



COMMERCIAL INDUSTRIAL LEASE
No. MLease Number
LESSEE(S), FULL LEGAL NAME(S)

SUMMARY OF LEASE PROVISIONS:

Lessor: State Board of Land Commissioners ("Land Board"), whose administrative state agency is the Idaho Department of Lands ("IDL")
300 North 6th Street, Suite 103
PO Box 83720
Boise, ID 83720-0050
Email: commercialprogram@idl.idaho.gov
Phone: 208-334-0200
Fax: 208-334-3698

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

Lease Term: Commencement Date: January 1, 20__
Expiration Date: December 31, 20__

Rent: If commencement date is not January 1, will annual rent be due on the anniversary of the commencement date?

The annual rent payment is due in advance on January 1st of each year. Rent terms are more particularly described in Section 1. Rent of the Lease Provisions.

Rent Term if base Rent annually adjusted by annual flat rate or annual % rate each ensuing year: Annual Base Rent shall be \$INSERT FIRST YEAR'S RENT AMOUNT (\$INSERT First Year's Rent Amount) for the first year of the Lease as outlined below. Rent is adjusted annually by INSERT Rate of Rent Annual Increase. Rent terms are more particularly described in Section 1. Rent of the Lease Provisions.

Table with 3 columns: Use (INSERT USE), Year (1/1/10 through 12/31/13, 1/1/13 through 12/31/15, 1/1/16 through 12/31/19), Annual Base Rent (\$INSERT Amount)

Gross Receipts: (if required--remove if not required)

Rent for INSERT USE. Annual rent shall be a base of INSERT RENT AMOUNT AND NO CENTS (\$INSERT Rent Amount) due by January 1 of each year. During a given year, if the annual gross receipts, as calculated in Section 1.B. Gross Receipts Rent and Report of the Lease Provisions, are greater than the base rent, additional rent is due for that year and payable by April 1.

Legal Description of Leased Premises: 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.

See Attachment B of this Lease.

Use of Leased Premises: INSERT USE
See Section 2. Use of Premises of the Lease Provisions

Bond: \$INSERT Bond Amount bond as specified in Section 4. Bond within the Lease Provisions

Liability Insurance: \$INSERT Insurance Amount Commercial General Liability
See Section 15. Insurance of the Lease Provisions.

Lease Index:

- SUMMARY OF LEASE PROVISIONS
- LEASE PROVISIONS
- SIGNATURE PAGE
- ATTACHMENT A – SPECIAL TERMS AND CONDITIONS
- ATTACHMENT B – LEGAL DESCRIPTION OF LEASED PREMISES
- ATTACHMENT C – SITE MAP(S)
- ATTACHMENT D – REPORTS (Area, Please Define Any Reports Required from Lessee)
- ATTACHMENT E – EXISTING IMPROVEMENTS

***This Summary of Lease Provisions (“Summary”) is for convenience and ease of review only. The information stated in the Summary is intended to be accurate and consistent with the contract terms set forth in the following Lease. In the event any information stated in the Summary is inconsistent with the Lease Provisions or Attachments, the Lease Provisions and Attachments will control.**

[Remainder of page intentionally left blank]

Template

LEASE PROVISIONS

1. Lessor, in consideration of the rent paid and the covenants, conditions and restrictions set forth in the Lease (including all Attachments), does hereby lease and demise unto Lessee the lands described in Attachment B for the uses specified herein.

2. Rent.

All rent shall be paid in advance in lawful money of the United States of America directly to Lessor on or before January 1 of each successive year unless otherwise directed by Lessor in writing. Lessee shall pay Lessor, as rent for the Leased Premises, amounts as detailed in this document or any attachments hereto, determined and payable in the manner and at the time set forth herein, without abatement, offset or deduction of any kind unless allowed by this Lease:

A. Annual Rent Subject to Modification. Lessor reserves the right to increase or decrease the annual rent to be paid by Lessee. Any increase for the year shall be effective as of January 1 and payable by January 1. Lessor shall provide Lessee written notification one hundred and eighty (180) calendar days prior to the increase in the annual rental amount.

B. Gross Receipts Rent and Report. Gross receipts rent and report shall apply to **INSERT USE** only. Lessee shall calculate and report annual gross receipts for the previous calendar year (January 1 through December 31) by April 1 following the end of each lease year. Lessee shall submit the gross receipts documentation, as described below, without further notification from Lessor. Failure to provide such documentation by April 1 shall be cause for Lessor to declare a default herein and terminate the Lease upon thirty (30) days written notice.

i. Lessee shall calculate gross receipts rent as follows: annual gross receipts multiplied by percentage less the base rent, equals gross receipts rent (Gross Receipts x **INSERT PERCENTAGE**% - base rent = gross receipts rent). If the percentage of gross receipts totals less than the applicable year's rent, no gross receipts rent shall be due.

ii. Whether or not gross receipts rent is due, Lessee shall provide to Lessor a verified report of gross receipts for the previous calendar year. Said report and any rental due thereunder shall be due by April 1 of each year.

C. Accrual of Interest and Late Payment Charges. In the event any rent or other financial obligation due by Lessee to Lessor under the terms of the Lease is not paid in full when due, Lessee shall also pay: 1) interest accruing thereon at the statutory rate of interest as provided by law (12% per annum) until payment is made in full; and, 2) a late charge which shall accrue in full as of the first day of each and every calendar month of such delinquency until payment is made in full in the amount of twenty-five dollars (\$25.00) or one percent (1%) of the unpaid principal obligation(s), whichever is greater. All payments shall be applied first to the payment of accrued interest and to accrued late charges, and then to unpaid principal. 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 interest and late charges, Lessor does not waive any right to declare a breach, or to pursue any right or remedy available to Lessor by reason of such breach available at law or in equity, after the expiration of any applicable notice or cure period.

D. Lien. The amount of the unpaid rent, late charge, and interest shall be a lien on Lessee's improvements and other property on the Leased Premises.

