provided further, that any such assignment is approved by both Lienholder and LESSOR, which approval or consent may be withheld in LESSOR's sole discretion.

- 1.3.b. Leasehold Mortgage Subject to Terms.** Any mortgage, deed of trust, lien, encumbrance or other similar transaction, whether or not approved by LESSOR, shall be subject to the Lease and each and every term, covenant, condition, and restriction set forth in this Lease, and in addition, shall be subject to all rights and interests of LESSOR.

**F. ENVIRONMENTAL, SAFETY AND SANITARY REQUIREMENTS**

- 1.1 No Hazardous Materials.** LESSEE shall neither commit nor permit the use, placement, transport or disposal of any hazardous waste, including petroleum products, such as oil, gasoline, or any other substance that is or is suspected to be a hazardous substance or material, not including the following materials kept for LESSEE's own residential use and only in small quantities: gasoline not to exceed fifteen (15) gallons related to the use or enjoyment of their property for uses such as lawnmowers, snow machines and small water craft; kerosene; heating oil; propane tanks or other commercial sources of heating; and other household cleaners; solvents; paints and similar materials not otherwise prohibited by law. LESSEE shall be responsible and shall pay all costs for the removal and/or the taking of all other necessary or appropriate remedial action regarding any hazardous waste, substance or material which LESSEE may have caused to be introduced to or upon the Leased Premises. Any such remediation or removal or storage must be conducted in accordance with applicable federal, state, or local law, regulation, rule and ordinance, and LESSEE shall immediately, upon the introduction of any hazardous waste, substance or material onto the Leased Premises, contact LESSOR and the Idaho Department of Environmental Quality (DEQ); provided however, LESSEE shall not forestall commencing any necessary remediation while negotiating the terms of any consent order with DEQ unless LESSEE is so authorized in writing by LESSOR. LESSEE shall indemnify, defend and hold LESSOR harmless from all costs, expenses, damages or fines relating to pollution and hazardous substances and materials including, without limiting the generality of the foregoing, attorney fees and costs of defense and enforcement of LESSOR's rights hereunder.
- 1.2 Fire and Safety Regulations.** LESSEE shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, including, but not limited to, those of the Idaho Department of Lands for fire protection and prevention, and shall at all times observe reasonable precautions to prevent fire on the Leased Premises. LESSEE shall keep the Leased Premises free from fire hazards. Firewood storage shall be confined to a location, away from the Residence. Roofs shall be kept clear of all debris and needles on a regular basis to minimize fire hazard. LESSEE is prohibited from burning garbage or household trash. Any burning on the Leased Premises, including the burning of wood, weeds or other debris, but excepting simple campfires necessary for the use under this Lease, requires the prior written permission of LESSOR. Any burning must comply with all applicable federal, state or local laws, regulations, rules and ordinances. Barbecue devices designed for use out of doors are permitted.
- 1.3 Sanitary Requirements.** LESSEE shall at all times keep the Leased Premises in a clean and sanitary condition, free of trash, garbage and litter. LESSEE shall not dispose of sewage except in conformity with all applicable federal, state, and local laws, rules, regulations and ordinances pertinent to LESSEE's use, and shall dispose of sewage on the Leased Premises only if specifically authorized by LESSOR and the local governmental which would otherwise have jurisdiction over such matters. LESSEE shall not store, dispose of, or otherwise maintain trash, garbage, litter, unused or discarded household items, or unlicensed or abandoned vehicles, boats or trailers on the Leased Premises, and shall dispose of all such trash, garbage or other items in conformity with all legal requirements. LESSEE shall be responsible for all costs associated with sewage, garbage and litter disposal. LESSOR may require LESSEE to furnish a certificate or other satisfactory proof of compliance with applicable laws, rules, regulations and ordinances.

**G. NO WARRANTY OF SUITABILITY; QUIET ENJOYMENT**

- 1.1 No Warranty.** LESSEE acknowledges that neither LESSOR, nor any agent of LESSOR has made any representation or warranty with respect to the Leased Premises or concerning the suitability of the Leased Premises for the uses intended by LESSEE, or concerning any access or the condition

of such access to the Leased Premises. LESSEE acknowledges that it has accepted the Leased Premises together with access thereto in an AS IS CONDITION, accepting any and all known and unknown faults therein.

**1.2 Quiet Enjoyment.** LESSOR agrees that LESSEE, upon payment of the rent and performing the terms of this Lease, may quietly have, hold and enjoy the Leased Premises, for the purposes and uses allowed hereunder during the term hereof. LESSEE acknowledges that the Lease is non-exclusive, and LESSOR retains the right to use the Leased Premises, or to grant rights to others for use of the Leased Premises, or to authorize the public to use the Leased Premises, to the extent any such use is not incompatible with LESSEE's purpose and uses allowed hereunder.

**1.3 Use Limited to Site.** LESSEE shall confine all Personal Property, Non-Approved Personal Property and Personal Belongings, vehicles, and pets to the Leased Premises. No trespass onto adjacent property, whether state land or private, will be permitted and may result in the termination of this Lease.

#### **H. WATER DEVELOPMENT**

**1.1 Water Development.** LESSEE shall be entitled to water for domestic purposes only insofar as natural springs, streams, lakes, existing wells or water systems serving the Leased Premises are capable of supplying the same and are not subject to a prior right or claim that prevents its lawful appropriation for use on the Leased Premises. LESSEE shall neither drill and use a water well nor develop and use any source of water without the prior written consent of (i) LESSOR or its authorized agent, and, (ii) any department or agency of the State of Idaho having jurisdiction to regulate water rights. LESSOR shall not unreasonably withhold consent for LESSEE to drill a well or develop another appropriate water source or to seek any necessary permits for the same, where such drilling or other development is necessary to either provide or restore a domestic water source for the Leased Premises. All water rights with respect to the Leased Premises shall be taken in the name of the State of Idaho. LESSEE shall not cause any water to be conveyed off the Leased Premises. If LESSEE acquires water for the Leased Premises from a source located off of the Leased Premises, and if the method of delivery of said water to the Leased Premises requires the crossing or other state or endowment lands, then at LESSOR's sole discretion, and at LESSEE's sole cost, LESSEE shall cause said water delivery system to be moved or relocated to an area of state or endowment land acceptable to LESSOR.

