RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
OF THE NAVAJO NATION COUNCIL

25TH NAVAJO NATION COUNCIL - Fourth Year, 2026

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE; APPROVING THE DIVISION OF ECONOMIC DEVELOPMENT BUSINESS SITE LEASE ADMINISTRATIVE PLAN AND MANAGEMENT PLAN AMENDMENTS

BE IT ENACTED:

SECTION ONE. AUTHORITY

A. The Resources and Development Committee is established as a standing committee of the Navajo Nation Council with oversight authority over land and community development, to promulgate rules and regulations for the development of Navajo Nation lands, and to provide final approval for land permits. 2 N.N.C. §§ 500 (A), 501 (B) (1) and 501 (B) (2).

B. The Resources and Development Committee serves as the Legislative oversight authority for the Division of Economic Development. 2 N.N.C. § 501 (C) (1).

C. References in the Navajo Nation Code and other official documents to the Economic Development Committee shall mean the Resources and Development Committee. CAP-10-11, Section 5

SECTION TWO. FINDINGS

A. The Division of Economic Development has asked for amendments to the Division of Economic Development Administrative Plan and Management Plan approved by EDCAU-39-09.

B. The Division of Economic Development Business Site Lease Administrative Plan Amendments and Management Plan Amendments are attached as **Exhibit A.**

C. Redline copies of the Division of Economic Development Business Site Lease Administrative Plan Amendments and Management Plan Amendments are attached as **Exhibit B.**

D. The Executive Official Review Document No. 025825 is attached as **Exhibit C.**

SECTION THREE. APPROVAL OF THE DIVISION OF ECONOMIC DEVELOPMENT BUSINESS SITE LEASE ADMINISTRATIVE PLAN AND MANAGEMENT PLAN AMENDMENTS

The Resources and Development Committee hereby approves the Division of Economic Development Business Site Lease Administrative Plan and Management Plan amendments attached as **Exhibit A**.

CERTIFICATION

I, hereby, certify that the foregoing resolution was duly considered by the Resources and Development Committee of the Navajo Nation Council at a duly called meeting held at Mentmore, New Mexico at which a quorum was present and that the same was passed by a vote of 5 in favor and 0 opposed, this 2nd day of March 2026.

Honorable Otto Tso, Pro Tem Chairperson
Resources and Development Committee

Motion: Honorable Otto Tso
Second: Honorable Danny Simpson

The Navajo Nation

Division of Economic Development

Business Site Lease

Administrative Plan

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1.0 Executive Summary

This Navajo Administrative Plan and the Navajo Management Plan together make up the Navajo Nation Business Site Leasing Administrative and Management Plan, referred to as the Plan. The Plan provides the Division of Economic Development with consistent policy, direction, and guidance in its management of business sites, separate from any political influence, and the Office of the Controller guidance in accounting of Business Site Leases under DED's jurisdiction.

1.1 Legal Framework

A. *25 U.S.C. § 415(e).*
B. *Navajo Nation Business Site Lease Act of 2000, 12 N.N.C. § 2301 et seq.*
C. *Navajo Nation Business Leasing Regulations of 2005, adopted by Resolution EDCJA-02-07 and referred to as Navajo Regulations.*
D. *Economic Development Committee Uniform Business Leasing Regulations of 2008, adopted by EDCAU-39-09 and referred to as Uniform Regulations.*
E. *Division of Economic Development Master Plan of Operation, amended by Resolution RDCO-055-19.*

1.2 Amendment of Plan

The Plan may be amended periodically upon written recommendation from DED and approval by the Resources and Development Committee of the Navajo Nation Council.

1.3 Annual Reporting

The Approving Committee shall provide an annual report to RDC.

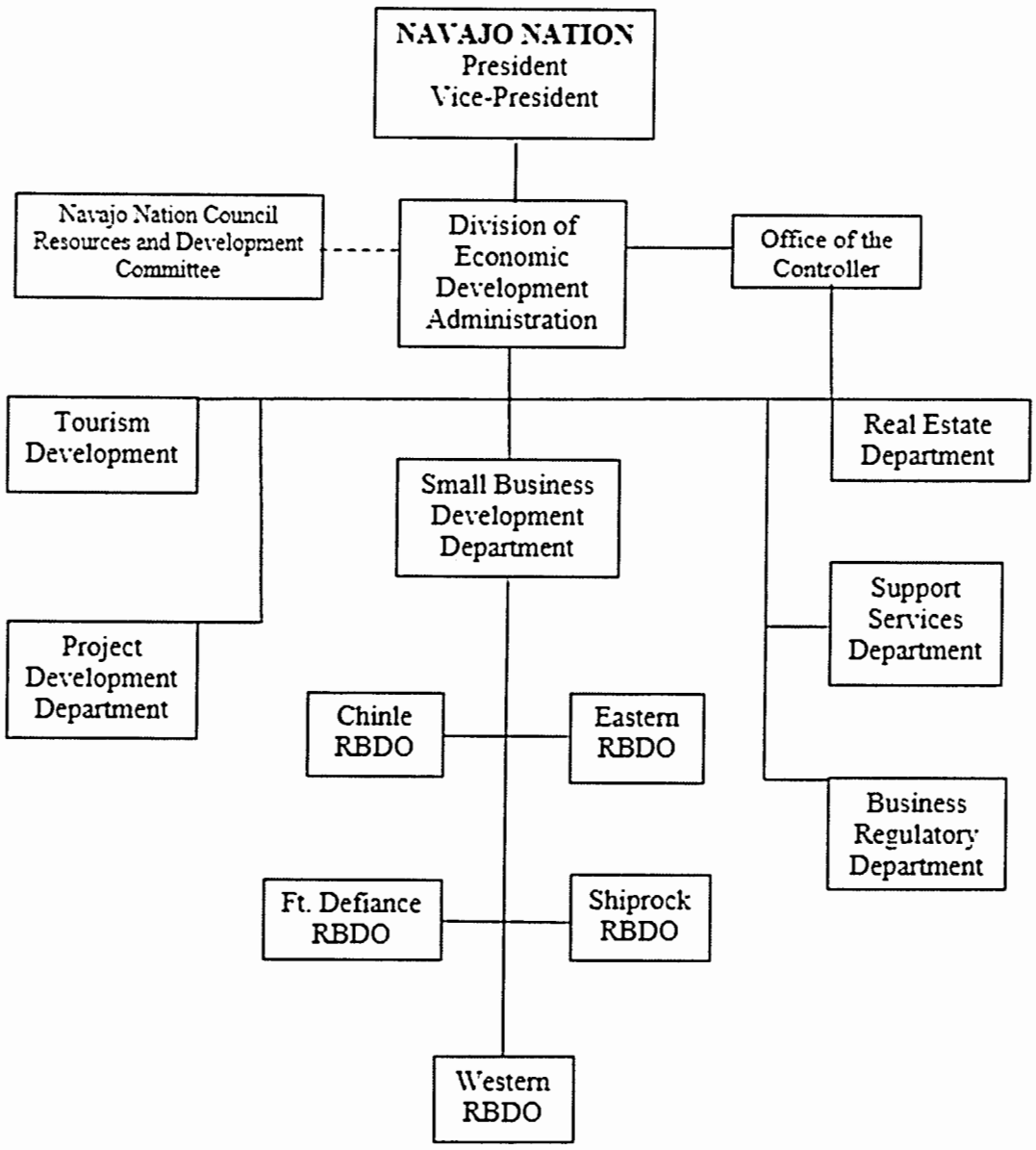
1.4 Severability

If a court of competent jurisdiction determines a provision in the Plan is invalid, void, or unenforceable, it shall be stricken and the remainder of the Plan shall remain in full force and effect.

1.5 Organization for Business Leasing Transactions (See Chart Below)

A. All Leasing Transactions are administered by the DED through the Project Development Department, Small Business Development Department, Tourism Department, and Real Estate Department in accordance with the DED Master Plan of Operation.
B. All business site lease accounting is overseen by Office of the Controller, Accounts Receivable Section.
C. The Business Regulatory Department (BRD) shall verify registration and compliance of a Legally Recognized Entity (LRE) in accordance with applicable law, including the Navajo Nation Corporation Code, Navajo Nation Limited Liability Act, Navajo Nation Uniform Partnership Act, and Navajo Nation Limited Partnership Act.

ORGANIZATIONAL CHART
DIVISION OF ECONOMIC DEVELOPMENT



[insert RDC Reso # here]

1.6 Services

Leasing Departments within DED offer the following technical services as it relates to business site leasing:

A. Provide printed or digital material at its respective offices outlining documents required to obtain a Lease.
B. Conduct trainings and workshops regarding the process for leasing transactions.
C. Provide consultation necessary to secure a business site lease.
D. Advertise available commercial land for leasing.
E. Other services, as needed.

1.7 Approving Committee: RDC Delegation to DED

A. The Approving Committee (Committee) is established to exercise the authorities of the RDC as provided in the Uniform Regulations.
B. The Committee shall not consist of current public officials.
C. Committee members (Members) shall consist of the following:

1. Chief Financial Officer, or designee, a non-voting ex-officio member and chair of the committee;
2. One (1) designated Project Development Department (PDD) staff, a voting member, with one (1) alternate, and
3. Two (2) designated Small Business Development Department (SBDD) staff as voting members, with one (1) alternate.