3. Use of Premises.

A. The Leased Premises shall be used for **INSERT USE**.

B. Any new or change of use of the Leased Premises requires Lessor's prior written consent. Any new or additional use by Lessee without the authorization of Lessor is prohibited and is grounds for termination of the Lease as defined herein.

- C. Lessee agrees to not commit, nor permit any damage to or waste upon the Leased Premises or upon any of the improvements, nor permit any unlawful use of the Leased Premises, nor permit any use thereof except for the purposes stated herein.
- D. Lessee shall acquire and maintain all necessary permits and comply with all applicable laws, rules, regulations, or other provisions with the State of Idaho.
- E. Technical Reports. When requested by Lessor, Lessee will furnish technical information concerning the equipment located on the Leased Premises.

4. New Lease.

If Lessee has fully and faithfully complied with the terms and conditions of this Lease, and is not then in default, then Lessee may apply for a new lease by filing an application with Lessor prior to April 30 of the year in which this Lease expires in accordance with Idaho Code § 58-307(8). Lessee understands that the terms and conditions of any new lease are in Lessor's sole discretion and may be materially different than the terms and conditions of this Lease. A new lease is subject to the auction requirement of Article IX, § 8 of the Idaho Constitution and the conflict auction provisions of Title 58, Chapter 3, Idaho Code, and any applicable rules promulgated thereunder. Lessor shall value the creditable improvements prior to any conflict auction for a new lease in accordance with any then-existing applicable statute or rule. If Lessee is not the successful bidder of a new lease for the Leased Premises, then Lessee shall, prior to the termination or expiration of this Lease, vacate the Leased Premises, and Lessee shall be paid the value of the approved Lessee-owned improvements by the successful bidder.

5. Bond.

Concurrent to the execution of this Lease by Lessee, Lessee will furnish a good and sufficient bond in the amount specified in the Summary of Lease Provisions in the favor of the State of Idaho to protect the state against loss due to violation of any clause of this Lease. The period of liability of any bond shall not be determined until all lease terms and conditions have been fulfilled and the bond is released in writing by the Director.

6. Sublease and Assignment.

- A. Written Approval Required. Lessee shall not assign the Lease, or sublease or authorize another person to use any part of the Leased Premises without the prior written consent of Lessor, to be evidenced by Lessor's execution of consent forms provided by Lessor for that purpose. Any request for approval of a sublease or assignment must be filed in writing and with the appropriate processing fee, and must comply with the statutes and rules governing subleasing or assignment. Any request for approval of an assignment or sublease must be accompanied by a copy of the proposed assignment or sublease agreement. Lessor may withhold consent for any reason. Any attempt by Lessee to sublease all or any part of Lessee's interest in the Leased Premises, or to assign the Lease, shall be void and this Lease subject to termination unless Lessor has given its prior written consent. No request for Lessor's approval of any assignment or sublease will be considered unless all rent and accrued interest and late charges has been paid in full, and Lessee is in good standing under the terms of this Lease and all other contracts with Lessor. No sublease or assignment will 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 hereunder, and Lessor can withhold such release at Lessor's sole discretion. Any sublease or assignment shall be subject to the provisions of this Lease, as well as such additional terms and conditions as Lessor may require. No sublease shall not extend beyond the term of the Lease.
- B. Specific Transaction Only. Any consent by Lessor herein contained or hereafter given to any sublease or assignment shall be held to apply only to the specific sublease or assignment thereby approved.
- C. Proof of Assignment. In cases of an assignment due to the sale of Lessee's interest, Lessee must provide to Lessor one copy of the purchase agreement or contract of sale signed and acknowledged by the buyer (Assignee) and seller (Assignor). In the case of assignment without a sale, appropriate documentation must be provided to Lessor establishing that the Lease should be assigned. This may include, but is not limited to, a deed or bill of sale transferring Lessee's interest in the Lease and in Lessee's improvements and personal property which may be the result of a sale or gift; a divorce decree; or a copy of will or probate order. Lessor may require additional proof as necessary.

- D. Improvements. Upon an approved assignment, the ownership of any existing Lessee-owned improvements under the Lease must be separately negotiated between Lessee and such assignee, and title to the improvements transferred to the assignee.
- E. Copies to be Filed with Lessor. Copies of all assignments, subleases, or any other agreement of any kind or nature involving the use of the Leased Premises by an individual or entity other than Lessee shall be timely delivered by Lessee to Lessor.
- F. Lessee may sublease portions of its specific improvements, provided that each such sublease shall be subject to all terms of this Lease, including termination of Lessee's interest under this Lease. Any such sublease shall be subject to and subordinate to the rights of Lessor under this Lease, and any such sublease shall include, but not be limited to, the following terms:
 - i. No sublease shall relieve Lessee of its responsibility to pay and perform all of its obligations under this Lease to Lessor.
 - ii. The term of the sublease may not exceed the term of this Lease.
 - iii. Lessor is not liable for acts or omissions of Lessee.
 - iv. The sublessee will abide by all terms of this Lease.
 - v. Lessor is not liable for pre-payment, security deposits or other pre-paid charges made to Lessee by sublessees should this Lease be terminated.
 - vi. Lessor may impose additional requirements as a condition of approving the sublease request.

7. Leasehold Mortgage.

Lessee shall not mortgage, pledge, hypothecate or otherwise transfer Lessee's interest in this Lease, or any portion thereof, including any Lessee-owned improvements or fixtures on the Leased Premises, without the prior written consent of Lessor. Lessee shall use mortgage or deed of trust forms provided by Lessor, and shall submit completed forms and any required fee to Lessor for review and approval. The term of a mortgage agreement shall not exceed the term of the Lease, and shall terminate if this Lease is terminated for any reason. Lessor may accept or reject a leasehold mortgage in its sole discretion.

