



STATE OF IDAHO
COMMERCIAL LEASE NO. MXXXX
XXXXXXXXXXXX PROJECT

Lessor: STATE OF IDAHO, State Board of Land Commissioners
c/o State of Idaho, Department of Lands
300 N. 6th Street
Boise, ID 83720-0050
Phone No.: (208) 334-0200
Facsimile No.: (208) 334-5342 or (208) 334-3698
Email: CommercialProgram@idl.idaho.gov

Lessee: Name:
c/o
Address
City, State Zip Code
Phone No.:
Facsimile No.:
Email:

Leased Premises: See legal description and map attached as Attachments B and C, respectively.

Existing Conditions: Lease is subject to existing conditions identified in Attachment D.

Lease Term: _____ Years, beginning _____, and terminating on _____.

Annual Rent, including See Article 5, herein.

Commencement Fee: _____, as more fully described in Article 5, herein.

Required Security: XXXXXXXX

Commercial General Liability Insurance: Combined single limit per occurrence, not less than \$3,000,000;
Each annual aggregate limit shall not be less than \$3,000,000; as more fully described in Article 9.

Index: Summary
Commercial Lease No. MXXXX Provisions
Signature Pages
Attachment A – Special Terms and Conditions
Attachment B – Legal Description of Leased Premises
Attachment C – Site Map(s)
Attachment D – Existing Conditions
Attachment E – Annual Rent Schedule

***This Summary Page 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, the Lease will control.**

**STATE OF IDAHO
COMMERCIAL LEASE FOR XXXXXXXX GROUND LEASE PROJECT
LEASE No. XXXX**

This Lease No. XXXX ("Lease"), is dated as of the last signature of the Parties ("**Execution Date**"), and effective as of the 1st day of January, _____ ("**Effective Date**"), and is made by and between the **IDAHO STATE BOARD OF LAND COMMISSIONERS**, whose administrative agency is the **IDAHO DEPARTMENT OF LANDS** ("**Lessor**"); and XXXXXXXX, a _____ duly organized under the laws of _____, and authorized to do business in the State of Idaho ("**Lessee**"). Lessor and Lessee are collectively referred to herein as the "**Parties**" and individually as a "**Party**".

In consideration of the Parties' covenants, the conditions contained in this Lease, and Lessee's payments of Rents and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1 - DEFINITIONS

1. Definitions. Definitions in Title 58, Chapter 3, Idaho Code must be applied to and govern words and phrases used in this Lease. Where words and phrases are specifically defined within this Lease and not in statute, such words and phrases will be given the identified and defined meaning throughout this Lease.

1.1 "**Across**" means into, on, over, across, along, above, and below the Leased Premises.

1.2 "**Affiliated Party**" means a subsidiary, parent company, or any other entity that Lessee, or an owner of Lessee, has a financial interest in, by an ownership interest of ten percent (10%) or more.

1.3 "**Board**" means the Idaho State Board of Land Commissioners or its designee, including IDL.

1.4 "**Construction Plan**" shall have the meaning and application as provided in Sections 4.2 and 6.3.

1.5 "**Decommissioning and Reclamation Plan**" shall have the meaning and application as provided in Sections 4.4 and 6.4.

1.6 "**Default Rate**" means the legal rate of interest under Idaho Code § 28-22-104(1).

1.7 "**Effective Date**" shall have the meaning stated above.

1.8 "**Execution Date**" means the date of the last signature of the Parties.

1.9 "**Government Approvals**" means any licenses, permits, and approvals of any kind that may be required by any applicable governmental authority with jurisdiction, including, but not limited to, building permits in conformance with all applicable laws, rules, regulations and ordinances (including, but not limited to local planning and zoning ordinances).

1.10 "**Gross Annual Revenue**" means the aggregate total revenue in money and the value of any other consideration actually received by Lessee, a sub-lessee, or Affiliated Party during a calendar year from any of the following: i) the sale of services or goods by Lessee, a sub-lessee, or Affiliated Party, generated from the Leased Premises; ii) the gross proceeds or other cash benefits received in connection with, under, or derived from any legal agreement, contract, compromise, settlement, judgment, or arrangement for or relating to the sale, use, or other disposition of services or goods generated or capable of being generated from the Leased Premises; and iii) proceeds from Lessee's business interruption insurance required under Section 9.1 of this Lease, where such proceeds represent lost income from operations on the Leased Premises. Gross Annual Revenue shall not include any proceeds received from

the sale, lease, financing, or other disposition of any Improvements. All costs of any type must be borne by Lessee, and no costs will reduce the Gross Annual Revenue or any Rents due to Lessor, directly or indirectly.

1.11 **"Hazardous Materials and Waste Management Plan"** and **"HMWMP"** shall have the meaning as provided in Article 13.

1.12 **"Hazardous Substance"** and **"Hazardous Substances"** mean any chemicals, materials, substances, pollutants or contaminants, including petroleum, crude oil, petroleum wastes, motor fuels and lubricants, radioactive materials, hazardous wastes, toxic substances, asbestos, PCBs, lead paint, or any other material similarly defined or listed as hazardous, toxic, dangerous, or a similar term, in all applicable Environmental Laws, as identified in Section 2.2.7 and Article 13.

1.13 **"IDL"** means the Idaho Department of Lands.

1.14 **"Improvements"** means all buildings or structures, roads and access driveways, signage or advertising structures, and any other change to the Leased Premises necessary for Lessee to construct, install, use, operate, monitor, maintain, repair, replace, relocate, reconstruct, or remove operational facilities in a manner consistent with the terms of the Lease.

1.15 **"Including"** and **"includes"** mean including, but not limited to.

1.16 **"Lease Year"** means the period of time between midnight on the Effective Date or the anniversary of the Effective Date, and the moment immediately preceding midnight on the day before the next anniversary of the Effective Date.

1.17 **"Mortgage"** or **"Leasehold Mortgage"** mean either, or both, a leasehold mortgage or a security interest in personal property, as permitted under Article 10.

1.18 **"Project"** means the XXXX Project to be located in County, Idaho.

1.19 **"Rent"** and **"Rents"** mean all of the amounts to be paid by Lessee to Lessor, individually and collectively, in accordance with Article 5.

1.20 **"Lessor's Share"** mean Lessor's share of all Gross Annual Revenue from the Leased Premises, free of any and all of Lessee's costs, either direct or indirect, and in accordance with Article 5.

1.21 **"State"** means the State of Idaho and its departments, boards, commissions, agencies and employees.

1.22 **"Unreasonably interfere"** means an action or decision that will impair the ability to operate the Improvements.

ARTICLE 2 - LEASED PREMISES; GRANTS; RESERVATIONS

2.1. Lessor's Grant of Rights to Lessee.

2.1.1. Grant. Lessor hereby grants to Lessee the exclusive right and privilege to engage in or direct development activities and use the surface and subsurface of specific lands located in County, State of Idaho, containing acres, more or less, and more particularly described in Attachment B, which is incorporated herein by this reference (**"Leased Premises"**), together with the rights and privileges for the use and occupancy, as provided for or limited in Sections 2.1 and 2.2 of this Lease.

A. *Supplemental Legal Description*. Lessee may provide Lessor with a supplemental

description of the Leased Premises with a metes and bounds description of the Leased Premises prepared by Lessee's surveyor. Following Lessor's review and approval of the supplemental description, the Parties will include it as part of Attachment B without requiring a written modification of this Lease pursuant to Section 15.12.

B. *Exclusivity.* By Lessor's grant of the exclusive right and privilege to engage in or direct development activities and use the surface and subsurface lands identified as the Leased Premises, as set forth above in this section, Lessee holds the rights and opportunities to maintain [REDACTED] uses across the Leased Premises and to otherwise develop the Leased Premises for the purpose of constructing [REDACTED], all to the exclusion of any person other than Lessee, and Lessee's successors or assignees. Lessee's exclusivity will not be construed as precluding Lessor's grant of other leases and uses that do not conflict or interfere with Lessee's rights under this Lease.

C. *Grants to Other Users.* Lessor shall not permit any activities on the Leased Premises that will unreasonably interfere with Lessee's authorized uses of the Leased Premises, as stated in this Lease.

2.1.2. Conditions of Grant. Lessor's grant is made subject to Lessor's reservations set forth in Section 2.3, below, and the following conditions:

A. Lessee agrees to take the Leased Premises as is, and subject to all existing encumbrances or conditions affecting the Leased Premises, including those listed on Attachment D, and any other easements, leases, permits, licenses, and prior encumbrance or other contract from Lessor, of any kind whatsoever.

B. Lessee agrees to take the Leased Premises subject to any geological deficiencies or limitations that a survey, physical inspection, or exploration might show; and all conditions, restrictions, and limitations appearing of public record.

C. Lessee's performance of and compliance with all the terms and conditions contained in this Lease.

D. Lessee's compliance with and performance of all Environmental Laws and other applicable Government Approvals relating to, or imposing liability or standards of conduct, presently in effect or that may be promulgated or amended in the future, concerning Lessee's [REDACTED] uses, all Improvements, and any resulting or related Hazardous Substances.

2.1.3. Title: No Warranty.

A. This Lease is issued only under such title as the State may have as of the Effective Date or as may be subsequently acquired. Lessee shall be solely responsible for satisfying itself with respect to the ownership of the Leased Premises. If Lessor is subsequently divested of said title, no liability shall be incurred by Lessor by virtue of this Lease for any loss or damage to Lessee. Nor shall any claim for refund of any bonus bid, Rent, or Lessor's Share paid to Lessor be made by Lessee, its successors or assignees.

B. Lessee acknowledges that neither Lessor, nor any agent or representative of Lessor or of the State, has made any representation or warranty whatsoever, express or implied, with respect to the title, merchantability, or fitness of the Leased Premises for any particular purpose or use, including specifically the use for which this Lease is granted. Lessee accepts the Leased Premises in its "as is" condition. In entering this Lease, Lessee relies solely upon Lessee's own inspection of, and due diligence regarding, the Leased Premises.

C. The provisions of this Section 2.1.3 will survive the termination of this Lease.

2.1.4. Lessee's Costs. Lessee acknowledges that all costs, of any kind, to develop, construct, operate on, decommission, and reclaim the Leased Premises related to Lessee's intended uses are the responsibility of Lessee. Lessor will not financially contribute to Lessee's costs for any reason.