#### **I. LANDSCAPING AND REMOVAL OF VEGETATION**

**LESSOR Consent Required.** LESSEE shall neither landscape nor remove any vegetation, including trees (with the exception of Hazard Trees as otherwise provided herein), from the Leased Premises without the prior written consent of LESSOR or its authorized agent. Landscaping shall constitute non-creditable improvements by LESSEE. The Personal Property, Non-Approved Personal Property, Improvements and Leased Premises shall be maintained by LESSEE to reduce fire hazards and to provide a natural, but managed appearance. The identification and felling of any Hazard Tree on the Leased Premises is the responsibility of LESSEE. Following the identification of any Hazard Tree, and prior to the felling thereof; LESSEE shall obtain the express written consent of LESSOR; provided however, that LESSEE may take immediate action to remove any hazardous tree that poses immediate danger to life or property without first contacting LESSOR, but shall so notify LESSOR within five (5) days thereafter.

#### **J. NOXIOUS WEEDS**

**LESSEE Obligations.** LESSEE shall cooperate with LESSOR or any other agency authorized to undertake programs for the control and eradication of noxious weeds. LESSEE shall take measures to control noxious weeds on the Leased Premises in accordance with Title 22, Chapter 24, Idaho Code.

#### **K. PERSONAL PROPERTY**

**1.1 Construction of Personal Property - Prior Consent of LESSOR Required.**

**1.1.a. Generally.** Without having secured the prior written consent of LESSOR, together with the prior written consent of any other state or local department or agency having jurisdiction under the circumstances, and subject to applicable CC&Rs, if any, LESSEE or LESSEE's

agents, shall not place, effect or erect any Personal Property, including any road, on the Leased Premises; shall not place or build any dock, piling, quay, mooring device or boathouse, in or on the water frontage adjacent to the Leased Premises; shall not place any houseboat in the water adjacent to the Leased Premises; and, shall not make any excavation in, fill upon, or alteration of any lake or stream bed adjacent to the Leased Premises.

**1.1.b. Procedures to Obtain LESSOR's Consent.** LESSEE may erect, affix or attach Personal Property upon the Leased Premises only after written consent has first been granted by LESSOR in accordance with this Lease. LESSEE must furnish a complete set of construction plans and accurate plot plans of all proposed Personal Property contemplated and shall submit those plans and drawings to LESSOR or LESSOR's designee. LESSOR shall make a decision to approve or disapprove any requested Personal Property with or without conditions within one hundred twenty (120) days after LESSEE submits all necessary permits, approvals and plans reasonably required to be submitted to LESSOR; provided however, that the failure of LESSOR to affirmatively approve any plans submitted by LESSEE hereunder shall be deemed a denial by LESSOR. Once the construction plans are approved and permitted by LESSOR, then LESSEE shall construct the Personal Property within two (2) years of approval in compliance with the approved plans and all applicable building codes, rules, laws, ordinances and CC&Rs; failure to construct within the two (2) years shall result in approval to construct being revoked; and failure to construct in accordance with the plans or in accordance with applicable laws shall result in a default of the Lease. Consent is not required for ordinary maintenance and repairs to existing Personal Property as needed from time to time; provided however, the replacement of any Personal Property shall require LESSOR's prior consent and compliance with the procedures set forth herein.

**1.1.c. Non-Approved Personal Property.** Any Non-Approved Personal Property shall be subject to immediate removal by LESSEE following notice by LESSOR. LESSOR or its authorized agent reserves the right to remove any Non-Approved Personal Property, with the cost of such removal or abatement to be charged to LESSEE and to remain a debt of LESSEE to LESSOR until the same is paid. The failure of LESSOR to remove or abate or to cause removal or abatement of the same shall in no way be deemed a waiver of LESSEE's obligation to remove such Non-Approved Personal Property, or LESSOR's right to remove or abate the same.

**1.1.d. Personal Property Below the Ordinary High Water Mark.** Any Personal Property consisting of a dock, piling, quay, mooring device, boathouse, fill, alteration or encroachment of any kind below the ordinary high water mark of the lake shall require a lake encroachment permit from the Idaho Department of Lands, pursuant to the Idaho Lake Protection Act, I.C. §§ 58-1301, *et seq.*, and the common law Idaho Public Trust Doctrine. See, I.C. §§ 58-1201, *et seq.* It shall be the responsibility of LESSEE to secure any lake encroachment permit through the normal administrative process of the Department of Lands. This Lease shall not in any way be construed as consent or entitlement to any such permit or encroachment.

**1.2 Cost of Personal Property and Non-Approved Personal Property.** Any Personal Property and Non-Approved Personal Property constructed by or at the request of LESSEE, including, but not limited to, the construction or maintenance of any path, road or access over or upon the Leased Premises or off of the Leased Premises over or upon other or adjacent property whether or not such other property is owned by LESSOR, shall be constructed at LESSEE's own cost and expense and without contribution by LESSOR unless LESSOR and LESSEE enter into a prior written cost sharing agreement for construction thereof.

**1.3 Other Requirements.**

**1.3.a. Setbacks.** Construction standards and setbacks shall be in accordance with adopted policy of the Idaho Department of Lands and consistent with local ordinances and CC&Rs, if any, in place at the time of construction.

**1.3.b. Fences.** Fences and gates on the Leased Premises shall not be permitted except upon the prior written consent from the Director of the Idaho Department of Lands, and then only to prevent encroachment from private lands, and to the extent consistent with any applicable CC&Rs.