8. No Liens.

Lessee shall not permit or suffer any lien of any kind or nature to be placed on or enforced against the Leased Premises, the leasehold interest, or any improvements thereon, including, but not limited to, tax liens, judgment liens, mechanics' liens or material suppliers' liens, and shall cause any such lien to be promptly satisfied or otherwise removed of record. Lessee shall ensure that full payment is made for all labor performed at Lessee's instance and for any and all materials joined or affixed to the Leased Premises and for any improvements thereon. Lessee covenants that it will satisfy and hold Lessor harmless against any lien, judgment, or encumbrance filed or made against the Leased Premises at Lessee's sole and separate cost or expense.

9. Lessee's Compliance with Applicable Laws and Rules.

- A. Full Compliance. Lessee's use of the Leased Premises and all improvements constructed thereon, shall fully comply with all statutes, ordinances, rules, regulations and laws of applicable federal, state and local governmental authorities. Lessee shall comply with all applicable rules and regulations and standards currently in effect or hereafter adopted by Lessor.
- B. No Waste or Nuisance. Lessee shall not use the Leased Premises in any manner that would constitute waste, nor shall Lessee allow the same to be committed thereon. Lessee shall not do anything or allow any action which will create a nuisance or a danger to persons or property.
- C. Noxious Weeds. It is understood and agreed that Lessee shall take measures to control noxious weeds within the Leased Premises, in accordance with Title 22, Chapter 24, Idaho Code. Lessee shall cooperate

with state and other agencies authorized to undertake programs for control and/or eradication of noxious weeds. Failure to comply will be considered a default of this Lease and shall be considered a default pursuant to the Lease Provisions, Section 19 herein.

10. Environmental, Safety, and Sanitary Requirements.

- A. Sanitary Requirements. Lessee shall at all times keep the Leased Premises in a clean and sanitary condition, free of trash, noxious weeds, garbage and litter, so that the Leased Premises is maintained in as nearly natural state as possible. Lessee shall not dispose of sewage except in conformity with applicable federal, state, and local law, rules and regulations pertinent to Lessee's use. Lessee shall store and dispose of all trash and garbage in conformity with all legal requirements. Lessee is responsible for all costs associated with sewage, garbage and litter disposal.
- B. Fire and Safety Regulations. Lessee shall comply with all applicable state laws and the rules for fire protection and prevention of fire. Lessee agrees to keep the Leased Premises free from fire hazards. Lessee is prohibited from burning garbage or household trash. The burning of wood or other debris requires the prior written permission of Lessor and must comply with applicable federal, state, or local law, regulation, rule, or ordinance.
- C. No Hazardous Materials. Lessee shall neither commit nor permit the use, placement, transport or disposal of any hazardous waste, substance or material, including petroleum products, such as oil, gasoline, or any other substance that is known, or is suspected to be a hazardous waste, substance or material on the Leased Premises except in the acceptable and customary use associated with weed and pest control, machinery, equipment and vehicles. Lessee shall be responsible, and shall pay all costs, for the removal or other appropriate remedial action regarding any hazardous waste, substance or material that Lessee may have caused or allowed to be introduced on the Leased Premises. Any such remediation or removal or storage must be conducted in accordance with all applicable federal, state, and local laws, rules, regulations and ordinances. Lessee shall immediately, upon the introduction of any hazardous waste, substance or material on the Leased Premises, contact Lessor and the Idaho Department of Environmental Quality ("DEQ"), and enter into a consent order for remediation with DEQ. Provided however, that 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. In the event of the introduction of any hazardous waste, substance or material, Lessor may require Lessee to enter into any consent order or other agreement with any other relevant agency. Lessee shall indemnify, defend and hold Lessor harmless from any and all costs, expenses, damages and fines, including, without limitation, all reasonable attorney fees and costs, including attorney fees and costs on appeal, relating to and including any hazardous waste, substances, materials, or pollution. The amount of any costs incurred by Lessor due to Lessee's violation of this provision shall constitute a non-standard administrative cost and a lien in favor of Lessor against all of Lessee's interest in the Lease and all improvements and other property on the Leased Premises..

11. No Warranty of Suitability.

- A. No Warranty. Lessee acknowledges that neither Lessor, nor any agent or designee 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. Lessee acknowledges that it has accepted the Leased Premises in an "AS IS CONDITION," and accepts liability for its condition.
- B. 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 during the term hereof.

12. Payment of Taxes and Assessments.

On or before any due dates, Lessee agrees to pay any and all real or personal property taxes, assessments or fees that may be assessed or levied by a governmental authority asserting such authority over the Leased Premises or on any improvements. Lessee shall make such payment directly to the taxing authority and hold Lessor harmless from any tax, claim assessment or fee.

13. Water Rights.

- A. **Future Water Rights and Water Use Generally.** The establishment of any new water right by Lessee or Lessor on the Leased Premises during the term of the Lease shall be by and for Lessor, and no claim thereto shall be made by Lessee. If a new water right is established on the Leased Premises during the term of the Lease, Lessee agrees that its application of water to beneficial use is on behalf of and as an agent for Lessor. Lessee may act as an agent for Lessor only for the purpose of applying water to beneficial use. Such water rights shall attach to and become appurtenant to the Leased Premises, and Lessor shall be the owner thereof. The use of any water rights by Lessee shall be in conformance with Idaho water law. Lessee must receive the prior written consent of Lessor, and the prior written consent of any department or agency of the State of Idaho having jurisdiction to regulate water rights or water use in and for the State of Idaho for any of the following:
- i. To drill and use a water well;
 - ii. To develop and use any source of water;
 - iii. To cause any water to be conveyed or diverted off the Leased Premises; or
 - iv. To bring water onto the Leased Premises.
- B. **Water Systems.** If water is supplied to the Leased Premises by a water system operated by the State of Idaho, including Lessor, the use of such system and the supply of water provided thereby may be curtailed or terminated upon thirty (30) calendar days' written notice to Lessee from Lessor. Neither Lessor nor its agents or employees, nor any entity of the State of Idaho shall be liable in any manner for damage or inconvenience to Lessee by reason of the failure of, damage to, termination or curtailment of the operation of any water system or source supplying water to the Leased Premises.
- C. **Improvements in Aid of Water Use.** Improvements, whether pre-existing or future, made in aid of any and all water use on, or diversion from, the Leased Premises are subject to the improvement permit requirements of the Lease.
- D. **No Right of Access to Water Rights upon Termination.** Upon the termination of the Lease for any reason, Lessee shall have no right to access any point of diversion or any place of use of any water right on the Leased Premises without the prior written consent of Lessor.