2.2. Lessee's Use of the Leased Premises.

2.2.1. Permitted Uses. Lessee is entitled to use and occupy so much of the Leased Premises as may be required for all purposes reasonably incident to [REDACTED] use, subject to Lessor's reservations in Section 2.3, including the following:

- A. Determining the feasibility of [REDACTED] use, specifically for [REDACTED].
- B. Constructing, installing, using, replacing, relocating, reconstructing, removing from time to time, monitoring, maintaining, repairing, operating, decommissioning, and reclamation of Improvements.
- C. The installation, use, repair, replacement, and removal of underground and above-ground wires and cables used for the transmission of electrical energy or for communication purposes for the Project. The installation, use, repair, replacement, and removal of all necessary appliances and fixtures for use in connection with said wires and cables.

2.2.2. Not Self-Executing. These use and occupancy rights are not self-executing. Lessee must inform Lessor of upcoming development activities prior to beginning work on any Improvements.

2.2.3. Dwelling Rights. Lessee may not establish any permanent residence, dwelling, or place of abode of any type, on the Leased Premises without the express prior permission from Lessor in a separate written contract that will govern any such additional use of the Leased Premises. For purposes of this Lease provision, a permanent residence is any structure that any person will use for shelter, sleep, or to keep personal property for a timeframe of three (3) months or longer, irrespective of occasional absences.

2.2.4. Ownership of Improvements; Exception. Throughout the Lease Term, and separate from any option of Lessor, Lessor shall have no ownership or other interest in any Improvements, other than roads and appurtenances thereto. Lessee may remove any or all such Improvements, but not roads or appurtenances thereto, at any time in accordance with the terms of this Lease, including Sections 2.3.4 and 7.2.

2.2.5. No Waste or Nuisance.

A. Lessee shall not use the Leased Premises in any manner that would constitute waste or create a nuisance; nor shall Lessee allow any of the same to be committed on the Leased Premises.

B. Lessee shall not excavate or remove material, including sand, gravel, or other aggregate, from the Leased Premises, nor deposit material upon the Leased Premises other than as is necessary for the construction of Improvements according to the Construction Plan required in Section 6.2. The natural characteristics of the Leased Premises, including the topographical, hydrological, and natural drainage must be considered and preserved to the greatest extent possible when Lessor determines that such consideration and preservation is in the best interest of the Leased Premises. Excavation or deposit of material for construction of Improvements on the Leased Premises must be limited to excavation or deposit at the location of the Improvements, and only such excavation or deposit necessary to prepare the location for placing the Improvements thereon will be allowed. Only clean, non-contaminated, natural fill materials, free of weed seed, may be brought onto the Leased Premises. Lessee must address disposition of material excavated from the Leased Premises in the Construction Plan.

2.2.6. Compliance with Environmental Laws and Government Approvals.

A. Lessee shall, at all times, comply with the following environmental laws and any other Government Approvals relating to or imposing liability or standards of conduct concerning Hazardous Substances (collectively “**Environmental Laws**”) presently in effect or that may be passed or amended in the future, which now or at any time in the future may be applicable to the Project:

- i. Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901, *et seq.*;
- ii. Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601, *et seq.*;
- iii. Clean Air Act, 42 U.S.C. § 7401, *et seq.*;
- iv. Federal Water Pollution Control Act (Clean Water Act of 1977), 33 U.S.C. § 1251, *et seq.*;
- v. Federal Insecticide, Fungicide, and Rodenticide Act (Federal Pesticide Act of 1978), 7 U.S.C. § 136, *et seq.*;
- vi. Toxic Substances Control Act, 15 U.S.C. § 2601, *et seq.*;
- vii. Safe Drinking Water Act, 42 U.S.C. § 300f, *et seq.*; and
- viii. Hazardous Materials Transportation Act, 49 U.S.C. § 1801, *et seq.*

B. Lessee shall, at all times, comply with all other applicable Government Approvals relating to or imposing liability or standards of conduct for the Project, the Leased Premises or any part thereof, or to any adjoining waterways, roads, sidewalks, streets, or walkways to the extent applicable to Lessee or Lessee's activities, or to any material use or condition of the Leased Premises or any part thereof.

C. In accordance with Idaho Code § 58-307(4), Lessee and Lessor will consult with the county commissioners of [REDACTED] County before the Effective Date regarding local planning and zoning ordinances, to assist Lessee's uses of the Leased Premises, subject of this Lease, to be consistent with the local planning and zoning ordinances insofar as is reasonable and practicable.

2.2.7. Use of Leased Premises Mineral Deposits. Lessee shall not extract for use off the Leased Premises, or for use on the Leased Premises other than to backfill excavated locations, any minerals from the Leased Premises, including sand, gravel, or other aggregate without first entering into a separate written contract, including a royalty schedule, which will govern such additional use of resources from the Leased Premises. Mineral extraction operations and reclamation may be included in the Construction Plan required in Section 6.2, or may be specified through a separate reclamation plan.

2.3. Lessor's Reservation of Rights. Lessor expressly reserves and excepts the following rights from this Lease:

2.3.1. Right of Entry. Lessor retains the right to enter upon the Leased Premises at any time during the Lease Term for any purpose. Lessor retains the right to inspect the Leased Premises, including any Improvements upon reasonable notice to Lessee; provided that Lessor shall provide at least 48 hours' notice prior to entry.

2.3.2. Resources and Fee Title. Lessor retains all rights to all water, timber, oil and gas, minerals, solar, geothermal, easements and rights-of-way, and fee title to the Leased Premises. Notwithstanding the foregoing, Lessee has the right to use sand, gravel, or other aggregate located on the Leased Premises in accordance with Section 2.2.7.

2.3.3. Grant of Easements, Licenses, Permits, Leases, and Other Leased Premises Interests.

A. Subject to the prohibition on Lessor to permit obstructions, Lessor retains the right to grant and issue easements, licenses, permits, leases, and any other property interest across the Leased Premises, provided said easements, licenses, permits, and leases do not unreasonably interfere with Lessee's use pursuant to this Lease, or with the permitted Improvements installed, maintained, or operated by Lessee upon the Leased Premises. Lessor must notify and consult with Lessee before, in Lessor's discretion, granting or issuing any new easement, license, permit, or lease on the Leased Premises

B. It shall be Lessee's duty to "fence out" or otherwise preclude entrance to any Improvements that either Party reasonably determines a need to preclude other users. Any fence or other method of preclusion must first be approved by Lessor, which approval shall not be unreasonably withheld, conditioned, or delayed.

2.3.4. Ownership of Roads and Appurtenances. Upon termination of this Lease for any reason, all interests of Lessee in all roads and appurtenances shall terminate and Lessor will be the sole owner of all roads and appurtenances thereto constructed by or for Lessee across the Leased Premises; provided however, that if Lessor determines, in its sole discretion, that any road or appurtenance thereto constructed by Lessee should be removed and the land reclaimed, then Lessee must remove any such roads and appurtenances, and reclaim the land pursuant to the Decommissioning and Reclamation Plan, or as directed by Lessor.

2.3.5. Changes in Use for the Protection of Health and Safety. Lessor retains the right to require changes to Lessee's Construction Plan for the protection of public health and safety, or preservation of the Leased Premises or its environmental characteristics.

2.3.6. Reservation of Water Rights and Use. Lessor reserves as its sole property any and all water from any source arising on, or placed in beneficial use on, the Leased Premises and to hold all water rights for any beneficial use that may develop as a result of this Lease. However, Lessee shall have use of such water, if approved in the Construction Plan, during the term of this Lease.

2.3.7. Right of Ingress and Egress. Lessor reserves the right of access, and ingress and egress across the Leased Premises including by way of any existing road or any road constructed by or for Lessee during the Lease Term. Use of any such road by Lessor or its agent must not unreasonably interfere with Lessee's activities with regard to the Leased Premises, and such use may include Lessor's compliance with accessing and closing gates accessing fenced or restricted areas.

2.3.8. Closure of Roads. Lessor reserves the right to close Lessor's roads to or within the Leased Premises for any period reasonably necessary for road protection, fire suppression, public safety, water quality protection, wildlife and fish critical habitat protection, or administrative purposes deemed necessary by Lessor. If possible, Lessor will give Lessee notice of any planned road closure at least sixty (60) days in advance of any such closure. Lessor must make reasonable efforts to limit the term of any emergency road closures to the period necessary to resolve the emergency.

2.3.9. Closure of Operations. Lessor reserves the right, in situations of imminent danger to life or property, upon such notice as is reasonable in the circumstances, to require Lessee to cease operations on the Leased Premises, without compensation to Lessee. Closure of operations may be determined by IDL, or in coordination with another government agency, to protect public safety, the environment, or endowment assets, including for fire suppression on the Leased Premises or adjacent lands.

2.3.10. Sale or Exchange of Leased Premises.

A. Lessor may sell or exchange title in all or any portion of the Leased Premises during the Lease Term. In the event of such sale or exchange, this Lease shall not terminate. Lessor shall assign to the purchaser all of Lessor's rights, title, interests, and obligations under this Lease. Lessor's assignee shall assume full performance of Lessor's obligations for the remaining duration of the Lease Term, and any that survive termination of this Lease.

B. If Lessor sells or exchanges title in less than the entire Leased Premises, and such portion, or portions, are not material to Lessee's use of the Lease Premises, the Parties may agree to modify this Lease and remove such portion, or portions, from the Leased Premises; thereby, precluding the need of assignment to the purchaser.

C. Lessor will notify Lessee that the Leased Premises is being considered for disposition at least one hundred eighty (180) calendar days in advance of any auction or any exchange closing.

2.3.11. Rights Not Expressly Granted. Lessor reserves all rights and privileges of every kind and nature, except as specifically granted in this Lease.

ARTICLE 3 – TERMS OF LEASE; TERMINATION

3.1. Term of Lease. Subject to the other provisions of this Lease, the term of this Lease shall be for a period of [REDACTED] years, beginning on the Effective Date and ending at 11:59 p.m. on December 31, [REDACTED] (“Lease Term”).

3.2. New Lease. If Lessee has fully complied with the terms and conditions of this Lease, and is not 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 the Lease Term ends, 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 will 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 lessee of a new lease for the Leased Premises, then Lessee shall, prior to the termination of this Lease, vacate the Leased Premises, and Lessee shall be paid the value of the approved Lessee-owned Improvements by the successful new lessee.