D. Members.

1. The Department Managers for PDD, and SBDD shall designate staff Members and one alternate Member from PDD and SBDD each. The designated staff may be re-appointed by the Department Manager.
2. A term for a member is three (3) years. No member shall serve more than two (2) consecutive terms. A partial term shall not be calculated in a Member's term limit.
3. If a member is presenting a leasing transaction before the Committee, the alternate shall serve for consideration of that transaction.

E. Removal, Resignation, and other Vacancy.

1. Any of the four (4) Members may be removed by Division Director for good cause, including lack of attendance or violation of any Navajo Nation policy, rules, or regulations.
2. A Member may resign from the Committee at any time.
3. If a vacancy occurs due to the death, illness, resignation, or removal of a PDD or SBDD Committee member, the relevant Department Manager will select a replacement for the remainder of the term

within five (5) days of the vacancy. If a determination is not made within five (5) days, the Division Director shall make the selection.

4. If a vacancy occurs due to the death, illness, resignation, or removal of the CFO Member/Chair, the Division Director shall select a replacement from the DED staff for the remainder of the term. In the interim, the Committee Members may vote on an individual Member to serve as an interim Chair.

F. Meetings.

1. Generally, the Committee will meet twice a month on the first and third Monday of each month.
2. Each meeting shall be deemed public, and an Official Resolution will be adopted by the Committee as a public record of each approved leasing transaction, if applicable.
3. Special meetings may be held, as needed, in accordance with the Committee's rules of order.

G. The Committee shall adopt rules of order to govern its meeting procedures for review and approval of leasing transactions.

2.0 Definitions and Fee Schedule

2.1 Definitions

A. Administrative Plan: This Business Site Lease Administrative Plan.
B. Appraisal: An assessment to determine the fair market value of property or a business that meets the requirements in Management Plan Section 6.4.
C. Approving Committee: The entity delegated the authority by the RDC to approve business site leasing transactions under the Uniform Regulations.
D. Approving Entity: The DED, which has delegated authority to perform the duties and responsibilities of the Lessor on behalf of the Navajo Nation, and to approve or disapprove Leasing Transactions. This Administrative Plan gives the Leasing Department Manager or Program Manager, as applicable, delegated authority to approve permits, emergency operating agreements, and sub-permits, and gives the Approving Committee delegated authority to approve all other Leasing Transactions.
E. Assignment: An agreement between a Lessee and an Assignee whereby the Assignee acquires Lessee's rights and/or assumes Lessee's obligations under a Lease.
F. BRD: The DED Business Regulatory Department, which maintains a record of LREs authorized to do business on the Navajo Nation and issues Certificates of Good Standing, among other things.
G. Business Plan: A formal written document which describes the business, products and/or services, the market to be served, location of the business, management and organization, organizational chart, financial plans, and demonstrated financial viability.

H. *Business Site Lease: Any lease for business purpose issued upon Navajo Nation trust land under the authority of the Navajo Regulations, Uniform Regulations, this Plan, and the DED Master Plan of Operation.*

I. *Cancellation: In accordance with the Management Plan, a Lease in default may be unilaterally canceled by RED, or mutually canceled through compromise and settlement.*

J. *DED: The Navajo Nation Division of Economic Development, within which BRD, PDD, RED, SBDD, and the Tourism Department are located.*

K. *Development Period: The time period from when a Lease is executed to when improvements will be substantially completed.*

L. *Emergency Operating Agreement or EOA: A written Agreement between the Navajo Nation and the Operator for emergency use of Navajo Nation trust land for a specified purpose.*

M. *ER or Environmental Reviewer: An employee of RED, exercising the authorities and duties set forth in the Navajo Regulations § 811.*

N. *ERP or Environmental Review Process: The process set forth in Management Plan Section 5.0.*

O. *ES or Environmental Summary: A document prepared by the ER when environmental compliance determinations relating to a proposed lease are sufficient, or when a leasing decision is exempt and an ERP is not required.*

P. *Executing Official: The Navajo Nation President for Leases, andDepartment Manager, for Permits, Sub-Permits, and EOAs, as applicable.*

Q. *Expiration: The end of a Lease agreement according to its terms. Obligations of a party may extend beyond the Lease expiration, for example, when a lessee must remove storage tanks and remediate the premises.*

R. *Holdover: When a Lessee remains in possession of rental premises after the expiration, cancellation, or termination of a Lease without written authorization.*

S. *For Profit: Any LRE other than a Non-Profit.*

T. *Lease: Has the same meaning as Business Site Lease.*

U. *Lease Data: Relevant data on existing leases such as business purpose, location, annual rents, terms, etc., which is stored in an automated records management system for business site lease transactions on Navajo trust land.*

V. *Lease Package: All required documents for review and approval of a Leasing Transaction.*

W. *Leasehold Interest: The Lessee's transferrable interest under the Lease itself.*

X. *Leasing Decision: In the context of the Environmental Review Process (ERP), the following types of lease transactions that will be acted on by the Approving Entity: lease issuance, lease amendment or modification, subleasing, lease assignment or transfer, and tenant leases.*

Y. *Leasing Department: The DED department supporting and processing a Leasing Transaction with the Applicant; the Leasing Department may be PDD, SBDD, RBDOs, or Tourism Department; Leasing Department is not BRD or RED.*

Z. Leasing Transaction: A Lease, modification, termination, novation, assignment, sublease, collateral assignment, revocable use permit, conditional use permit, sub-permit, or emergency operating agreement.

AA. LRE or Legally Recognized Entity: Any nonprofit or for-profit corporation, limited liability company, partnership, or other type of business organization.

BB. Management Plan: The DED Business Site Lease Management Plan.

CC. MDR or Market Data Research: A process to obtain fair annual lease value set forth in Management Plan Section 6.2.

DD. Modification: An amendment or change in the terms and conditions of the Lease.

EE. Navajo Nation Lease Database: The current database of Lease Data utilized and constantly updated by RED.

FF. Navajo Regulations: Navajo Nation Business Leasing Regulations of 2005, adopted by Resolution EDCJA-02-07.

GG. Non-Profit: an entity organized for a purpose other than making a profit and exempt from federal taxation under Internal Revenue Code Section 501(c)(3) or otherwise defined by Navajo Nation law.

HH. Nominal Rent: Minimum rent less than market value for rental of property by lessee. See Management Plan Section 6.3.

II. Novation: A modification of the BIA Lease that permits the lessee to voluntarily consent to the leasing jurisdiction of the Navajo Regulations.

JJ. OOC: The Navajo Nation Office of the Controller.

KK. PDD: The DED Project Development Department, which has a purpose to plan, develop, retain and expand small to large-scale commercial and industrial projects to improve the Navajo economy.

LL. Permit: A written agreement between the Navajo Nation and the Applicant for a Revocable or Conditional Use Permit to use Navajo Nation trust land for a specified purpose.

MM. Plan: Together, the Administrative Plan and Management Plan.

NN. Primary Term: The initial term of the Lease, Permit, or EOA, as distinguished from a renewal term.

OO. Procurement Clearances: Clearances required before granting an individual or LRE a business opportunity, as set forth in the Navajo Nation Business and Procurement Act.

PP. RBDO: A Regional Business Development Office, established within SBDD and furthering its purpose by providing technical assistance to prospective and current Lessees, negotiating Leasing Transactions with Lessees, and supporting Lessees through Lease approval and execution.

QQ. RDC: The Navajo Nation Council Resources and Development Committee. References to EDC in legacy Business Site Lease legal authorities are now construed to refer to RDC.

RR. RED: The DED Real Estate Department, which is responsible for compliance and enforcement of Leasing Transactions under DED's management authority, and oversees the Environmental Review Process, and is the recordkeeping entity for all Navajo Nation Business Site Leases.

SS. SBDD: The DED Small Business Development Department, which has a purpose to maintain a network of RBDOs to serve as a direct link to local communities and to assist and promote Navajo individuals, chapters, and organizations with business and economic development matters.

TT. Security: includes, but is not limited to, cash, bond, or a letter of credit in an amount that reasonably assures performance of the Lessee's obligation under its Lease.

UU. Sole Proprietor: An individual who owns an unincorporated business by himself or herself

VV. Sublease: a written agreement by which the Lessee grants a person a right of possession no greater than that held by the Lessee under a Lease.

WW. Sub-Permit: a written Agreement between the Navajo Nation and the Lessee, or between the Lessee and a third-party, for limited short-term use of Lease premises on Navajo Nation trust land for a specified purpose.

XX. Surety: one who guarantees the performance of another. An issuer of a letter of credit is not a surety required to consent to a leasing transaction unless the letter of credit expressly states otherwise.

YY. Survey: A survey plat map and legal description of the lease premises that meets the requirements in Section 4.0 of the Management Plan.

ZZ. Tenant Agreement: is a contract between a Lessee-landlord and a tenant for commercial purposes. Tenant Agreements generally occur when the Lessee's business purpose is to manage a commercial office, industrial facilities, or retail buildings for third party business tenants.