14. Construction and Improvements.

- A. **Construction of Improvements.** No construction of improvements upon or over the Leased Premises is allowed without prior consent of Lessor.
- B. **Treatment of Improvements.** Existing improvements, if any, as of the date of the execution of this Lease are listed in Attachment E. Upon termination of the Lease for any reason:
- i. Lessor shall have the right to require Lessee to remove any and all improvements, whether approved or non-approved, placed upon the Leased Premises, and to require Lessee to restore the Leased Premises, as nearly as is reasonably practical, to its natural or previous condition existing prior to any lease, all at Lessee's sole cost and expense.
 - ii. Lessor has the right to enter the Leased Premises and remove any and all of the improvements, whether approved or non-approved, or otherwise dispose of such improvements, to restore the Leased Premises, and to charge the cost of removal and/or disposal and restoration to Lessee. Lessee shall also be responsible for all collection costs, including, but not limited to, legal fees and interest.
 - iii. Lessee shall quietly surrender the Leased Premises to Lessor.
 - iv. Except as otherwise expressly provided in subsection 14.B.v, below, Lessor shall not be obligated for any reason to reimburse or pay Lessee for any improvements that are not removed following the termination of the Lease whether or not said improvements be deemed abandoned, otherwise permitted to remain on the Leased Premises, or used at any time by any subsequent lessee.

- v. Lessor reserves the right to purchase existing approved Lessee-owned improvements from Lessee at a reasonable market value, as defined in Section 14.D, as of the date of termination, but shall not, under any circumstance, be obligated to pay or reimburse Lessee therefor.
- C. **Treatment of Improvements Upon Abandonment.** If this Lease is terminated for any reason, and no new lease is issued to a lessee who is obligated to purchase the Lessee-owned improvements, and if there are Lessee-owned improvements remaining on the Leased Premises following such termination for which Lessor, in its sole discretion, does not require to be removed by Lessor or by Lessee, then at Lessor's discretion, all right, title and interest of Lessee in and to any such improvements shall, upon thirty (30) days written notice to Lessee, or at a date determined at the sole discretion of Lessor, but not less than thirty (30) days, be deemed to be abandoned by Lessee, and title shall be deemed to transfer to Lessor automatically and by operation of law. Prior to a determination of abandonment as set forth herein for improvements and/or non-approved improvements allowed to remain on the Leased Premises following the termination of this Lease, Lessee may remove any such improvements and non-approved improvements provided Lessee first acquires a special use permit from IDL authorizing Lessee to enter the Leased Premises to remove any such improvements.
 - D. **Market Value.** Market value is defined in this Lease as "the most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms for which the specified improvements should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest and assuming that neither is under undue duress."
 - E. **Treatment of Non-approved Improvements.** Lessor shall have the right to require Lessee to remove any and all non-approved improvements placed, or caused to be placed upon the Leased Premises at any time during the term of this Lease, and to require Lessee to restore the Leased Premises, as nearly as is practical, to its natural or previous condition prior to any such non-approved improvements, all at Lessee's sole cost and expense. Lessor further has the right, at its sole election, to enter the Leased Premises and remove any and all of the non-approved improvements, or otherwise dispose of such improvements, to restore the Leased Premises, and to charge the cost of removal and/or disposal and restoration to Lessee. Lessee shall also be responsible for all collection costs including, but not limited to, attorney fees and interest. If removal of any non-approved improvements has not occurred by the date that the Lease terminates, for any reason, then at Lessor's discretion, all right, title and interest of Lessee in and to any of the non-approved improvements shall, upon thirty (30) days written notice to Lessee, or at a date determined at the sole discretion of Lessor, but not less than thirty (30) days, be deemed to be abandoned by Lessee, and title shall be deemed to transfer to Lessor automatically and by operation of law.

15. Sale, Exchange or Change in Use of Leased Premises

- A. **Sale.** Lessor may sell all or any portion of the Leased Premises during the term of this Lease. The Leased Premises may be sold subject to, or free of, the Lease. Lessor will notify Lessee that the Leased Premises are being considered for sale at auction and whether the proposed sale will be subject to, or free of, the Lease at least thirty (30) calendar days prior to the date of any such auction. If the sale is to be free of the Lease, then the Lease shall terminate upon closing of the sale following the auction, or as otherwise provided by Lessor pursuant to the auction. If the Leased Premises are to be sold free of the Lease with creditable improvements present thereon, then Lessor shall value the creditable improvements prior to the auction in accordance with Idaho Code § 58-313, or the then-existing applicable statute or rule, and Lessee shall be paid the value of the improvements by the purchaser on the day of the closing of the sale. Lessee shall deliver immediate possession of all or any portion of the Leased Premises sold upon the termination of the Lease, or as Lessor may otherwise instruct.
- B. **Consent To Land Exchange.** Lessee acknowledges that the Leased Premises, or any portion thereof, may be the subject of a future land exchange by Lessor, and Lessee hereby consents to the inclusion of the Leased Premises, or any portion thereof, in any land exchange deemed necessary or appropriate by Lessor. This consent is given in compliance with Idaho Code § 58-138. If Lessor includes the Leased Premises, or any portion thereof, in any future land exchange, then Lessor shall provide Lessee with at least thirty (30) days written notice. Upon the consummation of any such land exchange, that portion of Leased Premises included within the exchange shall be removed from the Lease, and if the entire Leased Premises is subject to the exchange, then the Lease shall be terminated. And, if only a portion of the Leased Premises is subject to the exchange, then Lessee's rent obligation for the ensuing year shall be reduced proportionately. Lessee

shall be entitled to continue to use the Leased Premises, or any portion thereof, included within any such exchange for the balance of the year in which the exchange occurs unless otherwise notified in writing by Lessor, in which event the Lease payment for such year shall be prorated.