3.3. Use of Phases. The Lease Term will be separated into phases, more particularly described in Article 4.

3.4. Termination.

3.4.1. Termination by Lessor for Lessee's Default and Failure to Cure.

- A. *Events of Default.* Lessor will provide Lessee with a written notice of default in the event any of the following events of default occur (“**Notice of Default**”). Lessee shall be in default of this Lease if any one or more of the following occurs:
- i. Lessee fails to pay Lessor the applicable, Annual Rent amount when due;
 - ii. Lessee fails to pay any other Rents in accordance with Article 5, performance security in accordance with Article 8, or other amount to Lessor when due;
 - iii. Lessee fails to pay, or contest in compliance with Section 11.2, any tax assessment, or other government fee when due;
 - iv. Lessee fails to complete a phase prior to the conclusion of its period, as more particularly described in Article 4, without the prior written approval of Lessor;
 - v. Lessee fails to observe or perform any other obligation, covenant, condition, or undertaking set forth in this Lease;
 - vi. Lessee fails to obtain any Governmental Approvals necessary for activities during, and upon completion of, any phase described in Article 4;
 - vii. Lessee violates any applicable Environmental Laws or Government Approvals;

- viii. Lessee makes an assignment or other transfer for the benefit of its creditors in anticipation of or preparation for commencing a proceeding in bankruptcy;
 - ix. Lessee becomes insolvent or proceedings in bankruptcy or for liquidation, reorganization, or rearrangement of Lessee's affairs are instituted by or against Lessee;
 - x. A receiver or trustee is appointed for all or substantially all of Lessee's business or assets;
 - xi. A trustee is appointed for Lessee after a petition has been filed for Lessee's reorganization under the United States Bankruptcy Code, or if this Lease has been rejected under § 365 of the United States Bankruptcy Code;
 - xii. Lessee makes an assignment, sublease, novation, or other transfer of this Lease in any manner contrary to Article 10 or Article 14;
 - xiii. Lessee allows or causes a lien or encumbrance of any kind to be placed, filed, or recorded against the Leased Premises in any manner contrary to Article 12; or
 - xiv. Lessee fails to complete either the Phase 1 Benchmark or Phase 2 Benchmark.
- B. *Duty to Cure.* Lessee shall cure every default set forth in the Notice of Default within the following timeframes:
- i. In the event of Lessee's failure to pay any amount due to Lessor, such as the events of default at Subsection 3.4.1.A.i and ii above, Lessee shall cure any such default, including payment of any and all late charges and interest, within thirty (30) calendar days from the date of the Notice of Default.
 - ii. In the event of bankruptcy or receivership that is the result of an action brought against Lessee and without Lessee's concurrence, Lessee shall have ninety (90) calendar days from the commencement of the proceeding, to have the same dismissed and any receiver or trustee appointed therein discharged.
 - iii. In the event of Lessee's violation of, or failure to obtain, any Governmental Approvals necessary for any activity during any phase of this Lease, Lessee shall have ninety (90) calendar days from the date of the Notice of Default to demonstrate that such Governmental Approvals have been obtained, are not necessary, or to seek such Government Approvals. If such Government Approvals are necessary for Lessee's activities and are not obtained, then Lessor shall have the right, without limitation, to require Lessee to cease activities related to the satisfaction of Lessor, in its reasonable direction.
 - iv. Except as otherwise stated in this Lease, Lessee shall cure every default set forth in the Notice of Default within sixty (60) calendar days from the date of the Notice of Default. If Lessee has, within the cure period, diligently and in good faith worked to correct the default, then Lessor shall extend the cure period for a length of time that Lessor believes to be reasonably necessary to complete the cure. Any such extension will be contingent upon Lessee's continued diligence toward a cure throughout the cure period.
 - v. All cure periods shall run concurrently and not consecutively.
- C. *Failure to Cure.* In the event of any default by Lessee, which is not cured within the applicable cure period, if any, and subject to the terms of Article 10, Lessor

may terminate this Lease; may enforce any or all violations against Lessee; may seek resolution by judicial action or otherwise; and may seek any single, combination of, or any and all remedies available at law or in equity. Lessor's pursuit of any particular right or remedy for a failure to cure, and any resulting breach of this Lease, shall not, in and of itself, constitute a waiver or relinquishment of any other claim or remedy against Lessee. Lessor may, in its sole discretion, pursue any, all, or none of the following:

- i. Terminate this Lease and re-enter upon all or any part of the Leased Premises, either with or without process of law, Lessee hereby waiving any demand for possession, and remove Lessee and any persons or property from the Leased Premises, with all such costs becoming the sole obligation of Lessee;
 - ii. Re-lease the whole, or any part or parts of the Leased Premises, either in the name of Lessor or otherwise, for less than or the balance of the Lease Term, and grant concessions or charge a higher Rent than that in this Lease.
 - iii. Remit payment on any tax, assessment, or other governmental fee due by Lessee. In that event, Lessee shall, upon Lessor's demand repay to Lessor the amounts so paid, reasonable attorney fees and all other court costs, and any other expenses incurred because of or in connection with such payments, together with interest at the Default Rate until paid in full;
 - iii. Pursue judicial action to collect from Lessee damages incurred by or resulting to Lessor from Lessee's failure to observe and perform any term, condition, covenant, duty, or obligation of this Lease;
 - iv. Allow the Lease to remain in full force and effect while enforcing any or all of Lessor's rights and remedies; or
 - v. Remove any or all of Lessee's property or Improvements and store the same at Lessee's expense or require Lessee to remove the same.
- D. *Liability for Damages.* The failure of Lessor to re-lease the Leased Premises or any part or parts of it after a termination due to Lessee's uncured default, shall not release or affect Lessee's obligations under this Lease or liability for damages. In computing such damages, there shall be added to the amount due any expenses incurred by Lessor in connection with re-leasing, including: legal expenses, reasonable attorney fees, brokerage fees, advertising costs, cost to keep the Leased Premises or Improvements in good order, or for preparing the Leased Premises or Improvements for re-leasing. Any such costs shall be considered and included as Rents to be paid by Lessee. Any judicial action brought to collect the amount of the deficiency for any period shall not prejudice in any way the rights of Lessor to collect the deficiency for any subsequent period by a similar proceeding. Lessor, in putting the Leased Premises in good order or preparing the same for re-leasing may, at Lessor's option, make such alterations, repairs, or replacements to the Leased Premises or Improvements as Lessor, in Lessor's sole discretion, considers advisable and necessary for the purpose of re-leasing the Leased Premises. The making of such alterations, repairs, or replacements shall not operate or be construed to release Lessee from liability pursuant to this Lease. Lessor shall in no event be liable in any way whatsoever for failure to re-lease the Leased Premises; or in the event that the Leased Premises are re-leased, for failure to collect the Rent due by Lessee under such re-lease contract; and in no event shall Lessee be entitled to receive any excess, if any, of such net Rents collected over the sums payable by Lessee to Lessor. In the event of a breach or threatened breach by Lessee of any of the covenants or provisions of this Lease,

Lessor shall have the right of injunction and the right to invoke any remedy allowed at law or in equity as if re-entry, summary proceedings, and other remedies were not herein provided for. The mention in this Lease of any particular remedy shall not preclude Lessor from any other remedy, in law or in equity. Lessee hereby expressly waives any and all rights of redemption granted by or under any present or future laws in the event Lessee is evicted or dispossessed for any cause, or in the event Lessor obtains possession of the Leased Premises, by reason of a default and failure by Lessee to cure any of the covenants and conditions of this Lease, or otherwise.

3.4.2. **Surrender by Lessee Upon Termination.** Upon termination of this Lease for any reason, Lessee must quietly and peaceably surrender possession of the Leased Premises to Lessor. Within ninety (90) calendar days of termination, unless otherwise set forth in **Section 6.3.3**, Lessee must remove from the Leased Premises all materials, tools and machines, and other Improvements, with the exception of any roads or appurtenances that Lessor determines will remain. Anything subject to removal, but not removed, will be deemed abandoned and, at Lessor's option, will be deemed transferred to, and shall immediately vest in and become, the property of the State by operation of law without any further action required by Lessor; or Lessor may require Lessee to remove it; or Lessor may cause the same to be removed at Lessee's sole cost and expense.

3.4.3. **Reclamation of Leased Premises.** Prior to or upon termination of this Lease, Lessee shall complete reclamation of the Leased Premises in accordance with the provisions of this Lease, including **Article 4**, and the Decommissioning and Reclamation Plan accepted by Lessor as provided in **Article 6**.

3.5. Lessee's Continuing Obligations. All obligations of Lessee and any surety of Lessee pursuant to this Lease, which accrue during the Lease Term, or which accrue upon the termination of this Lease, shall survive the termination of this Lease.

3.6. All Rights Return to Lessor. Upon termination of this Lease for any reason, all rights granted to Lessee will return to Lessor.

ARTICLE 4 – LEASE PHASES

[Project dependent]

ARTICLE 5 – ANNUAL RENT; LESSOR'S SHARE; ADDITIONAL PAYMENTS

[Project dependent]

ARTICLE 6 – PLANS

[Project dependent]

ARTICLE 7 – TITLE TO IMPROVEMENTS; USE; REQUIRED MAINTENANCE; REMOVAL

7.1. Title to Improvements.

7.1.1. **Title During Lease Term and Upon Early Termination.** Title to all Improvements constructed by or at the request of Lessee shall remain in Lessee during the Lease Term. Upon the termination of this Lease, all Improvements shall be removed by Lessee and the Leased Premises restored by Lessee pursuant to the approved Decommissioning and Reclamation Plan, unless Lessor exercises its

option to acquire title pursuant to [Sections 2.3.4 or 7.1.2](#).

7.1.2. Title Upon Termination for Uncured Default. Upon the termination of this Lease for Lessee's uncured default, as provided herein, and at Lessor's sole option, title to the Improvements shall vest in Lessor by operation of law without any further action required by Lessor if Lessee has not removed all Improvements within nine (9) months of such termination, weather permitting, and completed the requirements of the Decommissioning and Reclamation Plan. Lessee, or Lessee's successor-in-interest, shall prepare and record any documents that Lessor may require to evidence such ownership in Lessor. Any security interest in the personal property constituting the Improvements is subject to the terms of this [Article 7](#).