AAA. Termination: In accordance with the Administrative Plan, a Lease not in default may be terminated by written agreement of the Lessee and the Lessor, processed as a Leasing Transaction by the Leasing Department.

BBB. Uniform Regulations: Economic Development Committee Uniform Business Leasing Regulations of 2008, adopted by EDCAU-39-09 to ensure certain uniformity in business site leasing among various entities with delegated leasing authority.

2.2 Administrative Fees

A. Administrative Fee(s) shall be due upon execution of any leasing transaction agreement before the fully executed agreement is distributed. All payments are non-refundable and shall be made by money order or cashier's check, payable to "The Navajo Nation" and deposited with RED.

B. Fee schedule:

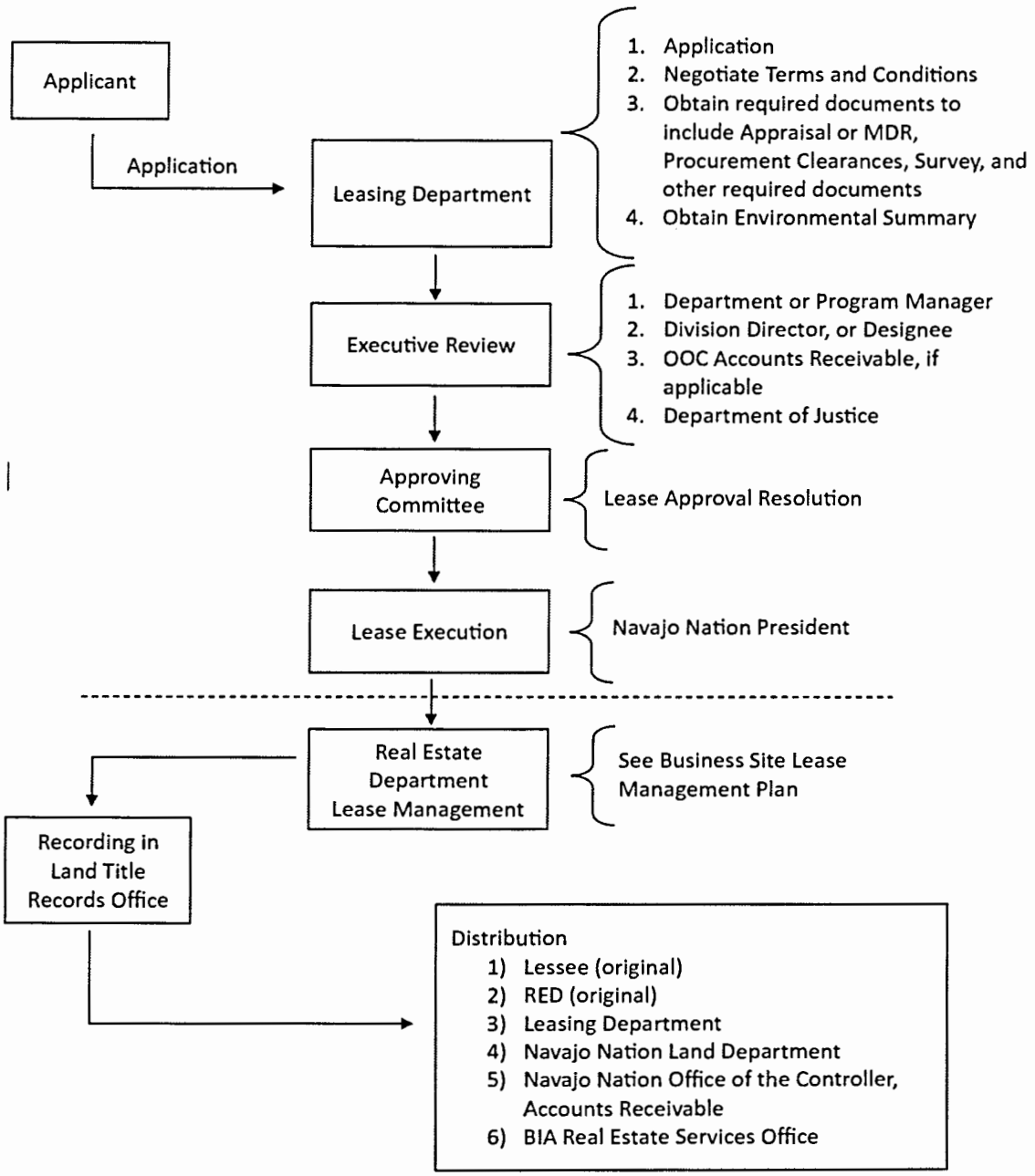
#	Leasing Transaction	Amount
1.	New Lease	$200.00
2.	Renewal	$150.00
3.	Modification	$150.00
4.	Assignment	$150.00
5.	Collateral Assignment	$150.00
6.	Novation	$150.00
7.	Sublease	$150.00

8.	Revocable Use Permit	$150.00
9.	Conditional Use Permit	$150.00
10.	Emergency Operating Agreement	$150.00
11.	Sub-Permit	$150.00
12.	Option to Renew	$150.00

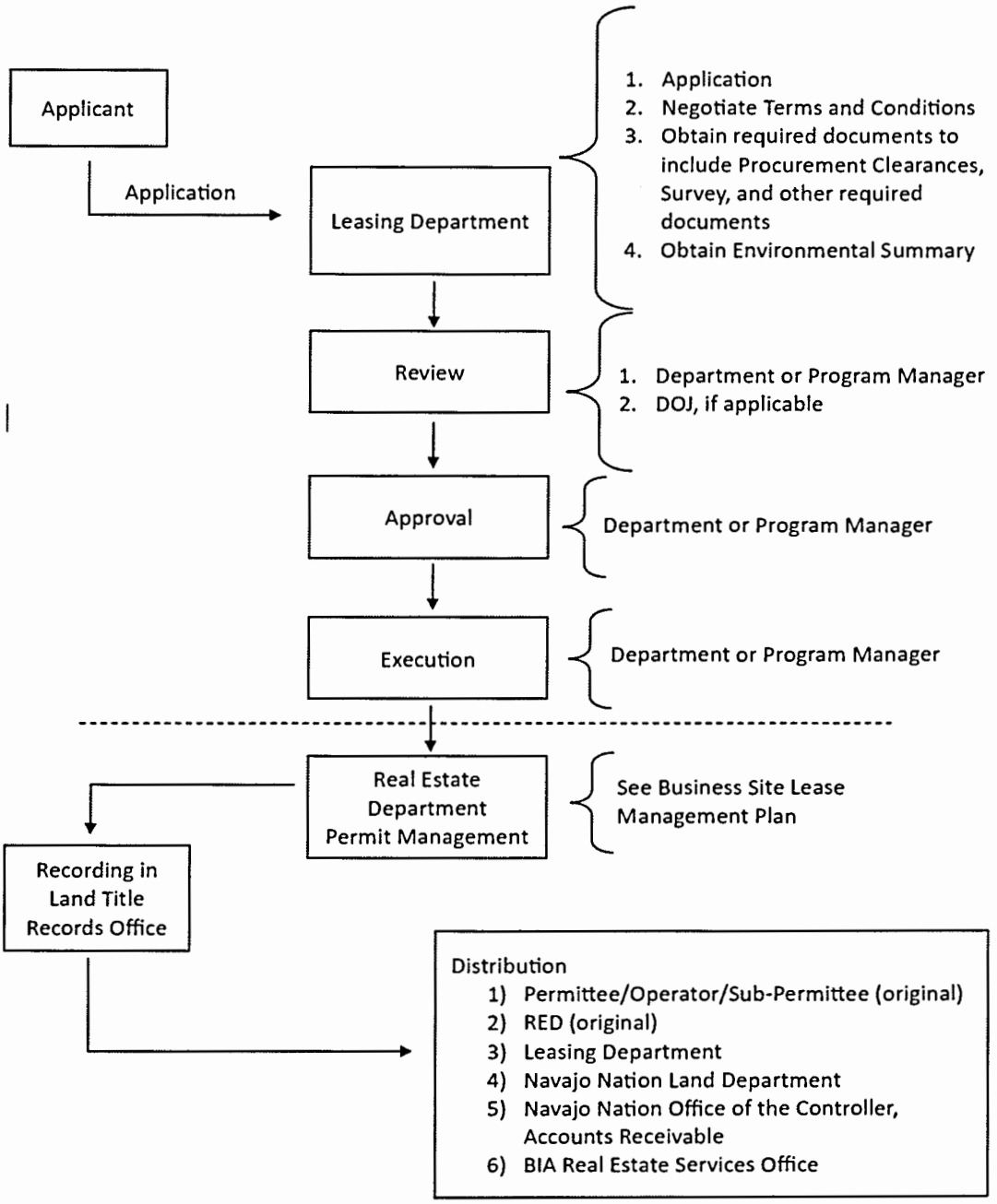
C. The Administrative Fee may be waived if the Lessee provides written justification, approved in writing by the Leasing Department.