- C. Change in Use. The Lease may be terminated in whole or in part upon one hundred eighty (180) calendar days written notice by Lessor if the use of the Leased Premises is to be changed to any other use that is incompatible with the use authorized by this Lease, as designated by Lessor. If the Lease is terminated early due to a change in land use, then Lessee will be entitled to a prorata refund of the premium bid for a conflicted lease, if any.

16. Relations of the Parties.

Lessee is not an officer, employee, or other authorized agent of the State of Idaho for any purpose other than the development of water rights as set forth in Section 13., Water Right and Water Use, above. In no event shall any official, officer, employee or agent of Lessor or of the State of Idaho be in any way personally liable or responsible for any covenant or obligation contained in the Lease, express or implied, nor for any statement, representation or warranty made by Lessee in connection herewith.

17. Insurance.

For the duration of this Lease and until all activity in accordance with this Lease is completed, Lessee must have and maintain, at Lessee's expense, the policies of insurance set forth below. Lessee must comply with all terms and conditions of such insurance, and must require all of its contractors and subcontractors to maintain the same types of insurance and limits. By requiring the insurance policies, Lessor does not represent that coverage and limits will be adequate to protect Lessee; and, such coverage and limits will not be deemed as a limitation on Lessee's liability to Lessor or under any indemnities granted to Lessor in this Lease.

- A. Lessee must maintain commercial general liability ("CGL") with a combined limit of not less than INSERT ____ Million Dollars (\$INSERT __,000,000) per each occurrence. If such CGL insurance, or any umbrella policy, contains a general aggregate limit, it must apply separately to the Leased Premises, must not be less than INSERT ____ Million Dollars (\$INSERT __,000,000), when applicable, and must provide that defense costs will be and remain outside policy limits. Lessee waives all rights against Lessor and any additional insured for recovery of damages to the extent these damages are covered by the CGL or commercial umbrella liability insurance maintained pursuant to this Lease. CGL insurance and any umbrella policy must:
1. Be in a form and from an insurance company satisfactory to Lessor and must cover liability for bodily injury, property damage, and personal injury arising from Lessee's or its assigns', agents', operators' or contractors' use or occupation of the Leased Premises including, without limitation, operations, independent contractors, products, completed operations, personal injury, advertising injury, and liability assumed under an insured contract, including the tort liability of another assumed in a business contract; and
 2. Include a waiver of subrogation in favor of the State, the State Board of Land Commissioners, and the Idaho Department of Lands; and
 3. Include the State of Idaho, the State Board of Land Commissioners, and the Idaho Department of Lands, its officers, agents, and employees as additional insureds, but only with respect to Lessee's activities (including the activities of Lessee's agents, operators, employees or contractors) relating to this Lease and/or any such activities upon, or related to, the Leased Premises, and must be evidenced by an endorsement acceptable to Lessor. This insurance must apply as primary insurance with respect to any other insurance or self-insurance programs afforded to, and non-contributory with, any additional insured.
- B. Property Insurance. Lessee must, throughout the term of this Lease, at its own expense, keep and maintain in full force and effect commercial property insurance covering the Improvements located on the Leased Premises. Commercial property insurance must, at a minimum, cover all perils insured under the ISO Special Causes of Loss Form and loss from earthquake and flood. The amount insured must equal the full estimated replacement cost of the property insured. Any coinsurance requirement in the policy must be eliminated through the attachment of an agreed amount endorsement, the activation of an agreed value option, or as otherwise appropriate under the particular policy form. Lessor must be included as a loss payee under the commercial property insurance, and such status as an additional insured must be evidenced by an

endorsement acceptable to Lessor. In no event will Lessor be liable for any business interruption or other consequential loss sustained by Lessee, whether or not it is insured

- C. Workers' Compensation. Lessee maintain workers' compensation insurance providing statutory limits and must include Employers' Liability at minimum limits of \$1,000,000/\$1,000,000/\$1,000,000. Lessee must be responsible for workers' compensation insurance for contractors and subcontractors who directly or indirectly provide services under this Lease. This coverage must include statutory coverage for states in which employees are engaging in work. Lessee's workers' compensation coverage must include a waiver of subrogation in favor of the State, the Board, and IDL.
- D. If Lessee or its contractors or subcontractors utilize drones or other aviation in relation to any activity on the Leased Premises or an authorized unit, Lessee must, prior to such use, procure and maintain for the duration of this Lease aviation liability insurance against claims for injuries to persons or damage to property which may arise from or in connection with the ownership, maintenance or use of the Unmanned Aerial Vehicle a.k.a. drone. The aviation liability insurance must have products and completed operations, property damage, and bodily injury limits no less than one million dollars (\$1,000,000) per occurrence, and two million dollars (\$2,000,000) aggregate. The aviation liability policy and any umbrella must designate Lessor as an additional insured and must include a waiver of subrogation in favor of the State, the Board, and IDL.
- E. Insurance Policy Requirements. All policies required under this Section shall be written as primary policies and not contributing to or in excess of any coverage Lessor may choose to maintain. All insurers shall have a Bests' rating of A- or better, and be authorized to do business in the State of Idaho. There shall be no cancellation, material change, potential exhaustion of aggregate limits or intent not to renew insurance coverage without thirty (30) days written notice from Lessee and its insurer to Lessor; provided however, that if such prior advanced written notice cannot reasonably be provided, then Lessee shall immediately notify Lessor as soon as Lessee becomes aware of any such cancellation, termination, material change, or intent not to renew. In any event, Lessee shall immediately notify Lessor of any such notice of cancellation, termination, material change, or intent not to renew any policy required by this Lease and shall deliver to Lessor a copy of any such notice upon receipt thereof from any insurer.
- F. Proof of Insurance. Prior to taking occupancy or commencing operations or construction, and at least annually thereafter, Lessee shall furnish Lessor with a certificate of insurance executed by a representative of each insurer duly authorized to bind coverage, together with a copy of any applicable policy and policy endorsement showing compliance with all insurance requirements set forth herein including evidencing Lessor as additional insured. Lessee shall provide certified copies of all insurance policies required above within fifteen (15) days of Lessor's written request for certified copies. Failure of Lessor to demand such certificate or other evidence of full compliance with these insurance requirements or failure of Lessor to identify a deficiency from evidence that is provided shall not be construed as a waiver of Lessee's obligation to maintain such insurance.
- G. No Limitation of Liability. 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 pursuant to this Lease.