7.1.3. Further Disposition of Title. In the event Lessor leases the Leased Premises to a new lessee for continued uses consistent with the Lease and following the termination of this Lease for uncured default, Lessor shall sell the Improvements to the new lessee. Lessor shall apply the proceeds of such sale first to any Rents due and owing from Lessee at the time of the sale, next to reimbursement for all costs related to such sale, and last will pay the remainder, if any, to Lessee, or Lessee's successor-in-interest. Upon payment to Lessor, title to such Improvements shall vest in the new lessee and be subject to the terms of the State's lease with the new lessee. The value of the Improvements shall be as agreed between Lessor and Lessee, or Lessee's successor-in-interest; provided however, that if the Parties are unable to agree, the value shall be determined through an independent appraisal that determines the current market value of the Improvements. Lessee, or Lessee's successor-in-interest, and Lessor shall each be responsible for one-half (1/2) of the cost of such appraisal, which may be recovered by Lessor as a cost of sale.

7.2. Removal. Lessee must not remove Improvements from the Leased Premises without Lessor's prior written approval, which will not be unreasonably withheld or conditioned, other than as is necessary for modification or replacement of such Improvements, as is routine in Lessee's ordinary course of business. Lessee must continue to maintain and restore or replace Improvements on the Leased Premises sufficient to maintain Lessee's operations. Any Improvements at or near the end of their useful life, which are not necessary for operations, may be removed by Lessee in accordance with the Decommissioning and Reclamation Plan or as approved by Lessor.

7.3. Use and Operation of Improvements. Use and operation of the Improvements on the Leased Premises shall be in conformance with the terms of this Lease and shall comply with all applicable federal, state and local laws and rules, and safety standards whether currently existing, amended, or enacted during the term of this Lease, including Environmental Laws.

7.4. Maintenance of Improvements. During the Lease Term, Lessee, at its sole expense, shall keep and maintain all of the Improvements, in good condition and repair; and shall make all necessary repairs, replacements, and renewals, whether structural or nonstructural, foreseen or unforeseen, ordinary or extraordinary, in order to maintain such state of repair and condition. It is the intention of the Parties that Lessor shall have no liability for any of the foregoing. Lessee will not be required to restore, repair, or replace any Improvements that are at or near the end of their useful life unless it is necessary to maintain Lessee's operations. Lessee, at Lessee's expense, shall be responsible for all Improvements, additions, alterations, maintenance, and repairs necessary or appropriate such that the Leased Premises and all Improvements are in compliance with applicable law. Lessee waives any provisions of applicable law that may require any duty of repair by Lessor, or permit Lessee to make repairs at the expense of Lessor.

7.5. Repair and Replacement: Damaged Improvements.

7.5.1. Continuation of Lease. Except as provided in [Section 15.5](#), no loss or damage by fire or any other cause resulting in either partial or total destruction of the Leased Premises, or of any Improvements now or hereafter located in or on the Leased Premises, or any fixtures, equipment, or machinery used, or intended to be used, in connection with the Leased Premises or the Improvements thereon, may operate to terminate this Lease or to relieve or discharge Lessee from the payment of any Rents due or payable under this Lease, or from the performance and observance of any of the agreements,

covenants and conditions contained in this Lease to be performed and observed by Lessee.

7.5.2. Restoration. In the event of any damage by fire or any other cause resulting in either the partial or total destruction of any Improvements now or hereafter located in or on the Leased Premises, or any fixtures, equipment, or machinery used, or intended to be used, in connection with the Leased Premises or the Improvements, Lessee shall, at its sole expense and whether or not the insurance proceeds, if any, on account of such damage or destruction shall be sufficient for the purpose, promptly commence and complete the restoration, replacement, or rebuilding of the Improvements, fixtures, equipment, or machinery, as nearly as possible to its value, condition, and character immediately prior to such damage or destruction.

7.5.3. Application of Insurance Proceeds. Insurance proceeds paid on account of any damage to or destruction of the Leased Premises, or any Improvements, shall be applied first to restoration of the Improvements, and any associated, material fixtures, equipment, or machinery. Lessor may elect to require that such insurance proceeds be paid into a depository chosen by Lessor and held pending payment of costs and expenses of restoration of both the Leased Premises and relevant Improvements.

7.6. **Cooperation with Governmental Agencies and Third Parties**. As provided in this Lease, Lessor shall timely act in its review of, or response to, information or requests for information related to the Project. An authorized representative of IDL will participate in meetings with government agencies or other third parties regarding the Project, at Lessee's request, or when otherwise deemed appropriate by IDL. Lessor will assist in the provision of public records that may relate to the Leased Premises or the Project, at Lessee's request, or when otherwise deemed appropriate by IDL.

7.7. **Cooperation with Lenders**. Within thirty (30) calendar days of receipt of request from Lessee, or from any existing or proposed lender of Lessee, Lessor shall execute an estoppel certificate i) certifying that this Lease is in full force and effect and has not been modified, or, if the same is not true, stating the current status of this Lease; ii) certifying to the best of Lessor's knowledge there are no uncured events of default under this Lease, or, if any uncured events of default exist, stating with particularity the nature thereof; and iii) containing any other certifications as may be requested. Any such statements may be conclusively relied upon by Lessee or any existing or proposed lender.

ARTICLE 8 – PERFORMANCE SECURITY

8.1. **Performance Security Generally**

8.1.1. Acceptable Types of Security. Acceptable types of security under this Lease include bonds, irrevocable letters of credit ("**Letters of Credit**"), cash bonds, or cash (collectively or individually "**security**"). All security must be in a form acceptable to Lessor and conditioned on Lessee's compliance with the following: all laws and rules of the State, all provisions of this Lease, and any terms or conditions imposed by any State agency. All bonds must be issued by an Idaho qualified U.S. Bonding Corporation, and any Letters of Credit must be issued by an FDIC insured bank located in the state of Idaho or with an approved intermediary facilitating bank located in Idaho for purposes of presentation and payment on the Letters of Credit in Idaho. Any bond or Letters of Credit shall be subject to Lessor's approval. Any bond or Letters of Credit shall provide for notice to Lessor prior to any cancellation or lapse thereof.

8.1.2. Procurement and Maintenance of Security; Breach. Upon the failure of Lessee to procure and maintain any required security during the Lease Term, Lessor may terminate this Lease after Notice of Default and Lessee's failure to cure within the time set forth in the Notice of Default. A substitute bond or Letters of Credit, or an extension of the expiration date of any existing bond or Letters of Credit must be received by Lessor no later than one hundred twenty (120) calendar days before the expiration or termination of the bond or Letters of Credit. Failure to provide notice of such replacement or extension one hundred twenty (120) days prior to the expiration or termination will constitute a material breach of this Lease and will be grounds for Lessor to terminate this Lease, or to pursue any other remedy at law or in equity, including presenting any such Letters of Credit for payment, or to make demand under any such

bond. Presentation of any such bond or Letters of Credit, or the demand and payment under any such bond or Letters of Credit or forfeiture of cash, will in no way limit the liability or obligations of Lessee, or the rights and remedies of Lessor under this Lease. The form of any bond or Letters of Credit must be presented to Lessor for acceptance in writing by Lessor prior to the issuance of the bond or Letters of Credit. The bond or Letters of Credit may be rejected as insufficient in Lessor's discretion, or may be modified or amended as required by Lessor.

8.1.3. Lessor Determined Security. The amount of bond or Letters of Credit to be obtained by Lessee, or cash from Lessee, for each phase of Lessee's operations described in this Lease, including Sections 8.2 and 8.3 and any adjustment under Section 8.1.4, will be determined in writing by Lessor and will be based on the then-current cost as determined by Lessee and reviewed by Lessor, plus fifteen percent (15%), of a third-party contractor's completion of the Decommissioning and Reclamation Plan as may be required for each phase and as provided by Lessee. In the alternative, and at Lessee's sole cost, the Parties may hire a mutually agreeable third party to estimate and recommend appropriate amount of security for each phase under this Lease.

8.1.4. Adjustment of Security Amount. At intervals of not less than five (5) years, and after approval of the Construction Plan and the Decommissioning and Reclamation Plan, Lessor may, following consultation with Lessee, revise the construction or reclamation cost estimate to reflect then-current third party costs for the work and materials necessary to complete the Construction Plan or the Decommissioning and Reclamation Plan. Within thirty (30) calendar days of receipt of such revised estimate, Lessee shall cause the existing security to be adjusted to reflect the amount of the revised estimate.

8.2. **Construction Security**. Prior to the commencement of Phase 1, Lessee shall furnish the requisite security. Said security must be in favor of Lessor to protect Lessor against any and all loss due to Lessee's failure to complete construction in accordance with the Construction Plan; payment of any amount of Rent that is past due and owing to Lessor pursuant to this Lease; or, if security remains following reclamation and payment of owed Rent, Lessee's failure to pay contractors, subcontractors, or others who provided goods and services to Lessee in relation to the Leased Premises. The period of liability of the security shall not be terminated until the completion of construction of all Improvements to be constructed, and any other work to be performed on the Leased Premises under the Construction Plan, or completion of reclamation of all affected areas; the expiration of the timeframe under applicable law for filing of lien claims with respect to such construction; written notice by Lessee to Lessor certifying the satisfaction of such events; and the written consent of Lessor regarding release of such security, which consent will not be unreasonably withheld. Following the period of liability of the construction security, the applicable security will be released by Lessor.

8.3. **Operating and Reclamation Security**. Prior to the commencement of Phase 3, Lessee shall furnish the requisite security. Said security must be in favor of Lessor to protect Lessor against any and all loss due to Lessee's failure to complete reclamation of all affected area pursuant to the Decommissioning and Reclamation Plan; payment of any amount of Rent that is past due and owing to Lessor pursuant to this Lease; or, if security remains following reclamation and payment of owed Rent, Lessee's failure to pay contractors, subcontractors, or other who provided goods and services to Lessee in relation to the Leased Premises. The period of liability of said Phase 3 and Phase 4 security shall not terminate until all terms and conditions of the approved Decommissioning and Reclamation Plan have been completed in accordance with Sections 4.4 and 6.4; any amount of Rent that is past due and owing to Lessor is paid; the expiration of the timeframe under applicable law for filing of lien claims; written notice by Lessee to Lessor certifying the satisfaction of such events; and the written consent of Lessor regarding release of such security, which consent will not be unreasonably withheld. Following the period of liability of such security, the applicable security will be released by Lessor.