3.0 Navajo Nation Lease Process Flow Charts

3.1 Business Site Lease Process



3.2 Permit, EOA, and Sub-Permit Process



4.0 New Lease

4.1 Applicant Responsibilities

A. Applicant shall submit the following documents.

1. Application.
2. Business Plan.
3. Land withdrawal designation from the Navajo Land Department, if applicable; a land withdrawal designation is not required for existing business sites.
4. If an Applicant is an LRE, it must submit:

    a. Current Certificate of Good Standing from BRD; and
    b. Evidence of authority of Lease signatory to act and sign on behalf of the LRE.

5. Certified survey and legal description of the proposed business site.
6. Secure Ethics Clearance, if applicable – Federal employees, Navajo elected official and Navajo employees must comply with this requirement.

B. A Chapter resolution is not required for existing business sites.

C. If the Applicant has not completed these responsibilities or made significant effort in six (6) months of initiating the Application, the Application may be void, at the discretion of Leasing Department.

4.2 Leasing Department Responsibilities

A. Interview, orient, counsel, and assist Applicant.

B. Review all documents for accuracy and compliance with applicable laws and regulations.

C. Obtain Procurement Clearances, if applicable.
Obtain an Environmental Summary (ES) from RED. The Leasing Department may submit the environmental Compliance Determinations to the Environmental Reviewer to expedite the Environmental Review Process set forth in Section 5.3(D) of the Management Plan.

D. Obtain an Appraisal or Market Data Research ("MDR").

E. Prepare and negotiate terms and conditions of the Lease.

4.3 Terms and Conditions of the Lease, General Provisions:

A. Term

1. The Primary Term shall not exceed 25 years.
2. There may be options to renew for up to two (2) additional terms. Each additional term may not exceed 25 years.
3. The term shall be based on the economic viability of the business.

B. Rental

1. Rental shall be based on an Appraisal or MDR. See Section 6.0 of the Management Plan.
2. Rental shall be a flat rate per year. An exception to the flat rate for percentage rental based on a percentage of gross receipts may be considered in the Leasing Department's sole discretion.
3. Rental may be reduced if:

    a. The Lease includes a development period;
    b. Leasehold improvements will be developed;
    c. Construction or reconstruction of the leasehold improvements is necessary;
    d. Lessee has difficulty securing financing, however such reduction may not exceed one (1) year;
    e. Environmental clean-up is necessary;
    f. There is an exigent circumstance, which is justified in writing with supporting documents by the Applicant and approved by the Leasing Department.

4. Rental may be nominal rent and the fair annual lease value shall not be required for:

    a. Navajo Nation Departments;
    b. Non-profits; or
    c. An exigent circumstance, which is justified in writing with supporting documents by the Applicant and approved by the Leasing Department.

5. Periodic Review / Rental Adjustments:

    a. The Lease shall provide for periodic review every five (5) years taking into account economic conditions.
    b. The parties may negotiate pre-determined five (5) year rent adjustments, to satisfy the five (5) year review requirement.
    c. Periodic rent adjustment shall not increase based on the value of negotiated site improvements or the improved value of the business site because of these improvements if the improvements were funded by Lessee.
    d. Periodic rent adjustments shall be based on MDR, appraisal, consumer price index or other method to establish fair annual lease value.
    e. Renewed leases shall be subject to rental renegotiation and be based on MDR or an appraisal to establish fair annual lease value.
    f. The five (5) year review period, if applicable, shall start on the:

i) Date the Lease was executed by all parties,
ii) Expiration date of the Development Period, or
iii) Date the first rental was due,

whichever is applicable.

C. Rental Security

1. Shall be 50% of the annual rental for businesses with gross revenue over $1 million annually.
2. Shall be 25% of the annual rental for all other businesses.
3. Security may be waived if:

    a. Applicant has been in good standing for a minimum of five (5) years with rental payments paid to OOC;
    b. Applicant is a Non-Profit;
    c. Applicant is a Navajo Nation Department or other Navajo Nation entity; or
    d. There is an exigent circumstance, which is justified in writing with supporting documents by the Applicant and approved by the Leasing Department.

4. At the termination of the Lease and upon completion of all compliance reviews and inspections to be performed on the premises, the Navajo Nation shall return cash security deposited to the Lessee which was not spent to correct defaults and non-compliance.

D. Finance and Development Periods

1. Finance period may be granted for a period not to exceed one (1) year from the date the Lease is fully executed.
2. Development period may be granted for a period not to exceed three (3) years from the date the Lease is fully executed, unless the Lessee can justify in writing a longer development period, not to exceed five (5) years.
3. Development period may be extended for exigent circumstances with a Lease Modification. The Development Period may only be extended twice for a term not to exceed one (1) year for each extension. Exigent circumstances must be justified in writing with supporting documents by the Applicant and approved by the Leasing Department.
4. If the Lessee fails to obtain financing during the Finance Period, or undertake development during the Development Period, the Lease may be subject to automatic termination at the expiration of the applicable Finance Period or Development Period.

E. Insurance Requirements, Generally

1. Lessee shall, at its expense, maintain insurance to cover property business interruption, liability, and casualty in an amount sufficient to cover improvements, personal injury, or death.
2. Insurance shall be provided by insurance companies duly authorized and licensed, having a Best's Rating of A-VIII or better.
3. The insurance shall expressly identify the Navajo Nation and the United States as additional insured parties.
4. All required insurance coverages shall be evidenced on certificates of insurance no later than the Effective Date of the Lease, or the date such insurance is required by the Lease.
5. Lessee's insurance requirements shall comply with the Standard Terms and Conditions, Lease Part II Sections 1.11 and 1.12, unless otherwise agreed to in writing by the Risk Management Program.

F. Subleases

1. The Lease may authorize Subleases for part of the leasehold premises without Lessor approval, provided the Sublessee agrees in writing to be bound by each and all of the covenants and conditions of the Lease, and a copy of the Sublease is delivered to the Leasing Department, with a copy to RED, within seven (7) days of the Sublease effective date.
2. Subleases shall not be for the entire leasehold premises.
3. Lessee must conduct a separate operating business on the premises.
4. A Sublessee business must be authorized in the purpose section of the Lease.
5. A Sublease must be consented to by the sureties, if applicable.

G. Alterations, Additions, and Repairs

1. If Lessee intends to make alterations, additions, or repairs in an amount exceeding the negotiated amount based on the project, Lessee must submit a written request with the scope of work and cost break-down of the addition, alteration, or repair and the reason for the request to the Leasing Department. The Leasing Department will submit the request for written approval to the applicable Leasing Department Manager.
2. If the Lessee's request is approved, the Leasing Department shall promptly submit a copy of the written approval, together with the Lessee's written request, to RED for the Lease file.

4.4 Executive Review Process

A. The Leasing Department shall prepare the Lease Package, including the following:

1. A proposed Leasing Transaction with all exhibits, e.g. Survey;

2. Executive Summary;
3. Land withdrawal designation letter, if applicable;
4. Certificate of Good Standing, if applicable;
5. Procurement Clearances, if applicable;
6. Ethics Clearance, if applicable;
7. Environmental Summary;
8. Appraisal, MDR, or evidence to justify reduced or nominal rent; and
9. Evidence of authority for an individual to enter into and execute the Lease.

B. The Leasing Department shall submit the Lease Package with an Executive Review Sheet to either the Leasing Department Manager or Program Manager to initiate the Executive Review Process.

C. The Leasing Department shall submit the Lease Package for surname to:

1. the Division Director, or designee;
2. OOC, if applicable; and
3. DOJ.

4.5 Approval Process

A. The Leasing Department shall submit the Lease Package to the Committee.

B. If the Leasing Transaction is approved, the Committee shall issue an official Resolution that must be attached to the Lease for execution by the Navajo Nation President or Division Director.

C. If the Committee recommends any Lease amendments, the Lease package will not require another Executive Review process if resubmitted within thirty (30) days; provided, however, that any substantive amendments must be reviewed by DOJ to confirm legal sufficiency.

D. If the Leasing Transaction is denied, the Lease package and supporting documents shall be returned to the Leasing Department.

4.6 Execution of Lease

A. Finalize two (2) original sets of Lease and obtain Lessee signature and initials.

B. Transmit Lease document with copy of the Committee Resolution and cover memo to the Executing Official for signature.

C. Upon execution by the Executing Official, the Lease shall become a legally binding document effective immediately.

D. The Leasing Department shall submit the following to RED:

1. two (2) sets of the original executed Lease with all exhibits and a legible land Survey;
2. the Committee Resolution; and
3. the Lease Package supporting documents and exhibits.

4.7 Lease Recording and Distribution

RED shall record and distribute all Leasing Transaction agreements within seven (7) business days from receipt of the fully executed document from the Leasing Department, in accordance with the Management Plan.

5.0 Expiring Lease (prior to 1 year)

This Section applies to Lessee who wants to enter into a new lease for the same premises upon expiration of the current Lease, when the Lessee either does not have an option to renew, or has exhausted the options to renew.

5.1 Lessee Responsibilities

A. Notify the Leasing Department one (1) year prior to the current Lease expiration date.

1. If the Leasing Department does not receive notification one (1) year prior to the expiration, the Leasing Department may advertise the business site availability and consider other Applicants. An Application for a new Lease will then be governed by Section 4.0.