**1.4 Treatment of Personal Property, Non-Approved Personal Property and Personal Belongings upon Lease Expiration, Termination, or Abandonment.**

**1.4.a. Upon Default by LESSEE.** 1) Upon the default of LESSEE of any of the terms of the Lease and LESSEE's failure to cure in accordance with Section Q.1.1, LESSOR may elect to terminate this Lease and require LESSEE to remove all Personal Property and Non-Approved Personal Property and Personal Belongings on the Leased Premises, and require LESSEE to Restore the Leased Premises at LESSEE's sole cost and expense; or, LESSOR may terminate this Lease and remove such Personal Property and Non-Approved Personal Property and Personal Belongings, and Restore the Leased Premises. LESSEE shall be responsible for the cost of removal and Restoration of the Leased Premises, the same to remain a debt of LESSEE to LESSOR until paid. LESSEE shall also be responsible for all costs associated with the removal of any or all of the Personal Property and Non-Approved Personal Property and Personal Belongings. LESSEE shall also be responsible for all collection costs including, but not limited to, attorney fees, costs and interest. 2) In the alternative to removal of the Personal Property, Non-Approved Personal Property and Personal Belongings upon default by LESSEE, LESSOR may place the Leased Premises together with any remaining Personal Property, Non-Approved Personal Property, and Personal Belongings left by LESSEE for re-lease or for sale in LESSOR's sole discretion in accordance with applicable law. Any amount to be paid to or for the benefit of LESSEE for Personal Property shall be paid less the amount of all sums due and owing to LESSOR by reason of LESSEE's default, together with all costs and expenses incurred by LESSOR as result of LESSEE's default. If LESSEE or an affected Lienholder fails to cure any default of the Lease prior to the termination of the Lease, or at the time of the auction, whichever first occurs, the Leasehold Mortgage shall terminate and be of no further force or effect, in which event, LESSEE shall cause the Leasehold Mortgage to be released of record in any records of the Department of Lands, County Records, or Secretary of State's office, where applicable; Lienholder shall also be required to, and shall cause the Leasehold Mortgage to be released of record in any records of the Department of Lands, County Records, or Secretary of State's office, where applicable. Any costs and expenses incurred by LESSOR by reason of LESSEE's default, including, but not limited to, costs to remove any Personal Property, Non-Approved Personal Property and Personal Belongings, the costs of Restoration of the Leased Premises, attorney fees, collection costs, interest, unpaid rent, costs of appraisals, auction costs, and any other amounts owed by LESSEE to LESSOR shall have priority over, and shall be deducted from, any amount due to LESSEE following any exchange or public auction of the Leased Premises and Personal Property; and all such costs and expenses shall have priority over any Leasehold Mortgage affecting any Personal Property and Non-Approved Personal Property. In the event any amount is found owing to LESSEE following a successful exchange or public auction following reimbursement of all amounts due LESSOR by reason of LESSEE's default, then LESSOR shall pay any such remaining amount to LESSEE or to any Lienholder on behalf of, or for the benefit of, LESSEE. LESSOR shall not be obligated in any way to determine the validity or invalidity of any Leasehold Mortgage or other lien payment made to a holder of any Leasehold Mortgage or other lien of record.

**1.4.b. Upon Non-Renewal by LESSOR.** Should LESSEE apply to renew this Lease upon terms offered by LESSOR, which application shall be subject to the conflict auction requirements of Idaho Code § 58-310, with application filed in the office of the Director of Lands no later than April 30 of the year of the expiration of the Lease and such application be denied, and if LESSOR does not either exchange the Leased Premises or place the Leased Premises and Personal Property for auction for re-lease or sale at or prior to the natural expiration of the Lease, whether any auction thereof is successful, then LESSOR shall purchase the Personal Property valued as of the effective date of expiration. LESSOR shall have no duty to purchase the Personal Property of LESSEE if another applicant or bidder attains the lease as a result of any public auction of the lease.

**1.4.c. Upon Expiration or Termination with No Application to Renew.** In the event this Lease terminates or expires or is to terminate or expire for any reason, other than a default by LESSEE, without LESSEE having made application to renew filed in the office of the Director of Lands no later April 30 of the year of the expiration of the Lease, then LESSOR shall have the right to elect, among any other remedies provided by this Lease, at law or in equity, the following:

1.4.c.i LESSOR may require LESSEE to remove all Personal Property and Non-Approved Personal Property and Personal Belongings placed or caused to be placed upon the Leased Premises prior to or following the termination or expiration of this Lease, and LESSOR may require LESSEE to Restore the Leased Premises at LESSEE's sole cost and expense; or, LESSOR may remove any such Personal Property, Non-Approved Personal Property and/or Personal Belongings upon such termination or expiration of the Lease and charge the cost of removal and/or Restoration of the Leased Premises to LESSEE, the same to remain a debt of LESSEE to LESSOR until paid. LESSEE shall also be responsible for all collection costs, including, but not limited to, attorney fees and interest. Any costs and expenses incurred by LESSOR, including, but not limited to, costs to remove any Personal Property, Non-Approved Personal Property, Personal Belongings, together with all costs of Restoration of the Leased Premises, attorney fees, collection costs, costs of appraisals, interest, unpaid rent and any other amounts owed by LESSEE to LESSOR, shall have priority over, and shall be deducted from, any amount due to LESSEE; and any Leasehold Mortgage in LESSEE's leasehold interest or in any Personal Property and Non-Approved Personal Property shall terminate and be of no further affect upon the expiration or termination of the Lease; or,

1.4.c.ii LESSOR may attempt to re-lease, sell or exchange the Leased Premises, including the sale of the Personal Property, Non-Approved Personal Property allowed to remain, and any Personal Belongings left on the Leased Premises for a minimum bid which may include the Appraised Value of the Personal Property at the time of such auction for re-lease, sale or exchange. If the Lease has not yet terminated or expired, and provided that any Leasehold Mortgage is not then in default and is current, then the proceeds from the sale of such Personal Property shall be distributed to or for the benefit of LESSEE by payment to any Lienholder following the reimbursement to LESSOR of any amounts owing by LESSEE to LESSOR, including the reimbursement of costs and expenses incurred for the public auction.