ARTICLE 9 - INSURANCE AND INDEMNIFICATION

9.1. **Required Insurance; Special Endorsements**. For the duration of this Lease and until all activity in accordance with this Lease is completed, Lessee shall have and maintain, at Lessee's sole 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 obligations or indemnities granted to Lessor in this Lease.

9.1.1. Commercial General Liability. Lessee shall maintain commercial general liability ("CGL") with a combined limit of not less than **Three Million Dollars (\$3,000,000)** 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 **Three Million Dollars (\$3,000,000)**, 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 shall:

A. Be in a form and from an insurance company satisfactory to Lessor and must cover liability for bodily injury, property damage, personal and advertising injury, and completed operations arising from Lessee's 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.

B. Include a waiver of subrogation in favor of the State, the Board, and IDL, as further described in **Section 9.1.10**.

C. Include the State, the Board, IDL, and all their officers, agents, and employees as additional insureds with respect to Lessee's activities to be performed under this Lease. Such status as additional insureds must be evidenced by an endorsement acceptable to Lessor.

D. Include liability and property damage coverage that will protect Lessee and the State, the Board, and IDL from claims for damages for bodily injury, including accidental death, as well as for claims for property damages, which may arise from operations under this Lease.

E. Not contain exclusions related to any equipment and operations for the Project, explosion, fire, collapse, or property damage hazards.

9.1.2. Builders Risk/Installation Floater Insurance. During the course of any construction or alteration of Improvements on the Leased Premises by Lessee, Lessee must maintain in force, at its own expense, Builders Risk/Installation Floater Insurance, including soft costs and any offsite locations, on an all risk of direct physical loss form, including earthquake and flood, for an amount proportionate to the amount of the construction contracts performed on the Leased Premises. Any deductible amount must not exceed **Two Hundred Fifty Thousand Dollars (\$250,000)** for each loss, except earthquake and flood deductibles which must not exceed two percent (2%) of the value at risk at the time of each loss or **Two Hundred Fifty Thousand Dollars (\$250,000)** for each loss, whichever is more. Alternatively, Lessee may provide a complete copy of Builders Risk/Installation Floater Insurance coverage held by Lessee's contractor, which provides at least equivalent coverage, for the entire project of which the Improvements to be constructed pursuant to this Lease are a part.

9.1.3. Property Insurance for Leased Premises. Lessee must, throughout the Lease Term, at Lessee's 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, as required in the Builders Risk Insurance. 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. Lessee must purchase, as part of Lessee's property insurance, business income,

business interruption, extra expense or similar coverage, for actual loss sustained. In no event will Lessor be liable for any business interruption or other consequential loss sustained by Lessee.

9.1.4. Automobile and Umbrella Liability Insurance. Lessee must maintain during the Lease Term, at Lessee's expense, business automobile liability coverage and, if necessary, a commercial umbrella liability insurance with a limit of not less than **One Million Dollars (\$1,000,000)** each accident. Such insurance must cover liability arising out of any automobile used on or in relation to the Leased Premises, including owned, hired, and non-owned automobiles.

9.1.5. Workers Compensation and Employers' Liability Insurance. Lessee shall maintain workers compensation and employer's liability insurance in accordance with all state and federal law requirements. The employer's liability shall have limits not less than **One Million Dollars (\$1,000,000)** per occurrence for bodily insurance by accident, Five Hundred Thousand Dollars (\$500,000) disease policy limit, and **Five Hundred Thousand Dollars (\$500,000)** disease, per each employee. Lessee is responsible for workers compensation insurance for contractors and subcontractors who provide services under this Lease. Lessee must provide either a certificate of workers compensation insurance issued by a surety licensed to write workers compensation insurance in the state of Idaho, as evidence that the Lessee has in effect a current Idaho workers compensation insurance policy; or an extraterritorial certificate approved by the Idaho Industrial Commission from a state that has a current reciprocity agreement with the Idaho Industrial Commission.

9.1.6. Certificates of Insurance. Lessee shall furnish certificates of insurance to Lessor before Lessee commences any work. Each of Lessee's contractors and subcontractors shall provide certificates of insurance to Lessor prior to the start of the contractor's or subcontractor's work related to this Lease. Every certificate or endorsement must show the policy number and the policy effective dates. Failure of Lessor to demand every certificate or other evidence of full compliance with these insurance requirements, or failure of Lessor to identify a deficiency in coverage shall not be construed as a waiver of Lessee's obligation to maintain such insurance. If Lessee's liability policies do not contain the standard ISO separation of insured provision, or a substantially similar clause, they will be endorsed to provide cross-liability coverage.

9.1.7. Subject to Approval. At all times, Lessor may request additional information from Lessee, or provide written comments and recommendations, or provide in writing required changes to the insurance coverage if such coverage is not compliant with the requirements of this **Article 9**. The Parties will discuss Lessor's recommended or required changes at either Party's request.

9.1.8. Primary Basis. Lessee's insurance must be issued on a primary basis, non-contributory with any other insurance coverages or self-insurance programs afforded to, and non-contributory with, any additional insured, or carried by the State.

9.1.9. Acceptable Insurer's Qualifications; Deductibles. Insurance coverage required under this Lease shall be obtained from insurers rated A-VII or greater in the latest AM Best Rating Guide and in good standing and authorized to transact business in Idaho. Lessee shall be financially responsible for all deductibles. The coverage provided by all required policies will be primary to any coverage of the State on or related to this Lease and shall provide that the insurance afforded applies separately to each insured against whom a claim is made, except with respect to the limitation of liability.

9.1.10. Waiver of Subrogation. All policies listed above shall contain waivers of subrogation. Lessee waives all rights against the State, the Board, IDL, and all officers, employees, and agents for recovery of damages to the extent these damages are covered by the required policies. Policies may contain deductibles, but such deductibles will not be deducted from any claim payment or damages due to Lessor. Lessee agrees to obtain any endorsement that may be necessary to effectuate this waiver of subrogation; but, this provision applies regardless of whether Lessor has received such endorsement from the insurer.

9.1.11. Advance Notice. Lessee must provide a minimum of thirty (30) calendar days' advance written notice of cancellation, material change, or nonrenewal of policies required under this Lease. If the insurance carrier refuses to provide notice to Lessor, Lessee must notify Lessor in writing of any cancellation or reduction in coverage or limits of any insurance within seven (7) calendar days of receipt of insurer's notification to that effect. Lessee shall ensure that should any of the above-described policies be cancelled before the expiration date, or if there is a material change, potential exhaustion of aggregate limits or intent not to renew insurance coverage, that written notice will be delivered to Lessor in accordance with this Lease.

9.2. Payment of Premiums – Policy Renewals – Lessor's Right to Purchase. Lessee shall pay all premiums and be responsible for all deductibles for all of the insurance policies it is required to carry under the terms of this Lease. Lessee shall deliver evidence of such payments to Lessor. Lessee shall renew all expiring policies, and shall furnish Lessor with certificates showing such renewed policies at least ten (10) business days before the policy's expiration date. If Lessee fails to maintain any insurance policy required under this Article 9, then such failure will be an event of default under this Lease, and Lessor shall have the right, but not the obligation, to purchase said insurance at Lessee's expense, in addition to any other remedy available under this Lease, or at law or in equity. Lessor's election to pay any such insurance obligation shall not act as a waiver or release of Lessee's default. In the event of Lessor's election to pay, Lessee shall, upon Lessor's demand, repay to Lessor the amounts so paid, including reasonable attorney fees and all other court costs and expenses reasonably incurred because of or in connection with such payments, together with interest thereon at the Default Rate. Lessor may collect or enforce any such payment in the same manner as though it were an installment of Rent to be paid by Lessee. As Rent, such payment shall be due on the day when Lessor demands repayment of or reimbursement therefor.

9.3. Indemnification by Lessee. During the Lease Term, Lessee shall indemnify and hold harmless Lessor, including Lessor's officers, agents, and employees against any and all losses, claims, actions, debts, demands, obligations, judgments for damages or injury to persons or property, which may be made against Lessor, or against its title in the Leased Premises, arising out of, or in connection with, any alleged act or omission of Lessee or any person claiming under, by, or through Lessee. If it becomes necessary for Lessor to defend any action seeking to impose any such liability, Lessee shall pay Lessor all costs of court, litigation expenses, and attorney fees incurred by Lessor in effecting such defense, in addition to all other sums that Lessor may be called upon to pay by reason of the default or the entry of a judgment against it in the litigation in which such claim is asserted. Without limiting the survival of any other provision of this Lease, this Section 9.3 shall survive the termination of this Lease and any cause of action to enforce it shall not accrue until Lessor's discovery of such losses, claims, actions, debts, demands, obligations, or judgments.

ARTICLE 10 – PERMITTED LEASEHOLD MORTGAGES

10.1. Lessee's Right to Mortgage.

10.1.1. Mortgage Right. Upon Lessor's prior written consent, at the sole discretion of the State Board of Land Commissioners, with Lessor using best efforts to respond to such consent request review within ten (10) business days, and provided Lessee is not in default under the Lease, Lessee may encumber or hypothecate its interest in the leasehold estate created by this Lease by one or more mortgage, deed of trust, collateral assignment, or security agreement in this Lease or the Improvements to a Lender, as defined below, or related to an approved assignment of Lessee's interest in this Lease together with an assignment of Lessee's interest in any Improvements (individually and collectively "**Leasehold Mortgage**" or "**Mortgage**"), and in connection with any secured or unsecured financing or tax equity investment with any financial institution, person, or other entity that, from time to time, provides secured financing or tax equity for, or otherwise encumbers all, or part, of Lessee's interest in this Lease, the Improvements, or the Project, collectively, with any security or collateral agent, indenture trustee, loan trustee or participating or syndicated lender involved in whole or in part in such financing, and their respective representatives, successors, or assigns (individually and collectively "**Lender**" or "**Mortgagee**").