B. After providing one (1) year advance written notice, Lessee shall:

1. Submit an Application;
2. If an Applicant is an LRE, it must submit:

    a. Current Certificate of Good Standing, and
    b. Evidence of authority for an individual to enter into and execute the Lease on behalf of the Lessee;

3. Submit the environmental audit as required by Lease Part II, if applicable;
4. Submit an Ethics Clearance, if applicable;
5. Be operating a business on the premises; and
6. Be in compliance with current Lease terms and conditions.

C. If the Applicant has not completed these responsibilities or made significant effort in six (6) months of initiating the Application, the Application may be void, at the discretion of Leasing Department.

5.2 Leasing Department Responsibilities

A. Send a copy of the Lessee's written notification to RED;
B. Review all documents for accuracy and compliance with applicable laws and regulations;
C. Prepare and negotiate Lease terms and conditions with the Lessee, refer to 4.3 of this Administrative Plan.

D. Begin Review, Approval, Execution and Recording Process, refer to Sections 4.4, 4.5, 4.6, and 4.7 of this Administrative Plan.

6.0 Exercising Option to Renew Lease:

A Lessee who has an option to renew may exercise the option, provided the Lessee is not in default under the Lease and is in compliance with applicable laws and regulations.

6.1 Lessee Responsibilities

A. To exercise an option to renew, Lessee shall send a Notice to Exercise Option to Renew ("Renewal Letter") to the Leasing Department one (1) year prior to the expiration of the term. The Renewal Letter must have the following acknowledgment:

> The Navajo Nation acknowledges and grants approval for the Lease renewal pursuant to the terms of the Lease.
>
> APPROVED BY
>
> _____ _____
> Name: Date:
> Navajo Nation President

B. After providing the Renewal Letter, Lessee shall:

1. If Lessee is an LRE, submit:
    a. Current Certificate of Good Standing, and
    b. Evidence of authority for the signing individual to enter into and execute the notice of renewal and Modification (if Modification is required) on behalf of the Lessee;
2. Be operating a business on the premises;
3. Be in compliance with current Lease terms and conditions, and with applicable laws and regulations; and
4. Promptly after the Renewal Letter is approved, negotiate a Modification for Renewal with the Leasing Department to set the renewal term rental rate in accordance with the Lease, and based on an Appraisal or MDR to establish fair annual lease value.

C. If the Lessee has not completed these responsibilities or made significant effort in six (6) months of notice of intent to renew, the exercise of renewal may be void, at the discretion of the Leasing Department.

6.2 Leasing Department Responsibilities

A. Review all documents for accuracy and compliance with applicable laws and regulations.

B. Obtain Procurement Clearances, if applicable.
C. Obtain Certificate of Good Standing, if applicable.
D. Provide to RED and OOC a copy of Lessee's notice of renewal, and obtain from RED the Annual Lease Compliance Report to ensure Lessee is in compliance with the Lease.
E. Provided Lessee is in compliance with the Lease and applicable laws and regulations:

1. The Renewal Letter may be processed for Executive Review. Refer to Section 4.4 of this Administrative Plan.
2. Upon completion of Executive Review, transmit the Renewal Letter to the Executing Official for signature. A legally sufficient Renewal Letter does require action by the Approving Committee if it is in accordance with the terms of the existing Lease.
3. Upon execution by the Executing Official, the Renewal Letter shall be an effective Renewal.
4. Submit the original executed Renewal to RED for recording and distribution in accordance with the Management Plan.

F. Promptly after the Renewal Letter is approved, complete a Lease Modification for Renewal to establish the Renewal Term rental rate, based on Appraisal or MDR to establish fair annual lease value. Refer to Section 10 of this Plan.

7.0 Subleases and Tenant Agreements

Lessee who intends to sublease shall contact the Leasing Department. General information and technical assistance in processing the Sublease transaction will be provided. Subleases convey possessory interest in part of the land to a Sublessee. Tenant Agreements convey possessory interest in a defined area or space within the leasehold improvements to a Tenant.

7.1 Subleases that Require Approval from the Nation

A. Responsibilities

1. Lessee, Proposed Sublessor:

a. Provide an Application to Sublease the leasehold interest of the Lessee to the Leasing Department.
b. Must be in compliance with the existing Lease terms and conditions, including applicable Navajo Nation laws and regulations.
c. Must agree in writing that the Sublease will in no way relieve the Lessee from carrying out its duties under the Lease.

2. Proposed Sublessee:

    a. If proposed Sublessee is a LRE shall:

        i) register with the BRD and comply with the requirements of the Navajo Corporation Code; and
        ii) submit a current Certificate of Good Standing to the Lessee for the Application to Sublease.

    b. Shall register with Office of Navajo Tax Commission.
    c. Shall be in compliance with Navajo laws and regulations.
    d. The package will be considered void if not completed within three (3) months unless the Applicant makes a significant effort to complete the transaction. The voided package shall be returned to the Applicant.

3. Leasing Department:

    a. Upon receipt of all required documents for the Sublease, review for accuracy, completeness, and compliance with all applicable laws and regulations;
    b. Obtain Procurement Clearances for the Lessee and proposed Sublessee;
    c. Obtain an updated Survey;
    d. Obtain an ES;
    e. Negotiate Sublease terms and conditions, only if the Sublessee proposes changes or modifications from the Lease:

        i) Complete an Appraisal Report or MDR;
        ii) Refer to Section 4.3 of this Administrative Plan.

    f. Begin Review, Approval, and Execution Process, refer to Sections 4.4, 4.5, and 4.6 of this Administrative Plan.

4. Lease Recording and Distribution:

    a. Refer to Section 4.7 of this Administrative Plan.

5. Sublessee(s) Upon Approval:

    a. Comply with all the terms and conditions of the Sublease and the Lease;
    b. Maintain liaison with the Leasing Department and RED.

7.2 Subleases that Do Not Require Approval from the Nation

A. This Section 7.2 applies only if the base Lease expressly authorizes Subleases without Lessor approval.Responsibilities

1. Lessee-Sublessor

    a. Ensure the Sublease and Sublessee are in compliance with all of the covenants and conditions of the Lease.
    b. Obtain a Certificate of Good Standing for both the Lessee and Sublessee.
    c. Obtain an updated Survey.
    d. Provide a copy of the Sublease to the Leasing Department within seven (7) calendar days of its effective date.
    e. If the Sublease terminates, provide notice of its termination to the Leasing Department and RED within 14 days of termination date.

2. Leasing Department

    a. Immediately upon receipt, review all documents for accuracy and compliance with applicable laws and regulations.
    b. If documents are accurate and compliant, the Leasing Department will immediately submit the Sublease documents to RED for recording, distribution, and lease management.
    c. If documents are not accurate or compliant, immediately notify the Lessee in writing:

        i) of the inaccuracy or non-compliance,
        ii) whether corrective action can be taken to cure the inaccuracy or non-compliance, and
        iii) that the Sublease will not be effective until such corrective action, if available, is taken.
        iv) If adequate corrective action is taken, the Sublease will become effective. If adequate corrective action is not taken, the Sublease will be void and of no force and effect.

3. Sublessee(s) Upon Approval

    a. Comply with all the terms and conditions of the Sublease and the Lease;
    b. Maintain liaison with the Leasing Department.

7.3 Tenant Agreements that Do Not Require Approval from the Nation

This Section 7.2 applies only if the base Lease expressly authorizes Tenant Agreements without Lessor approval.

A. Responsibilities

1. Lessee-Landlord

a. Ensure the Tenant Agreement and Tenant are in compliance with all of the covenants and conditions of the Lease.
b. Obtain a Certificate of Good Standing for both the Lessee-Landlord and Tenant.
c. Obtain a floor plan or similar document that clearly describes the area to be leased.
d. Provide a copy of the Tenant Agreement to the Leasing Department within seven (7) calendar days of its effective date.
e. If the Tenant Agreement terminates, provide notice of its termination to the Leasing Department within 14 days of termination date.

2. Leasing Department

a. Immediately upon receipt, review all documents for accuracy and compliance with applicable laws and regulations.
b. If documents are accurate and compliant, the Leasing Department will immediately submit the Sublease documents to RED for recording, distribution, and lease management.
c. If documents are not accurate or compliant, immediately notify the Lessee in writing:

i) of the inaccuracy or non-compliance,
ii) whether corrective action can be taken to cure the inaccuracy or non-compliance, and
iii) that the Tenant Agreement will not be effective until such corrective action, if available, is taken.
iv) If adequate corrective action is taken, the Tenant Agreement will become effective. If adequate corrective action is not taken, the Tenant Agreement will be void and of not force and effect.

3. Tenant(s) Upon Approval

a. Comply with all the terms and conditions of the Tenant Agreement and the Lease;
b. Maintain liaison with the Leasing Department.