18. **Indemnification.**

If this is a state agency use wording highlighted in yellow, if not, please delete

- A. Liability Coverage. Lessor and Lessee understand that each is covered with respect to third party tort liability by the State of Idaho, Department of Administration, Risk Management Program ("Risk Management"), utilizing the retained Risk Account. This is a plan of liability coverage provided by and subject to provisions of the Idaho Tort Claims Act, and the Department of Administration, Risk Management statutes. So long as Lessee hereunder remains insured through Risk Management, Lessee shall be exempt from the insurance requirements set forth in this Lease; provided, however, losses under this Lease attributable to Lessee shall apply to Lessee's loss history. Lessor and Lessee agree to accept that coverage as adequate insurance of the other party with respect to personal injury and property damage.
- B. Third Party Liability. Lessor and Lessee agree that any third party tort liability claim, suit or loss resulting from or arising out of the parties' performance of any activities under this Lease shall be allocated to one or both parties by Risk Management for purposes of loss experience and subsequent allocation of agency premium

assessments. Lessor or Lessee of this Lease shall notify Risk Management and the other party in the event it receives notice or knowledge of any claim(s) arising out of the performance of, or activities under, this Lease. Lessee shall notify Lessor immediately in the event that Risk Management no longer provides coverage. The Lease shall terminate immediately in such circumstances.

C. Agency Property Damage. Lessor and Lessee shall be responsible to the other for damage to property of the other caused by such party in the performance of this Lease or any related task order. If the damaged property (including vehicles) is covered by property or auto coverage through Risk Management, then Risk Management shall charge the damage or loss to the responsible party, and the responsible party shall be responsible for the deductible, if any. In the event of damage to either party's property in the performance of this Lease for which it is unclear which party was at fault or caused such damage, then each party shall be responsible for their own property. Lessor or Lessee shall notify Risk Management and the other party in the event it receives notice or knowledge of any claim(s) arising out of the performance of, or activities under, this Lease.

- A. Lessee shall indemnify, defend, and save harmless Lessor, the State of Idaho, its officers, agents, employees, and volunteers from and against any and all liability, claims, damages, losses, expenses, actions, settlements, attorney fees, and suits whatsoever caused by, arising out of, or in connection with Lessee's acts or omissions under this Lease or Lessee's failure to comply with any applicable state, local or federal statute, law, rule, regulation or ordinance.
- B. Upon the receipt by Lessee of Lessor's or the State of Idaho'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 and the State of Idaho, and to begin fulfilling its obligation to indemnify, defend, and save harmless Lessor and the State of Idaho. 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 or the State of Idaho under this Lease. However, if it is determined by a final judgment that Lessor or the State of Idaho's negligent act or omission is the sole proximate cause of a suit or claim, neither Lessor nor the State of Idaho shall be entitled to indemnification from Lessee with respect to such suit or claim, and Lessor and the State of Idaho in its discretion, may reimburse Lessee for reasonable defense costs attributable to the defense provided by any Special Deputy Attorney General appointed pursuant to Section 18.C.
- C. Any legal defense provided by Lessee to Lessor and the State of Idaho under this Section must be free of any conflict of interest, even if retention of separate legal counsel for Lessee, and Lessor and the State of Idaho, is necessary. Any attorney appointed to represent Lessor and 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).

19. Inspection and Audit Rights.

- A. Inspection by Lessor. Lessee shall permit Lessor or Lessor's authorized agent or designee to inspect and enter the Leased Premises and any improvements at any reasonable time.
- B. Audit Rights. Lessor shall have the right to audit, in such a manner, and at all reasonable times as it deems appropriate, all activities of Lessee arising in the course of its operation under this Lease. Lessee must maintain its books, records, documents, and other evidence of accounting in accordance with generally accepted accounting principles so as to properly reflect its business. At sole discretion of Lessor an audit of Lessee's books or the supporting tax documents that have been filed with the Internal Revenue Service or the State Sales Tax Report may be performed by a Certified Public Accountant or agent of the Department of Lands. If gross receipts is applicable under this Lease, and if an audit of gross receipts shows a discrepancy of ten percent (10%) or more of any amounts due under this Lease, any additional rental owed, all late charges calculated from the date the additional rent would have been due and the entire cost of the audit, shall be paid to Lessor within thirty (30) days written notice to Lessee, unless otherwise agreed upon in writing by Lessor.