A. No Lender will have any rights or obligations under this Lease until such time as it acquires Lessee's interests subject to the lien of Lender's mortgage by foreclosure, deed in lieu of foreclosure, or otherwise assumes the obligations of Lessee directly, as allowed under this Lease.

B. No Mortgage shall be valid or enforceable until written consent of the same is provided by Lessor.

10.1.2. Lease Terms. Any Leasehold Mortgage and all rights acquired thereunder shall be subject and subordinate to all rights and interests of Lessor under this Lease, and any Mortgages shall be subject to each, and all of the covenants, conditions, and restrictions stated in this Lease. The length of any Leasehold Mortgage shall not exceed the Lease Term of this Lease. The encumbrance of this Lease, Lessee's leasehold interest and Improvements through any Mortgage shall terminate if this Lease is terminated for any reason provided for in this Lease.

10.1.3. Notice to Lessor. Regardless of any other form of notice, actual or constructive, no Mortgagee of a Leasehold Mortgage on this Lease shall have the rights or benefits set forth in this Article 10, nor shall any of the provisions of this Article 10 be binding upon Lessor, unless and until a complete and correct copy of the fully executed note, or other tax equity or lending agreement, and any assignment thereof, shall have been delivered to Lessor. Lessee shall promptly provide Lessor with a copy of any amendment, other modification, or supplement to such documents. In the event of a default on the Mortgage by Lessee, either or both Mortgagee and Lessee shall mail a copy of all related default notices to Lessor.

10.1.4. No Attachment to Fee Interest. Every Mortgage shall contain a statement which disclaims any interest or lien against Lessor's fee interest in the Leased Premises and provides that Lessor shall have no liability whatsoever in connection with any such Mortgage, or the instruments or obligations secured thereby.

10.1.5. Modification. Lessor and Lessee agree that, once all or any part of Lessee's interests in the Lease are mortgaged or assigned to a Lender, they will not modify this Lease without prior written consent of the Lender as set forth in this Lease. The Lender's consent will not be unreasonably conditioned, withheld or delayed, with the Lender using best efforts to respond to such consent request review within ten (10) business days.

10.1.6. Mortgagee Assignment. Any such Mortgage shall provide that, in the event of any assignment of the Mortgage, or in the event of a change of address of the interested party named in the Mortgage, notice of the new name and address shall be provided in writing to Lessor.

10.2. Mortgage Protection. If any Mortgage is entered into by Lessee, then any Mortgagee will, for so long as its Mortgage is in existence and until the lien thereof has been extinguished, be entitled to the protections set forth in this Article 10. Lessee will send written notice to Lessor of the name and address of any such Mortgagee or include such name and address in an estoppel certificate to be executed by Lessor. Failure of Lessee to give notice of any such Mortgagee will not invalidate such Mortgage.

10.3. Mortgagee's Right to Possession; Right to Acquire; and Right to Assign. A Mortgagee will have the right, subject to timely payment of all Rents due pursuant to Article 5 and to Lessor's consent, as applicable: (a) to assign its security interest; (b) to enforce its lien and acquire title to the leasehold estate by any lawful means; (c) to take possession of and operate the Improvements or any portion thereof and to perform all obligations to be performed by Lessee hereunder, or to cause a receiver to be appointed to do so; and (d) to acquire the leasehold estate by foreclosure or by an assignment in lieu of foreclosure and thereafter to assign or transfer the leasehold estate to a third party. As applicable, Lessor's prior written consent will be required for the acquisition of the encumbered leasehold estate by a third party who is authorized to contract with the State of Idaho and acquires the same by foreclosure or assignment in lieu of foreclosure.

10.4 Notice of Default; Opportunity to Cure. Lessor will use best efforts to contemporaneously deliver a copy of any Notice of Default to each Mortgagee for which Lessor has received advanced written notice of such Mortgagee's interest, concurrently with delivery of such Notice of Default to Lessee. Failure of Lessor to give any such notice to each Mortgagee will not invalidate the Notice of Default. Any best effort by Lessor to provide such notice shall not minimize or replace any separate obligation of Lessee to provide any Mortgagee with any notice including a Notice of Default issued by Lessor.

10.4.1 Mortgagee Composition. To the extent that a Mortgagee may consist of more than one persons or entities, notice from Lessor to any one will be deemed notice to all constituting the Mortgagee. If there are multiple people or entities constituting said Mortgagee, then Mortgagee may identify which one person or entity shall be provided any and all notices from Lessor for all constituting the Mortgagee.

10.4.2. Default Period. The Mortgagee will have the same period after receipt of the Notice of Default to remedy the default, or cause the same to be remedied, as is given to Lessee under Section 3.4.1. In an event of default other than non-payment of Rents, and upon written notice of its election to cure under this Section 10.4.2, the Mortgagee will have an additional ninety (90) calendar days to cure the default. If Lessee or the Mortgagee has, within the applicable cure period, diligently and in good faith worked to correct the default, then Lessor shall extend the cure period for a length of time that Lessor believes to be reasonably necessary to complete the cure.

A. If the Mortgagee elects to substitute itself for Lessee and perform the duties of Lessee under this Lease for purposes of curing such defaults, the Mortgagee must advise Lessor, in writing, of its election.

B. Lessor hereby consents to such substitution, agrees to accept such performance, and authorizes the Mortgagee (or its employees, agents, representatives, or contractors) to enter upon the Leased Premises to complete such performance with all the rights, privileges, and obligations of Lessee, including identification of subcontractors and key employees pursuant to Sections 4.6 and 4.7. Lessor will not exercise its rights to terminate this Lease prior to the expiration of the applicable cure period or extension of a cure period.

10.4.3. Payment of Rents. Prior to any period of possession of the Leased Premises, the Mortgagee shall remit to Lessor all Rents due and owing pursuant to Article 5. During any period of possession of the Leased Premises, and its corresponding rights, privileges and obligations, by a Mortgagee (or a receiver requested by such Mortgagee) and during the pendency of any foreclosure proceedings instituted by a Mortgagee, the Mortgagee shall pay or cause to be paid to Lessor all Rents including Lessor's Share payments and all other monetary charges payable by Lessee under this Lease that have accrued and are unpaid at the beginning of said period and those accruing thereafter during said period. Following acquisition of Lessee's leasehold estate by the Mortgagee, or its assignee or designee as a result of either foreclosure or acceptance of an assignment in lieu of foreclosure, or by a purchaser at a foreclosure sale who is qualified to contract with the State of Idaho and perform under this Lease, this Lease will continue in full force and effect and the Mortgagee or party acquiring title to Lessee's leasehold estate will, as promptly as reasonably possible, commence the cure of all remaining defaults reasonably susceptible of being cured by the Mortgagee or party acquiring title hereunder, and thereafter will diligently process such cure to completion, whereupon such Events of Default will be deemed cured upon review and approval by Lessor.

10.4.4. Performance of Obligations. A Mortgagee who acquires Lessee's leasehold interest pursuant to foreclosure or assignment in lieu of foreclosure will be liable to perform the obligations of Lessee as established by this Lease so long as such Mortgagee has control or ownership of the leasehold estate, or control or possession of the Leased Premises.

10.4.5. Exception to Event of Default by Lessee's Bankruptcy or Insolvency. Neither the bankruptcy nor the insolvency of Lessee will be grounds for terminating this Lease as long as all obligations of Lessee under this Lease are performed by the Mortgagee.

10.4.6. Default Cured. Subject to the provisions of this Lease that survive its termination, nothing in this Article 10 will be construed to extend this Lease beyond the Lease Term or to require a Mortgagee

to continue foreclosure proceedings after every Event of Default has been cured. If every Event of Default is cured and the Mortgagee discontinues foreclosure proceedings, then this Lease will continue in full force and effect.

10.5 Refinancing. Lessee may refinance a Mortgage periodically provided that all of the following conditions are met:

10.5.1. The holder or Mortgagee of the new mortgage must be an institutional lender such as a bank, trust company, savings and loan association, insurance company, title insurance company, or other commercial business authorized and licensed to make mortgage loans in Idaho and in the county in which the Leased Premises are located;

10.5.2. The new mortgage given for refinancing shall comply with all of the provisions this Lease.

10.5.3. If the new Mortgage complies with the above-conditions, Lessee may execute, acknowledge, and deliver the new mortgage as a permitted Mortgage for the purpose of subjecting Lessee's respective interests in the Improvements to the lien thereof, and the new mortgage shall cover and be a lien on the Improvements, subject to the terms and conditions of this Lease.

10.6 Mortgagee's Consent to Amendment, Termination, or Surrender. Notwithstanding any provision of this Lease to the contrary, so long as there exists an unpaid Mortgage that Lessor has written notice of, Lessor will not accept a voluntary surrender of the Leased Premises or any part thereof or a voluntary termination, or a voluntary release of this Lease from Lessee prior to expiration of the Lease Term without the prior written consent of the Mortgagee. This provision is for the express benefit of and will be enforceable by such Mortgagee.

10.7 No Waiver. No payment made to Lessor by a Mortgagee will constitute an agreement that such payment was, in fact, due under this Lease, and a Mortgagee, having made any payment to Lessor pursuant to Lessor's incorrect or mistaken notice or demand will be entitled to the return of any such payment, as required by Idaho law.

10.8 Estoppel Certificates. Upon at least thirty (30) calendar days' prior written notice from the other Party, the responding Party shall execute, acknowledge, and deliver to the requesting Party, or any third party specified, a statement certifying that this Lease is unmodified, and in full force and effect, or if there have been modifications, that this Lease is in full force and effect as modified and stating the modifications; the dates to which the Rents payable under this Lease have been paid; and stating whether or not, to the best knowledge of and based upon current information available to the signer of the certificate, the requesting Party is in default in the performance of any covenant, agreement, or condition contained in this Lease and, if so, specifying each such default of which the signer may have knowledge, and further certifying as to such other matters relating to this Lease as may be reasonably requested. It being the Parties' intent that any such statement delivered pursuant to this section may be reasonably relied on by any prospective purchaser or assignee of either Party's interest in the Leased Premises, or by either Party; provided however, that any such notices between the Parties shall not be deemed a waiver of any actual default or breach of any provision of this Lease.