8.0 Novation

8.1 Novation General Provisions

A. Pursuant to Uniform Regulations, Section 502, the management of existing business leases on Navajo Nation trust land may be transferred to a delegated Navajo Business Site Lease managing authority. For example:

1. A business lease managed by the Bureau of Indian Affairs may be novated to the Navajo Nation and is thereafter subject to DED management in accordance with this Administrative Plan and the Management Plan.
2. If a Local Government Unit, Shopping Centers, or an Entity (as defined in the Uniform Regulations) obtains delegated authority to manage business site leases, a lease managed by DED may be novated to the Local Government Unit, Shopping Centers, or Entity and is thereafter subject to management in accordance with an approved Business Site Leasing Administrative and Management Plan for that entity.

B. The consent of the Lessee of the business lease to be novated is required.

C. A Novation is processed as a Modification for Novation that replaces the current lessor and managing entity with the new lessor and managing entity. For example:

1. Novation of a lease under BIA management authority will replace references to the Secretary of the Interior with the Navajo Nation in each section of the Lease.
2. Novation of a lease under DED management authority will replace references to the Navajo Nation with an authorized Local Government Unit, Shopping Centers, or Entity in each section of the Lease, except where the Navajo Nation is referred to in its government capacity other than lessor.

D. If the Lease has been assigned, the most recent Assignee is the Lessee signatory. However, for simple assignments, the original Lessee-Assignor's concurrence is also required.

E. If applicable, Subleases and Sub-Permits will need to be Novated concurrent with the Base Lease.

8.2 BIA Lease Specific Concern:

Only leases with a term of 25 years or less can be novated. If the BIA lease term is greater than 25 years, the Novation Modification must reduce the Lease term to 25 years or less.

8.3 Lessee Responsibilities

A. Provide written notice to the Leasing Department requesting or agreeing to novate the Lease;
B. If Lessee is an LRE, submit:

1. Current Certificate of Good Standing, and
2. Evidence of authority for an individual to enter into and execute the Novation Modification on behalf of the Lessee;

C. Be operating a business on the premises; and
D. Be in compliance with current Lease terms and conditions, and with Navajo Nation laws and regulations.

8.4 Local Government Unit, Shopping Center, or Entity Responsibility, If Applicable

A. For Novation from DED management to another entity with delegated authority to manage Business Site Leases, the Local Government Unit, Shopping Centers, or Entity shall secure a DED sponsor from the appropriate Leasing Department to process the Novation as set forth below.
B. Coordinate with the Leasing Department sponsor to prepare a Lease Package for Executive Review, including to provide Procurement Clearances, the ES, and any other required documents, such as consent from an original Lessee-Assignor, and concurrent Sublease and Sub-Permit Modifications for Novation.

8.5 Leasing Department Responsibilities

A. Review all documents for accuracy and compliance with applicable laws and regulations.
B. Obtain Procurement Clearances.
C. Obtain ES.
D. Submit a Lease Package for Executive Review. Refer to Section 4.4 of this Administrative Plan.
E. Obtain approval from the appropriate approving entity

1. To novate a lease under BIA management to DED management, obtain approval from RDC, with sponsorship by a Navajo Nation Council delegate.

2. To novate a lease under DED management to a Local Government Unit, Shopping Centers, or Entity, obtain approval from the DED Approving Committee. Refer to Section 4.5 of this Administrative Plan.

F. Upon approval, process the Modification for Novation for execution and recording consistent with Sections 4.6 and 4.7 of this Administrative Plan.

9.0 Assignments

9.1 General Provisions

Lessee who intends to assign their Lease must submit an Application to Assign to the Leasing Department to process the Assignment.

A. If the proposed Assignee wishes to change the terms and conditions of the original Lease, prior to the Assignment, the Lessee shall modify the Lease, and notify the ER to obtain an ES.

B. If a sale or foreclosure occurs and an approved encumbrancer is the purchaser, they may assign the Lease without approval of the Lessor or Lessee, provided the Assignee agrees in writing to be bound by all the terms and conditions of the Lease. If the Purchaser is a party other than the approved encumbrancer, approval by the Committee is required, and the purchaser must agree in writing to be bound by all the terms and conditions of the Lease.

C. The Assignment may be either a complex or simple assignment.

1. Simple assignments are assignment of rights and duties. The Assignee will be liable for their acts and omissions upon the effective date of the Assignment. The Assignor will continue to be liable for their acts and omissions prior to the effective date of the Assignment.
2. Complex assignments are assignment of rights, duties, and liabilities. The Assignee will assume all of the Assignor's liabilities under the Lease, including liabilities that arose before the effective date of the Assignment. These Assignments are most common in business sales, acquisitions, and mergers.

D. The parties must provide satisfactory evidence to the Leasing Department that the Assignee has sufficient organizational and financial ability to assume the Lease duties and liabilities.

E. If the Assignment is approved, all terms and conditions of the Lease will remain in full force and effect.

9.2 Assignor and Assignee Responsibilities

A. Submit to the Leasing Department an Application to Assign the leasehold interest to an assignee, with evidence of the proposed assignee's ability to

assume the rights, duties, and if applicable, all of the current Lessee's liabilities under the Lease.

B. Submit an executed simple or complex Assignment and Assumption Agreement, as applicable.

C. The parties must be in compliance with the existing Lease terms and conditions and all applicable Navajo laws and regulations.

D. If an Applicant is an LRE, it must submit:

1. Current Certificate of Good Standing, and
2. Evidence of authority of the signatory to act and sign on behalf of the LRE.

E. If the parties have not completed these responsibilities or made significant effort in six (6) months of initiating the Assignment, the Application may be void, at the discretion of Leasing Department.

9.3 Leasing Department Responsibilities

A. Conduct due diligence to confirm proposed Assignee is able to assume all duties and applicable liabilities under the Lease.

B. Review all documents for accuracy and compliance with applicable laws and regulations.

C. Obtain Procurement Clearances for Lessee-assignor and proposed assignee.

D. Begin Review, Approval, Execution, and Recording Process, refer to Sections 4.4, 4.5, 4.6, and 4.7 of this Administrative Plan.

10.0 Modification

A Modification may be used to amend, change, remove, or add provisions to the Lease terms and conditions. Modifications are generally not used to change the parties to a Lease; an Assignment is the proper document for that purpose.

10.1 Lessee Responsibilities

A. Submit an Application to Modify Lease to the Leasing Department to explain the reason to change the terms and conditions of the lease, which may include but not be limited to:

1. Purpose,
2. Rental Adjustments,
3. Land Description,
4. Leasehold Improvements,
5. and other changes.

B. For certain changes. Lessee shall furnish additional documents, as may be required, such as:

1. Environmental Review documents for major operational change, and
2. new Survey and legal description, for increased or decreased acreage.

C. Must be in compliance with the Lease terms and conditions.

D. If the Applicant has not completed these responsibilities or made significant effort in six (6) months of initiating the Application, the Application may be void, at the discretion of Leasing Department.

10.2 Leasing Department Responsibilities

A. Review all documents for accuracy and compliance with applicable laws and regulations.

B. Obtain Procurement Clearances.

C. Complete an Appraisal Report or MDR, as applicable.

D. Obtain an ES.

E. Renegotiate applicable terms and prepare the Modification.

F. Complete executive process; refer to Administrative Plan Sections 4.3, 4.4, 4.5, 4.6, and 4.7 of this Plan.

11.0 Mutual Termination

Mutual Termination applies if the Lessee is not in default and the Lessee and the Navajo Nation both agree to terminate the Lease. Mutual Termination does not eliminate any existing financial or environmental obligations of the Lessee.

11.1 Lessee Responsibilities

A. Submit an Application to Mutually Terminate the Lease to the Leasing Department.

B. Mutual Termination may be granted:

1. During the Development Period as negotiated and defined under Section 4.3 of the Administrative Plan, without penalty, or
2. At the request of the Lessee.

C. If an Applicant is an LRE, it must submit:

1. Current Certificate of Good Standing, and
2. Evidence of authority for an individual to enter into and execute the Lease on behalf of the Lessee;

D. Submit the environmental audit as required by Lease Part II, if applicable;

E. Be in compliance with current Lease terms and conditions.

F. If the Applicant has not completed these responsibilities or made significant effort in six (6) months of initiating the Mutual Termination, the Application may be void, at the discretion of Leasing Department.

11.2 Leasing Department Responsibilities

A. Obtain confirmation in writing from RED that Lessee is not in default under the Lease.
B. Obtain Procurement Clearances.
C. Obtain Certificate of Good Standing, if applicable.
D. Obtain a clearance from the Navajo Nation Environmental Protection Agency, if applicable, with assistance from the ER.
E. Complete executive review process; refer to Administrative Plan Sections 4.4, 4.5, 4.6, and 4.7.

12.0 Collateral Assignment of Lease

Lessee may use their leasehold interest as collateral to improve the Lease premises, which will result in a lien on the Lease. If the Collateral Assignment is approved, the Lessee's lender will be an approved encumbrancer with rights described in Lease Part II.

12.1 Lessee Responsibilities

A. Shall provide to the Leasing Department written Application for Collateral Assignment of Lease in coordination with the lender.
B. Provide an executed Collateral Assignment in a form acceptable to the Navajo Nation.
C. Must be in compliance with the existing Lease terms and conditions, including applicable Navajo Nation laws and regulations.
D. Current Certificate of Good Standing, if applicable.
E. If the Applicant has not completed these responsibilities or made significant effort in six (6) months of initiating the Application, the Application may be void, at the discretion of Leasing Department.