20. Reservations by Lessor.

Lessor expressly reserves and excepts the following rights from the Lease:

- A. All rights not expressly granted to Lessee under the Lease, including all rights to timber, water, 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 or abandoned by any lessee.
- B. To grant easements and rights-of-way over and across the Leased Premises provided such easements or rights-of-way do not materially affect Lessee's use and enjoyment of the Leased Premises under the terms of the Lease. Lessor shall coordinate with Lessee before approving any easement or right-of-way application on the Leased Premises. If the easement or right-of-way materially and adversely impacts the value of Lessee's improvements, then Lessor, as the grantee of such easement or right-of-way, shall, before exercising the same, pay Lessee the reasonable diminution in value of any permitted improvements. Said value shall be determined by Lessor's valuation.
- C. To issue other leases on the Leased Premises. Such other leases may be for any purpose deemed appropriate by Lessor provided such other leases do not materially affect Lessee's use and enjoyment of the Leased Premises under the terms of the Lease. Other lease purposes may include, but is not limited to, the exploration and development of oil or gas, geothermal, mineral deposits, and placer deposits as provided by Title 47, Idaho Code. In the event any such other lease is granted by Lessor which materially and adversely impacts the value of Lessee's improvements, the other lessee shall, before exercising the same, pay Lessee the reasonable diminution in value of any permitted improvements. Said value shall be determined by Lessor's valuation.
- D. To require that changes be made in the use under the Lease, and/or to the improvements on the Leased Premises, including, but not limited to, the sanitation or other facilities for the protection of public health, safety, preservation of property or water quality.
- E. To reserve as Lessor's sole property any and all water appurtenant to Lessor's land or from any source arising thereon, and to hold water rights for any beneficial use that may be developed as a result of the Lease, and as further provided in *Section 13., Water Right and Water Use*, herein.
- F. Rights of ingress, egress, and access, over, under and across the Leased Premises for Lessor and its lessees, permittees, contractors, and assigns on existing roads, or on suitable alternative roads provided by Lessee.
- G. To change the use of the Leased Premises, in whole or in part, for other uses that will better achieve the fiduciary obligations of Lessor to endowment beneficiaries. Upon a change in use, the Lease may, at Lessor's discretion, be terminated in whole or as to the affected part. In the event of any such termination due to a change in use, the provisions of *Section 14., Construction of Improvements*, herein, relating to compensation for permitted improvements shall apply.
- H. To sell timber on the Leased Premises or otherwise conduct forest management activities. Lessor reserves the right to restrict or prohibit Lessee's use on all or portions of the Leased Premises for timber management purposes. Lessee will be given not less than one hundred eighty (180) calendar days written notice of any such restrictions or termination, together with a map of the restricted area.
- I. To restrict or prohibit Lessee's use of all or any portion thereof of the Leased Premises in response to emergency conditions including fires, flooding and drought.
- J. To sell all or any portion of the Leased Premises at any time during the term of the Lease, and as further provided in *Section 15., Sale, Exchange or Change-in-Use of Leased Premises*, herein.
- K. To harvest seed from plants on any portion of the Leased Premises. Lessor will coordinate the harvesting activities with Lessee to minimize impacts on communications operations.
- L. To close roads for road protection, wildlife protection or administrative purposes. Planned road closures will be reviewed with Lessee prior to action by Lessor.
- M. To claim all improvements placed upon the Leased Premises remaining after abandonment by Lessee, or to take possession immediately in cases of termination upon breach, and Lessee's failure to cure, of any of the conditions of this Lease, or to remove the same in Lessor's sole discretion at Lessee's cost. No improvements will be disposed of by Lessor until all administrative procedures have been exhausted, waived, or not timely acted on by Lessee.

21. Lessee's Default.

- A. Lessee's Failure to Comply. Lessee's failure to comply with the Lease shall be a breach giving rise to a basis for termination of this Lease. Upon default by Lessee, Lessor shall provide Lessee a notice of default providing at least thirty (30) calendar days' written notice of default and opportunity to cure. Notice of any intention to terminate the Lease upon failure to cure shall be provided to Lessee. If the default is non-financial in nature and cannot reasonably be cured within thirty (30) days, then the corrective action required of Lessee and a longer period to cure may be provided by Lessor. If the corrective action or cure is not taken within the specified time or does not occur, then the Lease shall automatically terminate on the date specified in the written notice without any further notice or demand by Lessor, unless otherwise agreed by Lessor in writing. Lessee shall not, while in default or breach, remove any of the improvements unless directed by Lessor. In addition to the rights and remedies granted or reserved to Lessor in the Lease, Lessor shall have all other rights and remedies against Lessee as are available at law or in equity. Lessor's pursuit of any particular right or remedy for breach shall not, in and of itself, constitute a waiver or relinquishment of any other compatible claim or remedy against Lessee.
- B. Obligations incurred by Reason of Lessee Default. 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 on behalf of Lessee, any such action. Lessee shall immediately 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 any such act or thing. Lessee's obligation to pay costs hereunder shall be deemed to be a non-standard administrative cost.

22. Notices.

- A. Notices. Any notice or demand given under the terms of the Lease shall be deemed given and delivered on the date when personally delivered, or if mailed, the date written notice is deposited in the United States Mail, and mailed by regular or certified mail, postage prepaid and properly addressed to the appropriate party.
- B. Addresses. Unless changed by notice in writing, any notice, demand, and communication under the Lease shall be addressed to Lessor at:

Idaho State Board of Land Commissioners
c/o Idaho Department of Lands
300 North 6th Street, Suite 103
PO Box 83720
Boise ID 83720-0050

and to Lessee at the address set forth at the beginning of the Lease. Any notice or correspondence mailed to Lessee at the last identified address shall be deemed effective delivery. It is Lessee's duty to notify Lessor, in writing, of any change in mailing address.

22. Waiver.

The waiver by Lessor of any breach of any term, covenant, or condition of this Lease 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 Lease. The acceptance of rent by Lessor hereunder shall not be construed to be a waiver of any term of this Lease. No payment by Lessee of any amount less than that due and owing, according to the terms of this Lease shall be deemed or construed to be other than a partial payment on account of the most recent rent due, nor shall any endorsement or statement of any check or letter accompanying any payment be deemed to create an accord and satisfaction.

23. Attorneys Fees and Costs.

In the event either party initiates a legal proceeding under the Lease, the prevailing party in that legal proceeding shall be entitled to such additional sums as the court may award for reasonable attorney fees (including fees from the Office of the Attorney General of the State of Idaho) and costs (including appraisal fees and expert fees) incurred in such proceeding, and on appeal.

24. Officials, Agents and Employees Not Personally Liable.

In no event shall any official, officer, employee or agent of the State be in any way personally liable or responsible for any covenant or obligation contained in this Lease, express or implied, nor for any statement, representation or warranty made in connection herewith.