ARTICLE 11 – PAYMENT OF EXPENSES, UTILITIES AND TAXES

11.1. Lessee's Obligation. On or before any due date, Lessee agrees to pay any and all real or personal property taxes, assessments, or fees of any nature that may be legally assessed or levied against Lessee or the Leased Premises, or any portion of the Leased Premises, or on any Improvements. Lessee shall make such payment directly to the taxing authority and hold Lessor harmless from any such tax, assessment, or fee.

11.2. Contesting Taxes. Lessee may contest the validity of any tax, assessment, or fee for which Lessee is responsible under this Lease, as long as such contest is pursued in good faith and with due

diligence, and Lessee has paid the obligation in question or posted the financial assurance, discussed below, in the event of an adverse determination. Lessee will not be in default of **Section 11.1**, provided that written notice is given to Lessor of Lessee's intention to contest the tax, assessment, or fee; and, provided that Lessee furnishes Lessor with a bond made by a surety company qualified to do business in the state of Idaho, or pays cash to a recognized escrow agent in the County in which the Leased Premises are located, or as otherwise agreed in writing by Lessor, equal to one hundred and ten percent (110%) of the amount of the tax or obligation Lessee intends to contest, conditioned on payment when the validity of such tax or obligation has been determined. Lessee shall give Lessor written notice and post the financial assurance not later than sixty (60) calendar days before the contested tax, assessment, or fee is due.

11.3. Triple Net Lease; Lessor Obligations Not Altered. This Lease is intended to be an absolute triple net lease, and Lessor shall not be required to make any expenditure, incur any obligation, or incur any liability of any kind whatsoever in connection with the ownership, construction, operation, maintenance, repair, or reconstruction of the Improvements. Lessee understands that Lessor is exempt from payment of any federal, state, or local taxes.

ARTICLE 12 – LIENS AND ENCUMBRANCES

12.1 No Lien. Lessee shall not cause, permit, or suffer any lien or encumbrance of any kind or nature to be placed on or enforced against Lessor's fee interest. Lessee shall not cause, permit, or suffer any lien or encumbrance of any kind or nature to be placed on or enforced against the Leased Premises, or Lessee's leasehold interest, or on or against any of the Improvements without the written consent of Lessor, as set forth in **Article 10**. Lessee shall ensure that full payment is made for all labor performed for Lessee and for any and all materials joined or affixed to the Leased Premises, including any Improvements.

12.2 Release of Lien.

12.2.1. If any claim of lien or encumbrance, other than as allowed in **Article 10**, is claimed on or filed against either Lessor's or Lessee's interest in this Lease, or any portion of or interest in the Leased Premises, then Lessee shall cause any such claim of lien or encumbrance to be released upon the earliest of the following periods: i) within thirty (30) calendar days after Lessee is given written notice of such claim or encumbrance; ii) within thirty (30) calendar days of a claim or encumbrance being filed or recorded; or iii) within thirty (30) calendar days after Lessor is given written notice of any such claim or encumbrance, and transmits written notice of the same to Lessee. Lessee must cause the release of any lien or encumbrance by: i) paying the lien or encumbrance holder; ii) paying to the court the amount necessary to relieve and release any such lien or encumbrance; or iii) any other manner that, as a matter of law, will result in the release of any such lien or encumbrance on or against any portion of, or interest in this Lease, the Leased Premises, the Improvements, or Lessor's title.

12.2.2. Lessor will not allow any liens or encumbrances, arising out of work done or services performed on behalf of Lessor, to be placed on any Improvements unless such work or services are directly for or on the Improvements and an event of uncured default by Lessee has occurred, or as otherwise allowed for in this Lease. If a lien is filed against any Improvement, arising out of any work done or services performed on behalf of Lessor unrelated to this Lease, Lessor will, at its own expense, take whatever action is needed to remove such lien within thirty (30) calendar days of when Lessor receives written notice of the existence of such lien.

12.3 Improvements Are Not Fixtures. Lessor and Lessee agree that none of the Improvements installed by Lessee shall constitute fixtures regardless of the manner in which such Improvements are attached to or installed on the Leased Premises.

ARTICLE 13 – ENVIRONMENTAL, SAFETY, AND SANITARY REQUIREMENTS

13.1 Sanitary Requirements. Lessee shall at all times keep the Leased Premises in a clean and

sanitary condition, free of trash, garbage and litter, and in the same or better condition as when the Lease was issued. Lessee shall not dispose of sewage except in conformity with applicable federal, state, and local laws, rules, regulations and ordinances. Lessee shall dispose of sewage on the Leased Premises only if specifically authorized by Lessor. Lessee shall not store trash on the Leased Premises nor transport trash, garbage, litter or debris onto the Leased Premises. Lessee shall dispose of all trash and garbage in conformity with all applicable federal, state, and local laws, rules, regulations and ordinances. Lessee is responsible for all costs associated with sewage, garbage and litter disposal.

13.2 Fire and Safety Regulations. Lessee shall comply with all applicable federal, state and local laws, rules, regulations and ordinances for fire protection, prevention and burning. Lessee agrees to keep the Leased Premises free from fire hazards as determined by Lessor. Lessee is prohibited from any burning on the Leased Premises, including, but not limited to, the burning of wood, weeds or other debris, but excepting campfires if necessary for the use under the Lease, without the prior written permission of Lessor.

13.3 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.

ARTICLE 14 – ASSIGNMENT; SUBLEASING

14.1. Assignment.

14.1.1. This Lease shall not be assigned to any other party without the prior written consent of Lessor.

14.1.2. Subject to Lessor's prior written approval, Lessee may assign its interest in the Lease to a "Qualified Assignee" that meets the following qualifications: i) an entity or individual that controls, is under the control of, or is under common control with Lessee, is at least as financially capable as Lessee, is capable of fulfilling the obligations of Lessee, and assumes in writing the obligations of Lessee under this Lease; or ii) an entity or individual that is at least as financially capable as Lessee to perform the obligations of Lessee under this Lease, and is experienced in the ownership and operation of [REDACTED], or who has engaged a third party that is experienced in the ownership and operation of [REDACTED] to manage the Project, and assumes in writing the obligations of Lessee under this Lease. Lessor's approval of a Qualified Assignee may not be unreasonably delayed or withheld, provided however, without limiting Lessor's discretion, Lessor will have thirty (30) calendar days following Lessor's receipt of the proposed assignment form and supporting information, to request additional information, or provide written comments or concerns regarding Lessee's proposed Qualified Assignee. The Parties will discuss Lessor's comments or concerns at either Party's request. Upon Lessor's approval of a Qualified Assignee

and provided that such Qualified Assignee has assumed in writing all of Lessee's duties and obligation under this Lease and all required performance security under this Lease and Article 8 herein, and all insurance required under this Lease and Article 9, have been acquired and presented to Lessor as and for replacement of Lessee's obligations under the Lease, such Lessee shall be relieved of all of its obligations arising under this Lease, from and after the effective date of assignment to a Qualified Assignee. Such Lessee shall deliver to Lessor complete and correct copies of the requisite documents, under Section 14.5, within a reasonable amount of time of the effective date of the assignment, not to exceed ninety (90) calendar days.

14.2. Responsibilities. Except as stated in Section 14.1.2, any assignor and its surety shall continue to comply with this Lease and all Government Approvals until the effective date of the pre-approved assignment. After the effective date of such assignment, the assignee and its surety shall be bound by this Lease and all applicable Government Approvals to the same extent as if the assignee were the original lessee, irrespective of any conditions in the assignment to the contrary. The assignor shall remain liable for all Rents due and any damages accruing prior to the effective date of the assignment, and any provisions of this Lease that survive termination unless a written release is subsequently granted and executed by Lessor, which release shall be in Lessor's sole discretion.

14.4. Sublease. No part of Lessee's interest may be sublet without Lessor's express prior written consent. Any sublease must be expressly subject to all terms and conditions of this Lease, and shall provide no greater interest in the Leased Premises than Lessee has through this Lease. A correct and complete executed copy of the sublease agreement must be provided to Lessor prior to the effectiveness of any such sublease or Lessor's written approval thereof. If Lessor allows the sublease of the Lease, the following continuing obligations shall apply: i) Lessee shall remain liable to Lessor for the full performance of all obligations under this Lease; ii) the sublessee of Lessee, by accepting the sublease of this Lease, shall and does agree to abide by all terms of this Lease; and iii) such sublease shall be subject to all terms and conditions of this Lease, and to such other terms and conditions as Lessor may reasonably require.

14.5. Form of Assignment or Sublease. An approved assignment or sublease must be a valid legal instrument, properly executed and acknowledged, stating the number of this Lease, a legal description of the Leased Premises, the name and address of the assignee-lessee or sublessee, the interest transferred, and the consideration. A fully executed copy of the instrument of assignment or sublease must be filed with IDL along with IDL's application of approval of an assignment form, and any processing fees. If an instrument of assignment or sublease partitions the Leased Premises between two or more assignees or sublessees, a separate application for assignment and filing fee must be filed for each assignee or sublessee and for each lease assigned.

14.6. Limited Consent. Any consent by Lessor, herein contained or hereafter given, to any act or assignment shall be held to apply only to the specific transaction, hereby or thereby approved. Such consent shall not be construed as a waiver of any duty of Lessee, or its successors or assigns, including Lessee's obligation to obtain Lessor's prior written consent to any other or subsequent assignment, sublease, mortgage, encumbrance, or as a modification or limitation of any right of Lessor.

ARTICLE 15 – ADDITIONAL LEASE PROVISIONS

15.1. Hold Harmless; Indemnification.

15.1.1. In no event shall any official, officer, employee, or agent of Lessor, or of the State, be in any way personally liable or personally responsible for any covenant or obligation contained in this Lease, whether expressed or implied, nor for any statement, representation, or warranty made by Lessor in connection with this Lease. In particular, and without limitation of the foregoing, no full-time or part-time agent or employee of Lessor shall have any personal liability or personal responsibility under this Lease, and the sole responsibility and liability for the performance of this Lease and all of the provisions and covenants herein contained pertaining to Lessor shall rest in, and be vested with, the State.

15.1.2. 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, regulation, rule, or ordinance.

15.1.3. 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 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 under this Lease. 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, 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 Subsection 15.1.4.

15.1.4. Any legal defense provided by Lessee to Lessor and the State of Idaho under this section must be free of any conflicts 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 or 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 §§ 67-1401(13) and 67-1409(1).