With the exception of paragraph K.1.4.b., or upon LESSOR's express option to purchase any of the Personal Property provided in paragraph K.1.4.c.ii, LESSOR shall not under any circumstance be obligated to pay any value to LESSEE for any Personal Property or Non-Approved Personal Property or Personal Belongings, or otherwise; any such obligation to pay LESSEE the Appraised Value for the Personal Property, if any, shall be solely that of the subsequent lessee, purchaser at auction, or party to an exchange, if any. The new lessee, purchaser or exchanging party shall make the required payment to LESSEE at the time of any successful exchange or auction, or reasonable closing period set therefor.

**1.4.d. Non-Approved Personal Property.** Non-Approved Personal Property is a default of this Lease. Any Non-Approved Personal Property shall be removed by LESSEE at LESSEE's sole cost and expense upon demand by LESSOR. Upon the expiration of the Lease term, if any Non-Approved Personal Property remains on the Leased Premises, then LESSOR may require LESSEE to remove the Non-Approved Personal Property and Restore the Leased Premises at LESSEE's cost, or LESSOR may remove any such Non-Approved Personal Property and charge the cost of removal and Restoration of the Leased Premises to LESSEE, the same to remain a debt of LESSEE to LESSOR until paid. LESSEE shall be responsible for all costs associated with the removal of any and all Non-Approved Personal Property which LESSOR removes or requires LESSEE to remove, including, but not limited to, the cost of removal and Restoration of the Leased Premises. LESSEE shall also be responsible for all costs incurred by LESSOR relating to such removal and Restoration of the Leased Premises, including, but not limited to, attorney fees, costs and

interest. Any payment received by LESSOR for any Non-Approved Personal Property remaining on the Leased Premises, obtained via public auction or otherwise, shall belong to LESSOR.

**1.4.e. Abandonment and Forfeiture of Personal Property, Non-Approved Personal Property and Personal Belongings.** Should any Personal Property, Non-Approved Personal Property or Personal Belongings of LESSEE be abandoned, such abandoned Personal Property, Non-Approved Personal Property and Personal Belongings may be removed by LESSOR at LESSEE's sole cost and expense, such to be a debt of LESSEE to LESSOR until paid. In the event of Abandonment, such Personal Property, Non-Approved Personal Property and Personal Belongings so abandoned shall, in LESSOR's sole discretion, be forfeited to LESSOR, and LESSEE shall not be entitled to any payment therefore, either by LESSOR or by any subsequent lessee or purchaser or exchange. Non-Approved Personal Property shall be deemed abandoned immediately upon expiration or termination of the Lease for any reason.

**1.4.f. Reentry Following Any Termination of Lease, Maintenance and Removal.** LESSEE shall have no right to reenter the Leased Premises following the expiration or termination of this Lease for any reason, including for purposes of maintenance or removal of any Personal Property and Non-Approved Personal Property or Personal Belongings, without obtaining a land use permit or other written consent of LESSOR, and the payment of an entry fee to be set by LESSOR. LESSEE shall pay the fair rental value for the Leased Premises for any period in which LESSEE's Personal Property, Non-Approved Personal Property or Personal Belongings remain on the Leased Premises following any termination of the Lease, including any period in which a land use permit is in effect. The land use permit or other written consent to reenter the Leased Premises shall identify the purpose for re-entry, fee, and length of time permitted, insurance required, and any security required, and any terms and conditions required by LESSOR in LESSOR's sole discretion.

**1.5 LESSOR's Right of Sale, Exchange or Reconfiguration Affecting Personal Property and Non-Approved Personal Property.** In the event of a sale or exchange by LESSOR of all or any portion of the Leased Premises during the term of this Lease pursuant to the rights reserved by LESSOR under paragraph N.1.1.h hereof or reconfiguration by LESSOR pursuant to the rights reserved by LESSOR under paragraph N.1.1.i hereof, LESSEE hereby covenants to deliver immediate possession of the Leased Premises so sold, exchanged or excluded from the Leased Premises by reconfiguration unto LESSOR, or to the person or party as may be specified in writing by LESSOR or LESSOR's designee. In the event of such sale, exchange or reconfiguration by LESSOR, LESSEE shall have the rights provided by Idaho Code § 58-313, with respect to any affected Personal Property placed upon the Leased Premises by LESSEE; but LESSEE shall not be entitled to compensation with respect to any Non-Approved Personal Property, or for Improvements belonging to LESSOR. Any obligation to make any payment to LESSEE for Personal Property shall be offset by any amounts owing by LESSEE to LESSOR, and for any and all reasonable costs, including attorney fees, necessary to remove any and all Non-Approved Personal Property. In the event of any sale, exchange or reconfiguration during the continuance hereof, LESSEE hereby covenants to deliver immediate possession of the Leased Premises so sold, exchanged or reconfigured unto LESSOR, or to the person or party as may be specified in writing by LESSOR or its authorized agent upon payment for the Personal Property as provided herein.

**1.6 Risk of Loss.** All risk of loss for any and all Personal Property, Non-Approved Personal Property, Improvements and Personal Belongings upon the Leased Premises during the term of this Lease or following the termination, for any reason, shall be borne by LESSEE .

## **L. NO LIENS**

**Liens Prohibited.** LESSEE shall ensure that full payment is made for any and all materials joined or affixed to the Leased Premises pursuant to this Lease and for any and all persons who perform labor on the Leased Premises at the request or on account of LESSEE. With the exception of approved deeds of trust or mortgages, LESSEE shall not permit or suffer any liens, including any mechanics' lien or material supplier lien, of any kind or nature to be effected on or enforced against the Leased Premises for any work done or materials furnished on the Leased Premises during the term of this Lease at LESSEE's instance or request, provided that LESSEE may contest such lien if LESSEE posts a bond as required by law.