12.2 Leasing Department Responsibilities

A. Review all documents for the Collateral Assignment of Lease, in consultation with DOJ.
B. Obtain Procurement Clearances for assignor and proposed assignee.
C. Begin Review, Approval, Execution, and Recording Process, refer to Sections 4.4, 4.5, 4.6, and 4.7 of this Administrative Plan.

12.3 Lessee Upon Approval of Collateral Assignment of Lease

Shall not modify, transfer, or further mortgage the Leasehold Interest, or enter into a management agreement, without prior written approval of the Lessor, unless otherwise stipulated in the Lease, and without prior approval of the approved encumbrancer, unless otherwise stipulated in the Lessee's loan documents.

13.0 Revocable Use Permit (RUP)

13.1 General Provisions

A Revocable Use Permit is for land that is already withdrawn for commercial purposes. It conveys no possessory interest and may be revoked at will.

A. RUPs shall be issued for land previously withdrawn for commercial purposes, if:

1. Short term business, events, fundraising, government operations, or political events, or
2. Short term sale of goods and services.

B. Rental for RUPs shall be negotiated (i.e., daily, weekly, monthly), as follows. Rental shall not be construed to be the rental for any future Lease:

1. For-Profit:

    a. $100.00 a day for a term less than thirty (30) days;
    b. $250.00 per month.

2. Non-Profit or community service/fundraising:

    a. $25.00 a day for a term less than thirty (30) days;
    b. $100.00 per month.

3. Rental for RUPs for licensed Dealerships include, but not limited to vehicles, ATV, motorcycle, boats, and mobile homes:

    a. $250.00 per day for a term less than thirty (30) days;
    b. $500.00 per month.

C. For Permittees continuing from an expired Lease, rental may continue at the rate applied during the last year of the Lease.

1. If the expired Lease included percentage rental, the percentage amounts for the Agreement shall not be applied, and only the GMAR amount shall be assessed.

D. RUPs can be modified, subject to Section 13.1.
E. RUPs shall be approved by the Leasing Department Manager for PDD, and the Leasing Department Manager or Program Manager for SBDD.

13.2 Requirements

A. Term

1. RUPs shall not exceed two (2) years from the effective date, except the RUP may include no more than one (1) option to renew for an additional one (1) year term, allowing for a maximum of three (3) years. The effective date is the date the RUP is signed by the Leasing Department Manager or Program Manager, as applicable.

    a. Perpetual terms are not permitted.
    b. Upon the expiration of the RUP and after exhaustion of both terms, the RUP cannot be extended, however, a new RUP may be issued.
    c. Permittee may be granted a new RUP beyond the twice Permit limit if there are exigent or other circumstances beyond the Permittee's control, and the Permittee is not circumventing the Lease process. The exigent or other circumstances must be justified in writing with supporting documents by the Permittee and approved by the Leasing Department.

2. Permittees not in default may exercise an option to renew by submitting a notice to the Leasing Department with a copy to RED. Notice must be given at least ten (10) working days prior to the expiration of the Primary Term.

B. Termination

1. RUPs shall be terminated for non-compliance with the terms and conditions.
2. In the event of non-compliance with the RUP, the Leasing Department shall notify RED in writing and within ten (10) working days from the notification, RED shall proceed to terminate the RUP in accordance with Section 10.7 of the Management Plan.

C. Security

1. Permittee shall provide Security if seeking an RUP for a term that exceeds six (6) months.
2. Security shall be for an amount equal to three (3) months of rental.
3. Security may be waived by the Leasing Department if justified in writing by the Applicant and approved by the Leasing Department.

13.3 Applicant Responsibilities

A. Applicant shall:

1. Submit an Application for an RUP to the Leasing Department.
2. Submit appropriate Insurance or Indemnification Form, as applicable. Refer to Administrative Plan Section 4.3(E)(1) to (4).

3. If an Applicant is an LRE, it must submit:

    a. Current Certificate of Good Standing, and
    b. Evidence of authority of lease signatory to act on behalf of the LRE.

4. If the Applicant has not completed these responsibilities or made significant effort in three (3) months of initiating the Application, the Application may be void, at the discretion of Leasing Department.

13.4 Leasing Department Responsibilities

A. Review request and check land status.
B. Obtain an ES, including GPS center point coordinates if no survey is available for the permitted premises.
C. Obtain Procurement Clearances.
D. If the Applicant does not provide appropriate insurance coverage, the Leasing Department must obtain a signed Indemnification document.
E. Upon receipt of required documents, prepare two (2) RUPs for signature by Applicant.
F. Upon return of original signed RUP by Applicant, the RUP is submitted to:

    1. DOJ, only if changes are made to the standard format; and
    2. Leasing Department Manager or Program Manager, as applicable, for approval and execution.

G. The Leasing Department shall submit two (2) original RUPs to RED for distribution and management in accordance with the Management Plan.

14.0 Conditional Use Permit (CUP)

14.1 General Provisions

A Conditional Use Permit is for land that has not yet been withdrawn for commercial purposes. It conveys no possessory interest and may be revoked at will.

A. CUPs shall be issued, only, if:

    1. Chapter Resolution is obtained as described in Section 14.2(C) below,
    2. Grazing Official or Land Board approval, and
    3. Permittee is diligently pursuing a land withdrawal designation and Lease.

B. Rental for CUPs shall be negotiated (i.e., daily, weekly, monthly), not including the Administrative Fees, as listed below:

    1. For Profit:

a. $100.00 a day for a term of less than thirty (30) days.
b. $250.00 per month.

2. Non-Profit:

a. $25.00 per day for a term less than thirty (30) days.
b. $100.00 per month

3. CUPs can be modified, subject to Section 14.1.
4. RUPs shall be approved by the Leasing Department Manager for PDD, and the Leasing Department Manager or Program Manager for SBDD.

14.2 Requirements

A. Term

1. CUPs shall not exceed two (2) years from the effective date, except the permit may include no more than one (1) option to renew for an additional one (1) year term, allowing for a maximum of three (3) years. The effective date is the date the CUP is signed by the Leasing Department Manager or Program Manager, as applicable.

a. Perpetual terms shall not be permitted.
b. Upon the expiration of the CUP and after exhaustion of both terms, the CUP cannot be extended, however, a new CUP may be issued.
c. Permittee may be granted a new CUP beyond the twice permit limit if there are exigent or other circumstances beyond the Permittee's control, and the Permittee is not circumventing the Lease process. The exigent or other circumstances must be justified in writing with supporting documents by the Permittee and approved by the Leasing Department.

2. Permittees not in default may exercise an option to renew by submitting a notice to the Leasing Department with copy to RED. Notice must be given at least ten (10) working days prior to the expiration of the Primary Term.

B. Obtain approval from the Grazing Official and applicable Land Users.
C. Chapter Resolution is required and shall include the following:

1. Recommend approval of the CUP, and
2. Recognize the land is not yet withdrawn for commercial purposes.

D. Termination

1. CUPs shall be terminated for non-compliance with the terms and conditions.
2. In the event of non-compliance with the CUP, the Leasing Department shall notify RED in writing, and within ten (10) working days from the notification, RED shall proceed to terminate the CUP in accordance with Section 10.7 of the Management Plan.

E. Security

1. Permittee shall submit Security if seeking a CUP for a term that exceeds six (6) months.
2. Security shall be for an amount equal to three (3) months of rental.
3. Security may be waived or increased by the Leasing Department. Waivers shall be justified in writing by the Applicant and approved by the Leasing Department. Increases shall be justified in writing by the Leasing Department.

14.3 Applicant Responsibilities

A. Submit an Application for the CUP to the Leasing Department.
B. Submit appropriate insurance or Indemnification Form, as applicable. Refer to Administrative Plan Section 4.3(E)(1) to (4).
C. If an Applicant is an LRE, it must submit:

1. Current Certificate of Good Standing, and
2. Evidence of authority of lease signatory to act on behalf of the LRE.

D. If the Applicant has not completed these responsibilities or made significant effort in three (3) months of initiating the Application, the Application may be void, at the discretion of Leasing Department.

14.4 Leasing Department Responsibilities

A. Review request and check land status.
B. Obtain an ES, including GPS center point coordinates if no survey is available for the permitted premises.
C. Obtain Procurement Clearances.
D. If the Applicant does not provide appropriate insurance coverage, the Leasing Department must obtain a signed Indemnification document.
E. Upon receipt of required documents, prepare two (2) CUPs for signature by Applicant.
F. Upon return of original signed CUP by Applicant, the CUP is then submitted to:

1. DOJ, only if changes are made to the standard format; and
2. Leasing Department Manager or Program Manager, if applicable, for approval and execution.

G. The Leasing Department shall forward two (2) original CUPs to RED, for distribution and management in accordance with the Management Plan.

15.0 Emergency Operating Agreement (EOA)

15.1 General Provisions

An Emergency Operating Agreement permits a business to operate on a business site in an emergency for a specified purpose. It conveys no possessory interest and may be revoked at will.