15.1.5. Without limiting the survival of any other provision of this Lease, this Section 15.1 will survive the termination of this Lease, and any cause of action to enforce this Lease will not accrue until Lessor and the State's discovery of such losses, claims, actions, debts, demands, obligations, or judgments.

15.2. Public Records. Pursuant to Idaho Code §§ 74-101 *et seq.*, information or documents received from Lessee may be open to public inspection and copying unless specifically exempt from disclosure. Lessee shall clearly designate individual documents as "exempt" on each page of such documents and shall indicate the statutory basis for such exemption. Lessor will not accept the marking of an entire document as exempt. In addition, Lessor will not accept a legend or statement on one (1) page that all, or substantially all, of the document is exempt from disclosure. Lessee shall indemnify and defend Lessor against all liability, claims, damages, losses, expenses, actions, attorney fees, and suits whatsoever for honoring any designation by Lessee, or for Lessee's failure to designate individual documents as exempt. Lessee's failure to designate as exempt any document or portion of a document that is released by Lessor shall constitute a complete waiver of any and all claims for damages caused by any such release.

15.3. Timber Removal. Lessee will not interfere with the removal of timber purchased by a third party prior to or subsequent to the issuance of this Lease. The cutting or removal of timber is prohibited, other than that expressly permitted and authorized by Lessor in writing, which approval will not be unreasonably withheld, conditioned, or delayed. Requests for authorization for cutting or clearing operation must be made at least three (3) months prior to any proposed cutting or clearing operation. Lessee will reimburse Lessor for the value of any merchantable timber and pre-merchantable timber cut or cleared from the Leased Premises. The value for such timber will be established by Lessor using accepted fair market value appraisal techniques. Upon payment to Lessor, title to the timber shall pass to Lessee.

15.4. Noxious Weed Control.

15.4.1. Cooperation and Costs. Lessee shall cooperate with Lessor or any other agency authorized to undertake programs for control or eradication of noxious weeds on the Leased Premises. As may be necessary, Lessee shall take measures to control noxious weeds on the Leased Premises, except those resulting from activities beyond Lessee's control. Costs for control of noxious weeds on the Leased Premises shall be the responsibility of Lessee.

15.4.2. Weed Free. Prior to moving equipment onto the Leased Premises, Lessee shall use reasonable efforts to ensure that all equipment is free of noxious weeds and their seeds as defined by the Idaho Department of Agriculture and any local Coordinated Weed Management Area. Cleaning of contaminated equipment and vehicles shall not take place on the Leased Premises.

15.5. Force Majeure. If Lessor or Lessee is delayed, hindered, or prevented from performing any act required hereunder by reason of any act of God; strike; lockout; labor trouble; inability to procure materials; failure of power; restrictive government laws or regulations enacted after the Effective Date, which preclude activities that are the subject of this Lease; riot; insurrection; war; escalation of hostilities; or other reason beyond the Party's control making performance impossible, then performance of that act, and that act only, shall be excused for the reasonable period of the delay upon proper and satisfactory proof presented to Lessor. Lessor must be notified within fifteen (15) calendar days of any force majeure event. For that event, the period for the performance of the act shall be extended for a reasonable period equivalent to the period of the delay. Lessee shall work diligently to eliminate the delay and immediately notify Lessor when the reason for the force majeure event has ceased. Neither Lessee's financial condition nor the failure of any of Lessee's contractors or subcontractors or any other party with whom Lessee contracts shall be an event of force majeure excusing the performance of any act.

15.6. Taxes. Lessee shall pay when due any and all taxes lawfully assessed and levied under the laws of the State of Idaho upon Lessee's interest in the Leased Premises, and upon Improvements constructed, used, or maintained by Lessee on the Leased Premises.

15.7. Time of Essence. Time is expressly declared to be of the essence of each and every term, covenant, condition, duty, and obligation of this Lease.

15.8. Promotion. Except as allowed by Lessor's prior written approval, Lessee shall not use the name of Lessor, including the State Board of Land Commissioners, Idaho Department of Lands, State of Idaho, or any agency thereof; or the fact that any of Lessee's operations are conducted in whole, or in part, on State Endowment Trust Lands, in any advertisement or prospectus promoting the sale of stock. The reflection of this Lease as an asset of Lessee on the accountings, financial records and statements of Lessee shall not constitute a breach of this paragraph.

15.9. Relationship of Parties. Nothing contained in this Lease shall be construed as creating any relationship between the Parties other than that of landlord and tenant; and nothing contained in this Lease shall be construed to create any other relationship between the Parties, including any relationship of principal-agent, master-servant, employer-employee, partnership or joint venture. In addition, 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 Rights*. 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.

15.10. No Waiver. A 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 violation of any terms or conditions of this Lease. No payment by Lessee of a lesser amount than is due according to the terms of this Lease shall be deemed or construed to be anything other than a partial payment on account of the most recent Rent payment due, nor shall any endorsement or statement on any check or letter accompanying any payment be deemed to create an accord and satisfaction.

15.11. Entire Agreement. This Lease (comprised of the Summary, the Lease provisions, Signature Page, and all Attachments, including any Special Terms and Conditions, as amended) 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.

15.12. Written Modifications. Except as provided herein, no modification, extension, assignment, release, discharge, change, or waiver of any provision of this Lease shall be of any force, effect, or value unless signed in writing by Lessor, or its duly authorized agent.

15.13. Severability. In the event any provision of this Lease shall be held invalid or unenforceable under applicable Idaho law, the validity, legality, or enforceability of the remaining provisions, and the application thereof, shall not in any way be affected or impaired. In such event, the remaining provisions of this Lease shall be interpreted as closely as possible to provisions held invalid or unenforceable.

15.14. Notices. All notices between the Parties in connection with this Lease shall be in accordance with terms of this Lease. Any notice given in connection with this Lease shall be in writing and shall be delivered to the other Party by hand; by certified mail, postage prepaid, return receipt requested; or by email transmittal (provided receipt of the email is confirmed by a reply email or by telephone), as indicated below. Notice shall be deemed delivered immediately upon personal service, email transmission, or forty-eight hours after depositing notice in the United States mail. If any type of "undeliverable" message is received by the Party transmitting an email, delivery shall be presumed to not have occurred. If a Party shows that the person assigned to an email address was no longer employed by the Party at the time of transmittal, delivery shall be presumed to not have occurred. The notices shall be sent to the addresses stated on the Summary. Either Party may change the place for giving notice by written notice to the other Party.

15.15. Joint Liability. If Lessee consists of more than one person or entity, such persons and entities shall be jointly and severally liable for each term, condition, covenant, duty and obligation of this Lease.

15.16. Cumulative Remedies. Arising from this Lease, Lessor shall have all rights and remedies which this Lease and the laws of the State of Idaho may provide, in law or in equity. All rights and remedies accruing to Lessor shall be cumulative; that is, Lessor may pursue all rights that the law and this Lease afford to it, in whatever order Lessor desires and the law permits, without being compelled to resort to any one remedy in advance of any other.

15.17. Survival. Any provision of this Lease that expressly or by implication comes into or remains in force following the termination of this Lease shall survive the termination of this Lease for the period set forth in such provision, or if no period is set forth in such provision, for the period that is coextensive with the applicable statute of limitations. Notwithstanding anything to the contrary in this Lease, any indemnification obligations shall survive the termination of this Lease.

15.18. Governing Law and Forum. This Lease shall be construed in accordance with and governed by the laws of the State of Idaho. Each Party expressly consents 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.

15.19. Legal Fees. In the event either Party initiates a legal proceeding under this 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.

15.20. Headings. Headings in this Lease are for convenience and reference only and shall not be used to interpret or construe any term of this Lease.

15.21. 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.

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DRAFT TEMPLATE

IN WITNESS WHEREOF, Lessor has executed this instrument as set forth below.

STATE BOARD OF LAND COMMISSIONERS

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

Countersigned:

Secretary of the State of Idaho

Director of the Idaho Department of Lands

STATE OF IDAHO)
)ss.
COUNTY OF ADA)

On this ____ day of _____, 2024, before me, a Notary Public in and for said State, personally appeared BRAD LITTLE, as the President of the State Board of Land Commissioners and Governor of the State of Idaho, that executed the within instrument, and acknowledged to me that he executed the same as said President and Governor, and that the State Board of Land Commissioners 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.

(seal)

Notary Public for State of Idaho
My Commission Expires: _____

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

On this ____ day of _____, 2024, before me, a Notary Public in and for said State, personally appeared PHIL MCGRANE, Secretary of State of Idaho, that executed the within instrument, and acknowledged to me that he executed the within instrument as said Secretary of State and that the State Board of Land Commissioners 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.

(seal)

Notary Public for State of Idaho
My Commission Expires: _____

STATE OF IDAHO)
)ss.
COUNTY OF ADA)

On this ____ day of _____, 2024, before me, a Notary Public in and for said State, personally appeared DUSTIN T. MILLER, the Director of the Idaho Department of Lands and Secretary of the State Board of Land Commissioners, and acknowledged to me that he executed the within instrument as said Director and Secretary, and that the State Board of Land Commissioners 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.

(seal)

Notary Public for State of Idaho
My Commission Expires: _____

IN WITNESS WHEREOF, Lessee has executed this instrument as set forth below.

XXXXXX, a XXXX, whose mailing address is XXXX.

XXXX,
a XXXX

Date: _____ Name, Title _____

STATE OF XXXXXXXX)
COUNTY OF _____ :ss

On this ____ day of _____, 2024, before me a notary public in and for said state, personally appeared XXXX, known or identified to me to be an authorized XXXX of XXXX, a XXXX, the XXXX that executed the instrument or the person who executed the instrument on behalf of said XXXX, and acknowledged to me that such company 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: _____

ATTACHMENT A

SPECIAL TERMS AND CONDITIONS

Insert additional lease-specific special terms and conditions, if applicable.

DRAFT TEMPLATE

ATTACHMENT B

LEGAL DESCRIPTION OF LEASED PREMISES

DRAFT TEMPLATE

ATTACHMENT C

SITE MAP(S)

DRAFT TEMPLATE

ATTACHMENT D

EXISTING CONDITIONS

DRAFT TEMPLATE

ATTACHMENT E

ANNUAL RENT SCHEDULE

DRAFT TEMPLATE