## **M. INSURANCE**

**1.1 LESSEE's Insurance.** LESSEE shall obtain insurance of the types and in the amounts described below.

**1.1.a.** If available, a Homeowner's 3 (HO3), its equivalent or better including Liability Insurance policy: LESSEE shall maintain an HO3 policy, its equivalent or better, with a liability limit of not less than one million dollars (\$1,000,000.00) if the combined value of the Leased Premises and Personal Property and Non-Approved Personal Property are \$1,000,000 or less, and \$2,000,000 if the combined value of the Leased Premises and Personal Property and Non-Approved Personal Property exceed \$1,000,000. If an HO3 policy is unavailable for the Leased Premises due to lack of access for fire suppression services, or otherwise, LESSEE shall provide LESSOR with a statement from its insurer stating specific reasons an HO3 policy is unavailable for the Leased Premises, and, in such event, LESSEE shall acquire an HO2 policy, its equivalent or better, in the same limits as set forth above for an HO3 policy. If neither an HO3 or HO2 policy is available, then LESSEE shall provide LESSOR with a statement from its insurer stating specific reasons neither an HO3 or HO2 policy is unavailable for the Leased Premises, and, in such event, LESSEE shall acquire such other type of policy as deemed acceptable to LESSOR, in the same limits as set forth above for an HO3 policy. If necessary, an umbrella policy may be used in combination with the homeowner's policy to meet the limits required, providing the homeowner's policy is listed on the underlying insurance in the umbrella, and the umbrella policy meets the requirements below.

**1.1.a.i.** The Homeowner's insurance and umbrella liability insurance shall be in a form and from an insurance company satisfactory to LESSOR and shall cover liability for bodily injury, property damage and personal injury, arising from LESSEE's use and/or occupation of the Leased Premises.

**1.1.a.ii.** The Homeowner's insurance shall include coverage for the replacement cost of the real property and all Personal Property, Non-Approved Personal Property and Improvements located on the Leased Premises. LESSOR shall be included as a loss payee to the extent of its interest in any of the Improvements upon the Leased Premises.

**1.1.b. Other Insurance.** LESSEE shall purchase insurance to cover LESSEE's Personal Belongings.

**1.2 LESSEE's Insurance Policy Requirements.**

**1.2.a. Proof of Insurance.** All insurance required under this Lease shall be with companies licensed and admitted in Idaho and approved for this Lease by LESSOR. LESSOR's general requirements for such approval includes a Best's rating of A- or better. Prior to taking occupancy or commencing construction and at least annually thereafter, LESSEE shall furnish LESSOR with a certificate of insurance executed by a duly authorized representative of each insurer, together with a copy of each applicable policy and policy endorsement showing compliance with the insurance requirements set forth above ("proof of insurance"). All policies required under this Article shall be written as primary policies and not contributing to, not in excess of, any coverage LESSOR may have or choose to maintain.

**1.2.a.i.** All policies and endorsements shall provide for thirty (30) days written notice to LESSOR, if possible, prior to cancellation or material change of any insurance referred to therein. Notwithstanding any such notice provided by the insurance carrier to LESSOR prior to any cancellation or material change of any insurance, LESSEE shall promptly (but not later than ten (10) days), provide to LESSOR a copy of any and all such notices relative to cancellation or a material change in insurance coverage that LESSEE receives.



- 1.2.a.ii. Failure of LESSOR to demand any required proof of insurance or full compliance with these insurance requirements, or the failure of LESSOR to identify a deficiency in the proof of insurance provided shall not be construed as a waiver of LESSEE's obligation to maintain such insurance.
- 1.2.a.iii. Failure to maintain the required insurance shall constitute a default and may result in termination of this Lease at LESSOR's option.
- 1.2.a.iv. If LESSEE fails to maintain the insurance as required herein, LESSOR shall have the right, but not the obligation, to purchase said insurance at LESSEE's expense.
- 1.2.a.v. LESSEE shall provide certified or other acceptable copies of all insurance policies and endorsements (preferably in readily accessible electronic format) required above within ten (10) days of LESSOR's written request for said copies.
- 1.2.b. **No Representation of Coverage Adequacy.** By requiring insurance herein, LESSOR does not represent that coverage and limits will necessarily be adequate to protect LESSEE, and such coverage and limits shall not be deemed as a limitation on LESSEE's liability under the indemnities granted to LESSOR in this Lease.
- 1.2.c. **Payment of Premiums.** LESSEE shall pay all policy premiums annually in advance, for each of the insurance policies and endorsements required under the terms of this Lease. LESSEE shall deliver to LESSOR proof of insurance on or before January 1 of each year during the term of this Lease and for each year following the termination or expiration of this Lease in which LESSEE owns or claims any ownership interest in any Personal Property, Non-Approved Personal Property or Personal Belongings on the Leased Premises. LESSEE shall also cause renewals of expiring policies to be written and the policies or copies thereof, as required by this Lease, to be delivered to LESSOR at least ten (10) days before the policies' expiration dates.

## **N. RESERVATIONS BY LESSOR**

- 1.1 **Reservations.** LESSOR expressly reserves to itself the following rights:
  - 1.1.a. To enter upon the Leased Premises, or any portion thereof, during the term of this Lease for any reasonable purpose incident to this Lease or LESSOR's retained rights, including the purpose of inspecting the Leased Premises. LESSEE shall permit inspection of the Leased Premises by an authorized agent of LESSOR at any reasonable time.
  - 1.1.b. All rights for timber, oil and gas, geothermal rights, mineral rights, easements and rights-of-way, fee title to the Leased Premises and title to all appurtenances and Improvements placed thereon by LESSOR.
  - 1.1.c. To grant easements, rights-of-way, and leases over, under, across and upon the Leased Premises, providing said easements, rights-of-way, and leases do not conflict or materially interfere with the use of LESSEE or with the Personal Property installed, maintained or operated by LESSEE upon the Leased Premises. LESSOR shall coordinate with LESSEE before processing any easement, right-of-way or lease application on the Leased Premises. This Lease is subject to any lease, right-of-way and easement previously granted over the Leased Premises.
  - 1.1.d. To require that changes be made in the use under this Lease, and/or to the Personal Property, Non-Approved Personal Property or Improvements on the Leased Premises, including to the sanitation or other facilities, for the protection of public health, safety, preservation of property or water quality in accordance with all applicable law and rules.
  - 1.1.e. To issue other leases for development of timber resources for exploration and development of oil, gas, geothermal and mineral resources, and any other lease of the subject Leased Premises, so long as such other lease is for a higher and better use as determined by LESSOR, or such other lease does not materially interfere with the authorized use under this Lease. In the event any such lease is granted by LESSOR, and such lease materially impairs LESSEE's use of any Personal Property constructed on the Leased Premises by