25. Miscellaneous.

- A. Modification. The terms of the Lease, excluding the rent adjustments, may be modified only by the prior written consent of the authorized representatives of Lessor and Lessee.
- B. Appraisals and Valuations. Any appraisal or valuation by Lessor called for in this Lease shall be done by Lessor in accordance with applicable state laws and regulations, and the then-existing policy of Lessor, if any.
- C. Subject to Existing Leases/Easements. This Lease is expressly subject to any right-of-way permit, easement, lease or contract, including any present or future timber sale contract, that is now in force and effect, or that may hereafter be granted relating to the Leased Premises.
- D. Timber. This Lease does not authorize Lessee to cut any timber growing on the Leased Premises. Any unauthorized use of such timber by Lessee or with Lessee's knowledge or consent, shall result in termination of the Lease without notice and an opportunity to cure. Lessee shall be responsible for all damages incurred by reason of such breach, including treble damages for the value of any timber used or taken and all other damages. Said timber value will be determined by Lessor.
- E. Lessee's Non-Discrimination. Lessee shall not discriminate against any person because of race, creed, religion, color, sex, national origin or disability.
- F. Paragraph Headings. The paragraph headings, titles, and captions used in this Lease are not to be construed as interpretations, but are inserted for convenience and reference only.
- G. Entire Agreement. This Lease (including the Summary of Lease Provisions, Lease Provisions, Signature Pages and all Attachments) contains the entire agreement between the parties concerning the subject matter hereof and supersedes 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 expressly contained herein.
- H. Governing Law and Forum. This Lease shall be construed in accordance with and governed by the laws of the State of Idaho and the parties consent to the jurisdiction and venue of the Idaho State District Court located in Ada County in the event of any dispute with respect to this Lease or the Leased Premises
- I. Binding on Heirs and Successors. The Lease shall inure to the benefit of and be binding upon the heirs, executors, successors, sublessees, and assigns of the parties in accordance with the terms hereof.
- J. 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 or enforceability of the remaining provisions shall not in any way be affected or impaired.
- K. License/Authorizations. Lessee shall be responsible for paying any fees for any license or authorizations that may be required from other entities as required in the course of doing business as it relates to this Lease.

[Remainder of page intentionally left blank]

This Lease (including the Summary of Lease Provisions, Lease Provisions, Signature Pages, and all Attachments) is made and entered into by and between the State of Idaho, acting by and through Lessor, and Lessee.

LESSEE:

Date: _____
_____ [Lessee]

***REVIEW AND CHOOSE CORRECT NOTARY FOR SIGNING PARTIES – Identification-Signature-Block-And-Acknowledgments-2020-02-07**

STATE OF IDAHO)
)ss.
County of _____)

On this ___ day of _____, 20___, before me a notary public in and for said state, personally appeared [Lessee], known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by official seal the day and year first above written.

(seal)

Notary Public
Residing at: _____
My Commission Expires: _____

LESSOR:

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

COUNTERSIGNED:

Secretary of State

Director, Department of Lands

STATE OF IDAHO)
) ss.
County of Ada)

On this ____ day of _____, 20__, before me a Notary Public in and for said State, personally appeared **BRAD LITTLE**, known to me to be the Governor of the State of Idaho and President of the State Board of Land Commissioners, and **LAWRENCE E. DENNEY**, known to me to be the Secretary of State of the State of Idaho, and **DUSTIN T. MILLER**, known to me to be the Director of the Department of Lands of the State of Idaho, who executed the said instrument and acknowledged to me that such State of Idaho executed the same.

(Seal)

Notary Public for the State of Idaho
Residing at: _____
My Bond expires: _____

ATTACHMENT A
SPECIAL TERMS AND CONDITIONS

Template

ATTACHMENT B

LEGAL DESCRIPTION OF LEASED PREMISES

Template

ATTACHMENT C

Site Map(s)

Template

ATTACHMENT D

This form must be submitted whether or not gross receipts rent is due.



GROSS RECEIPTS REPORT FOR _____ (year)

Reporting Period: January 1, _____ - December 31, _____

REPORT DUE BY APRIL 1, _____(year)

Instrument Holder:	Instrument #:
--------------------	---------------

GROSS RECEIPTS CALCULATION:

	USE: _____	
1.	20__ (year) Gross Receipts	\$0.00
2.	Gross Receipts Multiplier	0.0%
3.	20__ (year) Gross Receipts. Multiply line 1 by line 2 and enter on line 3.	\$0.00
	Adjusted Gross Receipts - Base Rent Amount	\$0.00
4.	If amount on line 3 is greater than base rent, subtract base rent from line 3 and enter amount on line 4.	\$0.00
	If amount on line 3 is equal to, or less than base rent amount, enter zero on line 5.	
5.	SUBMIT PAYMENT FOR THIS AMOUNT	\$0.00
6.	Late Payment Charge: If payment is not received by the due date, Lessee shall pay 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 gross receipts, whichever is greater. For each subsequent calendar month of such delinquency, Lessee shall pay an additional late charge equal to one percent (1%) of the then unpaid delinquency.	\$0.00
7.	SUBMIT PAYMENT FOR THIS AMOUNT If payment not received by due date of April 1, 20__, add amount on line 5 to line 6 and enter amount on line 7.	\$0.00

I hereby certify that the above amount accurately and correctly states the gross receipts for the above-referenced lease site and use to the best of my knowledge.

SIGNED: _____ DATE: _____

Please mail the completed form to the IDL at: <Area Office>, <Area Address>

***** Area and Bureau Office Use Only *****

(IDL Date Stamp)

Form Distribution: IDL L&W Division
Area Office

ATTACHMENT E

EXISTING IMPROVEMENTS

Improvements on the site as of _____ belonging to _____ are as follows:

Area- please let us know if anything needs to be included in this section or if this is not applicable.

Template