LESSEE with prior written permit from LESSOR, this Lease shall be deemed terminated with respect to such Personal Property, and the provisions of Section K.1.4.b. shall apply with respect to such Personal Property.

- 1.1.f. To reserve as LESSOR's sole property any and all water from any source arising on state land and to hold water rights for any beneficial use that may develop as a result of this Lease subject to any right LESSEE may have to domestic water during the term of this Lease.
- 1.1.g. Rights of access, ingress and egress over, under, across and upon the Leased Premises for LESSOR and its authorized agents and assigns over and across the Leased Premises including, but not limited to, on existing roads. Said rights of access, ingress and egress may be for purposes of administration, for providing access to neighboring lots, or for any other purpose of LESSOR. LESSOR shall have no obligation to maintain any road or path, whether dirt, gravel, paved or otherwise.
- 1.1.h. LESSOR reserves the right to sell or exchange all or any portion of the Leased Premises. LESSEE shall be notified of a scheduled sale or land exchange at least one hundred-eighty (180) days prior to any such sale or exchange date. The execution of this Lease by LESSEE constitutes LESSEE's written agreement to any sale or land exchange as provided in I.C. § 58-138(3).
- 1.1.i. LESSOR reserves the right to reconfigure the boundaries of the Leased Premises for any purpose that LESSOR deems necessary or appropriate, in its discretion, including, but not limited to, the platting or re-platting the Leased Premises and/or surrounding any lot(s) or land. The right of reconfiguration shall include the right to increase or decrease the square footage of the Leased Premises which may or may not also include a commensurate increase or decrease in the rental rate to be determined in the discretion of the Land Board. LESSEE shall be notified of LESSOR's intent to reconfigure the Leased Premises at least one hundred-eighty (180) days prior to any such reconfiguration being accomplished. The rental rate shall be adjusted up or down to account for the reconfigured boundaries if the reconfiguration affects the value of the Leased Premises during the year of the reconfiguration, and if the value of the Leased Premises is reduced as a result of such reconfiguration, then the rent will be prorated to reflect the reduction of value for the remainder of such current lease year; and if the value of the Leased Premises is increased as a result of such reconfiguration, then LESSEE shall pay such increased rental rate prorated for the remainder of such current lease year within thirty (30) days of notice of such increased rental by LESSOR. The execution of this Lease by LESSEE constitutes LESSEE's written agreement to any such reconfiguration.
- 1.1.j. LESSOR reserves the right to close any road or change any access route to the Leased Premises for road protection, water quality protection, wildlife and fish protection, administrative purposes or any other reason deemed necessary or appropriate by LESSOR. Planned road closures will be reviewed with LESSEE prior to action by LESSOR. If an access route is closed permanently, another reasonable access route will be provided to the Leased Premises. Temporary road closures may prevent, limit or restrict access for a period of time.

## **O. INDEMNIFICATION**

- 1.1 **LESSEE Indemnification of LESSOR.** During the entire term of this Lease, LESSEE shall indemnify, defend and save harmless LESSOR, the State of Idaho, its officers, agents, respective affiliates, and employees from and against any and all liability, liens, claims, damages, debts, demands, losses, costs, expenses, actions, obligations, judgments for damages, or injury to persons or property including, but not limited to, reasonable attorney fees and costs caused by, or arising out of, or claimed to arise out of, or in connection with, any performance, act or omission of LESSEE, or LESSEE's agents, officers, employees or any person claiming under, by, or through LESSEE under this Lease, and/or arising out of or claimed to arise out of the use or occupation of the Leased Premises by LESSEE, or LESSEE's agents, officers or employees or any person occupying the same with LESSEE's permission; or arising from LESSEE or LESSEE's agents, officers or employees failure to comply with any applicable state, federal, local, law, statute, rule,

regulation, ordinance or act. This duty to indemnify, defend and save harmless shall encompass any claim which may include or allege negligence of LESSOR, its agents, officers or employees other than claims which arise solely out of negligence on the part of LESSOR; and this duty shall survive the termination or expiration of this Lease. Upon receipt of LESSOR's tender of indemnity and defense, LESSEE shall immediately take all reasonable actions necessary, including, but not limited to, providing a legal defense for LESSOR, to begin fulfilling its obligation to indemnify, defend, and save harmless LESSOR. LESSEE's indemnification and defense liabilities described herein shall apply regardless of any allegations that a claim or suit is attributable in whole or in part to any act or omission of LESSOR under this Agreement. However, if it is determined by a final judgment that LESSOR's negligent act or omission is the sole proximate cause of a suit or claim, LESSOR shall not be entitled to indemnification from LESSEE with respect to such suit or claim, and LESSOR, in its discretion, may reimburse LESSEE for reasonable defense costs attributable to the defense provided by any Special Deputy Attorney General appointed as set forth herein. Any legal defense provided by LESSEE to LESSOR under this section must be free of any conflicts of interest, even if retention of separate legal counsel for LESSOR is necessary. Any attorney appointed to represent LESSOR must first qualify as and be appointed by the Attorney General of the State of Idaho as a Special Deputy Attorney General pursuant to Idaho Code §§ 67-1401(13) and 67-1409(1).

- 1.2 **Tort Claims Limits.** Provided that such indemnification right shall not be construed as absolving LESSOR or the State from responsibility for liability in damages arising under the Idaho Tort Claims Act, I.C. § 6-901, *et seq.*, for the conduct of its agents, officers or employees as set forth therein.
- 1.3 **Sovereign Immunity.** Nothing contained herein shall be deemed to constitute a waiver of the State's sovereign immunity, which immunity is hereby expressly reserved.
- 1.4 **Notice.** In the event of any such claim made or suit filed, LESSOR shall give LESSEE prompt written notice of any such claim or suit. LESSOR shall have the right to defend itself as it deems necessary or appropriate in its sole discretion, and LESSEE shall be responsible for all costs and expenses reasonably related thereto.

**P. PAYMENT OF TAXES, ASSESSMENTS OR FEES**

**LESSEE Obligation.** Unless otherwise provided, LESSEE shall pay all water charges, fees, assessments and taxes of whatsoever nature that may be legally levied or assessed against the Leased Premises herein described, or any portion thereof or on any and all Personal Property, Non-Approved Personal Property or Improvements thereon. If the same is not paid, such failure shall constitute a default under the Lease and shall further constitute a lien in favor of LESSOR against all Personal Property and Non-Approved Personal Property owned by LESSEE on the Leased Premises. If LESSEE retains any interest in any of the Personal Property and Non-Approved Personal Property following the expiration or termination of the Lease for any reason, LESSEE shall continue to be responsible for, and shall pay, all taxes and assessments of any kind incurred upon, or accruing to, any such Personal Property and Non-Approved Personal Property for so long as such Personal Property or Non-Approved Personal Property remains on the Leased Premises.

**Q. LESSEE'S DEFAULT**

- 1.1 **Upon Default by LESSEE.** LESSEE's failure to comply with any of the terms of this Lease shall be a default which if not cured as provided herein shall constitute a default and give rise to a basis for termination of the Lease. LESSEE's violation of any Land Board or Department of Lands' policy, rule or state law currently or hereafter adopted and applicable to this Lease or the Leased Premises, shall be a default, giving rise to a further basis for termination of this Lease. LESSOR shall provide LESSEE thirty (30) days written notice of any such default or violation and, if applicable, the corrective action required of LESSEE to cure such default ("Notice of Default"). The Notice of Default shall specify a reasonable time to make a correction or cure the violation or default, if such default can be cured, which cure period shall be thirty (30) days after the date of mailing the Notice of Default ("Default Cure Period") to LESSEE, unless otherwise set forth in the notice.
- 1.2 **LESSEE's Failure to Cure.** If the corrective action or cure is not taken within the specified time or does not occur, then LESSOR may, at LESSOR's option, terminate the Lease, effective on the date specified in the written termination notice. LESSEE shall not, while in default, remove any of the Personal Property and Non-Approved Personal Property without the express written permission or upon the written demand of LESSOR. If a default results in the termination of this Lease, LESSEE

shall relinquish physical possession of the Leased Premises upon such termination, including all Personal Property and Non-Approved Personal Property remaining thereon, in good order and condition. In addition to the rights and remedies specifically granted to LESSOR under this Lease, LESSOR shall have such other rights and remedies as against LESSEE as may be available at law or in equity, and LESSOR's pursuit of any particular remedy for default shall not, in and of itself, constitute a waiver or relinquishment of any other available claim of LESSOR against LESSEE.

**R. SURRENDER OF LAND**

**LESSEE Surrender.** LESSEE shall, at the termination or expiration of this Lease, vacate the Leased Premises, leaving it in the same or better condition than it was in at the time of LESSEE's entry on such premises under this Lease, except for reasonable use and wear, acts of God, or damage by causes beyond LESSEE's control, and upon vacating shall leave the Leased Premises free and clear of all rubbish and debris. LESSEE shall remove all Personal Belongings. LESSEE may remove Personal Property and Non-Approved Personal Property in accordance with the terms of this Lease, or shall remove such Personal Property and Non-Approved Personal Property upon demand for removal by LESSOR, and shall Restore the Leased Premises. LESSEE shall surrender to LESSOR, within fifteen (15) days of any termination or expiration of the Lease, any and all keys, combinations, codes, or other materials or information required to access any and all Personal Property and Non-Approved Personal Property and Personal Belongings of any kind left by LESSEE, or remaining upon the Leased Premises. Upon the termination or expiration of the Lease, LESSEE shall have no right to reenter the Leased Premises for any reason without the express prior written consent of LESSOR in the form of a land use permit, or otherwise, and shall reacquire from LESSOR any necessary keys, combinations, codes, or other materials or information required to access any and all Personal Property and Non-Approved Personal Property and Personal Belongings.

**S. RELATIONS OF THE PARTIES**

**Parties Relationship.** LESSEE is not an officer, employee, or agent of LESSOR.

**T. NOTICES**

**1.1 Time of Notice.** Any Notice of Default or any other notice or demand given under the terms of this Lease shall be deemed given and delivered on the date when personally delivered; or if mailed, the date the same is deposited in the United States Mail, and mailed by registered or certified mail, return receipt requested, postage prepaid and properly addressed to the appropriate party; or if emailed or faxed, the date of such email or fax provided the sender also confirms such delivery via phone, or the date the recipient replies to the email without phone confirmation.

**1.2 Addresses For Notice.** Until changed by notice in writing, all notices, demands, and communications shall be addressed to LESSOR, or to LESSEE, as the case may be, at the address set forth for the respective party at the beginning of this Lease. It shall be the duty and responsibility of either LESSOR or LESSEE to provide formal notice to the other of any new or changed address, fax number or email address.

**U. WAIVER**

**No Waiver.** The waiver by LESSOR of any default of any term, covenant or condition of this Lease shall not be deemed to be a waiver of any past, present or future default of the same or any other term, covenant or condition of this Lease. The acceptance of rent by LESSOR hereunder shall not be construed to be a waiver of any violation of any term, covenant or condition of this Lease. No payment by LESSEE of a lesser amount than due according to the terms of this Lease shall be deemed or construed to be other than a part payment on account of the most recent rent due, nor shall any endorsement or statement on any check or letter accompanying any payment be deemed to create an accord and satisfaction.

**V. ATTORNEY FEES AND COSTS**

**1.1 Obligation to Pay.** In the event that either party to this Lease shall find it necessary to retain counsel (including LESSOR using the Office of the Attorney General of the State of Idaho), or to incur costs to interpret or enforce any of the provisions hereof, including, but not limited to, any action at law or in equity, the prevailing party (as defined and interpreted under Idaho Rule of Civil Procedure 54) shall be entitled to recover from the opposing party all costs and expenses, including

reasonable attorney fees (including, in the case of LESSOR, fees of the Office of the Attorney General of the State of Idaho), accountant fees and fees of appraisers or other experts, incurred therein by the prevailing party, including all such costs and expenses incurred with respect to any appeal and such may be included in any judgment entered in any action.

- 1.2 Additional Obligations.** In the event LESSEE fails to perform any act or do anything which LESSEE is required to do under the terms of this Lease, LESSOR shall have the right, but not the obligation, to perform any such action on behalf of LESSEE, and LESSEE shall reimburse LESSOR for all costs and expenses, including attorney fees, (including fees from the Office of the Attorney General of the State of Idaho), incurred by LESSOR in performing such act or thing, with such reimbursement made within thirty (30) days of written demand for payment by LESSOR. LESSEE's obligation hereunder shall be deemed to be additional rent fully due and payable on demand from LESSOR. Any time money is due and owing and interest accrues pursuant to the terms of this Lease, interest shall accrue at the legal rate of interest pursuant to Idaho Code ¶ 28-22-104(1).

**W. LESSEE'S COMPLIANCE WITH APPLICABLE LAWS AND RULES**

- 1.1 Full Compliance.** LESSEE's use of the Leased Premises shall fully comply with all applicable statutes, ordinances, rules, regulations and laws of federal, state and local governmental authorities. LESSEE shall comply with all applicable rules and regulations and standards promulgated by the State Land Board or the Idaho Department of Lands including, but not limited to, sanitation facilities, and the Department's rules governing the installation of docks and other lake encroachments below the ordinary high water mark of any navigable lake.
- 1.2. No Waste or Nuisance.** LESSEE shall not use the Leased Premises in any manner that would constitute loss or waste, nor shall LESSEE allow the same to be committed thereon. LESSEE shall not do anything which will create a nuisance or a danger to persons or property.
- 1.3 Compliance with CC&Rs.** LESSEE shall be obligated to comply with the terms and conditions set forth in the CC&Rs, if any, including by reference any instrument identified therein. Upon the execution of this Lease, LESSEE shall automatically become a "Member" of the applicable homeowner's association ("Association"), if any, defined in any applicable CC&Rs, established to operate and maintain certain properties and facilities within the "Plat" as defined therein, and LESSEE shall be obligated as a Member to such terms and conditions set forth and required in the CC&Rs. Any default of the terms or conditions of the CC&Rs shall constitute a default of this Lease.
- 1.4 Interference with Application, Auction or Bid Process.** Neither LESSEE, nor any person or entity acting on LESSEE'S behalf shall intimidate, hinder, prevent or attempt to intimidate, hinder or prevent, any person from 1) filing an application to lease or to purchase the Leased Premises or to enter any bid therefor, and/or 2) attending or submitting any bid at any public auction held to lease or purchase any land consisting of, or including the Leased Premises, or any portion thereof. Violation of this Section or any provision of Idaho Code § 58-154 shall constitute a default of this Lease subject to immediate termination, and LESSEE shall be disqualified from bidding on any future auction for the sale or lease of the Leased Premises.

**X. MISCELLANEOUS**

- 1.1 Multiple Persons Constituting LESSEE.** If LESSEE consists of more than one natural person, each such person constituting LESSEE shall be jointly and severally liable for each and every obligation of LESSEE under the terms and conditions of this Lease.
- 1.2 Modification.** This Lease may be modified only by a fully executed lease adjustment on a form provided by LESSOR.
- 1.3 Non-Discrimination.** No party shall discriminate against any person because of race, creed, religion, color, sex, national origin or disability.
- 1.4 Paragraph Headings.** The paragraph headings, titles and captions used in this Lease are for convenience only and are not part of the Lease.

- 1.5 Entire Agreement.** This Lease, including all exhibits or attachments attached hereto, contains the entire agreement between the parties concerning the subject matter hereof and supersedes any and all prior agreements. The execution of this Lease has not been induced by either party, or any agent of either party, by representations, promises or undertakings not expressed herein and, further, there are no collateral agreements, stipulations, covenants, promises, inducements or undertakings whatsoever between the respective parties concerning this Lease except those which are expressly contained herein. No other understanding, whether oral or written, whether made prior to or contemporaneously with this Lease, shall be deemed to enlarge, limit, or otherwise effect the operation of this Lease.
- 1.6 Governing Law and Forum.** This Lease shall be construed in accordance with and governed by the laws of the State of Idaho. In the event of any dispute with respect to this Lease, the parties consent to the venue and jurisdiction of Idaho State courts located in Ada County, or in either Valley County or Bonner County, the county in which the Leased Premises are located.
- 1.7 Binding on Heirs and Successors.** It is understood and agreed that all terms, covenants and conditions hereof shall be binding upon all heirs, successors and approved sublessees and assignees.
- 1.8 Severability.** In the event any provision of this Lease shall be held invalid or unenforceable according to law, for any reason whatsoever, then the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.
- 1.9 Counterparts.** This Lease may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one and the same instrument.
- 1.10 Record Memorandum of Lease.** Either party may record a Memorandum of Lease in the county in which the Leased Premises are located.

# **Attachment B Legal Description**