A. An EOA shall be issued, only if:

1. Abandoned structure or building to avoid vandalism or property damage.
2. Operating Business with:

    a. Abandoned premises;
    b. Lessee agreed in writing to mutually terminate and vacate the premises; or
    c. Expired or terminated Lease, Permit, or EOA, provided the Operator is not the Lessee, Permittee, or Operator of the expired or terminated agreement, unless:

        i) There is delay to obtain a new Lease, with the same Lessee, after a Lease expires, and the delay is beyond the control of the Lessee and is not the result of the Lessee's actions.

B. Operator must diligently pursue a Lease, unless:

1. Providing for security; or
2. Temporarily managing an operating business.

C. Rental shall not be construed to be the rent for future Permits or Leases, and may be:

1. Reduced or waived, or
2. Based on the rental rate of the Operator's expired or terminated Lease, Permit, or EOA.

D. EOAs can be modified, subject to 14.1.
E. EOAs shall be approved by the Leasing Department Manager or Program Manager, as applicable.

15.2 Requirements

A. Term

1. EOA shall not exceed two (2) years from the effective date except the EOA may include no more than one (1) option to renew for an additional one (1) year terms, allowing for a maximum of three (3) years. The effective date is the date the EOA is signed by the Leasing Department Manager or Program Manager, as applicable.

    a. Perpetual terms are not permitted.
    b. Upon the expiration of the Agreement and after exhaustion of both terms, the EOA cannot be extended, however, a new EOA may be issued.
    c. Operator may be granted a new EOA beyond the twice EOA limit if there are circumstances beyond the Operator's control, and the Operator is not circumventing the Lease process. The circumstances must be justified in writing with supporting documents, if applicable, by the Operator and approved by the Leasing Department.

2. Operators not in default may exercise an option to renew by submitting a notice to the Leasing Department with copy to RED. Notice must be given at least ten (10) working days prior to the expiration of the Primary term.

B. Termination

1. Agreement shall be terminated for non-compliance with the terms and conditions
2. In the event of non-compliance with the EOA, the Leasing Department shall notify RED in writing and within ten (10) working days from the notification, RED shall proceed to terminate the EOA in accordance with Section 10.7 of the Management Plan.

15.3 Applicant Responsibilities

A. Submit Application for an EOA to the Leasing Department.
B. Submit appropriate Insurance or Indemnification Form, as applicable. Refer to Administrative Plan Section 4.3(E)(1) to (4).
C. Be in compliance with Navajo laws and regulations.

15.4 Leasing Department Responsibilities

A. Seek interested Operators, when possible.
B. Review request and check land status.
C. Obtain an ES, including GPS center point coordinates if no survey is available for the permitted premises.
D. Obtain Procurement Clearances.

1. Proceed with EOA approval if there is no response within five (5) working days.

E. If the Applicant does not provide appropriate insurance coverage the Leasing Department must obtain a signed Indemnification document.

F. Upon receipt of required documents, prepare two (2) Agreements for signature by Applicant.

G. Upon return of original signed EOA by Applicant, the EOA is then submitted to:

1. DOJ, only if changes are made to the standard format; and
2. Leasing Department Manager or Program Manager, as applicable, for approval and execution.

H. The Leasing Department shall forward two (2) original EOAs to RED for distribution and management in accordance with the Management Plan.

16.0 Sub-Permits

16.1 General Provisions

A. A Sub-Permit may be entered into between a Lessee and Sub-Permittee on premises subject to an active Lease currently in effect. A Sub-Permittee may use part of a Lease premises on Navajo Nation trust land for a specified purpose not included in the Lease. A Sub-Permit conveys no possessory interest and may be revoked at will.

B. Sub-Permits shall be issued for part of the premises concurrent with an active business site lease for the same premises if:

1. Short term business (including sale of goods or services), events, fundraising, government operations, or political events.
2. Sub-permits must be initiated by Lessee, and the Lessee will be Sub-Permittor.

C. The Sub-Permit must include a provision that the Sub-Permittor and the Sub-Permittee indemnify the Navajo Nation against any and all loss, claims, and liability of any kind arising from the Sub-Permit.

D. Fees payable to the Navajo Nation for Sub-Permits shall be applied (i.e., daily, weekly, monthly) as follows, and shall not be construed as rental for the Lease:

1. For Profit

    a. $100.00 a day for a term less than 30 days;
    b. $250.00 per month.

2. Non-Profit or community service/fundraising

a. $25.00 a day for a term less than 30 days;
b. $100.00 per month.

3. For Profit with high value sales, such as licensed dealers for vehicles, all-terrain vehicles, motorcycles, boats, and mobile homes:

a. $250.00 a day for a term less than 30 days;
b. $500.00 per month.

The Sub-Permittor may charge fees in addition to the above fees payable to the Navajo Nation. The Navajo Nation has no role or responsibility with respect to fees payable to the Sub-Permittor by the Sub-Permittee.

E. Sub-permits shall be approved by the Leasing Department Manager or Program Manager, as applicable.

16.2 Requirements

A. Term

1. Sub-Permits shall not exceed two (2) years from the effective date, except the Sub-Permit may include an option to renew for an additional one (1) year term, allowing for a maximum of three (3) years. The effective date is the date the Sub-Permit is signed by the Leasing Department Manager or Program Manager, as applicable.

c. The Sub-Permit term shall not exceed the term of the Lease.
d. Perpetual terms shall not be permitted.
e. Upon the expiration of the Sub-Permit and after exhaustion of both terms, the Sub-Permit cannot be extended, however, a new Sub-Permit may be issued.

2. Sub-Permittees and Sub-Permittors not in default may exercise an option to renew by submitting a notice letter to the Leasing Department with copy to RED. Notice must be given at least ten (10) working days prior to the expiration of the Primary Term.

B. Termination

1. Sub-Permits shall be terminated for non-compliance with the terms and conditions.
2. In the event of non-compliance with the Sub-Permit, the Leasing Department shall immediately notify RED in writing, and within ten (10) working days from the notification from the Leasing Department, RED shall proceed to terminate the Sub-Permit in accordance with Section 10.7 of the Management Plan.

16.3 Sub-Permittee Applicant Responsibilities

A. A Sub-Permittee shall comply with the responsibilities set forth in Section 13.3 of the Administrative Plan, as applicable.

16.4 Sub-Permittor (Lessee) Applicant Responsibilities

A. The Lessee, as Sub-Permittor, shall comply with the requirements set forth in Section 13.4, as applicable. With respect to Section 13.4(G) compliance, however, the Lessee shall provide three (3) original copies of the Sub-Permit to RED.

B. The Leasing Department shall assist Sub-Permittor and serve as a liaison with Navajo Nation governmental entities as needed to comply with Section 13.4 responsibilities.

17.0 Appendix - References

Navajo Nation business site leases are subject to Navajo and Federal legal authorities, including the following, which may be amended from time to time.

A. Title 25 United States Code Annotated Section 415(e)
B. Title 5 of the Navajo Nation Code, Section 2301 *et seq.* (Navajo Nation Business Site Leasing Act of 2000)
C. Title 2 of the Navajo Nation Code, Section 500 *et seq.* (Resources and Development Committee Establishment Act)
D. Title 2 of the Navajo Nation Code, Section 851 *et seq.* (Navajo-Hopi Land Commission Establishment Act)
E. Title 2 of the Navajo Nation Code, Section 1501 *et seq.* (Division of Economic Development Establishment Act)
F. Navajo Nation Business Leasing Regulations of 2005 (Navajo Regulations)
G. Economic Development Committee Uniform Business Leasing Regulations of 2008 (Uniform Regulations)
H. Navajo Division of Economic Development Master Plan of Operation, Resolution RDCO-055-19
I. Land Withdrawal Designation Regulations, Resolution RDCJN-33-15.
J. Title 2 of the Navajo Nation Code, Section 81 *et seq.* (Navajo Nation Privacy and Access to Information Act)
K. Title 12 of the Navajo Nation Code, Section 1501 *et seq.* (Navajo Business and Procurement Act)
L. Title 15 of the Navajo Nation Code, Section 601 *et seq.* (Navajo Preference in Employment Act)
M. Title 1 of the Navajo Nation Code, Section 551 *et seq.* (Navajo Sovereign Immunity Act)

18.0 Appendix – Forms

DED will provide forms for the following documents, which may be updated from time to time, except for Part II Business Site Lease, which may be modified or amended only with RDC approval. DED will make the current version of these form documents available to the public in a convenient manner.

A. Part I Business Site Lease
B. Part II Business Site Lease
C. Notice to Exercise Option to Renew
D. Sublease
E. Tenant Agreement
F. Assignment

1. Complex Form
2. Simple Form

G. Modification
H. Mutual Termination
I. Collateral Assignment of Lease
J. Revocable Use Permit
K. Conditional Use Permit
L. Emergency Operating Agreement
M. Sub-Permit Form
N. Indemnification Form
O. Sample Business Plan Outline
P. Leasehold Credit Rules
Q. Application
R. Sample Management Agreement
S. Leasing Department Folder Management
T. Sample Evidence of Authority
U. Sample Rental Provisions

The Navajo Nation

Division of Economic Development

Business Site Lease

Management Plan

MANAGEMENT PLAN

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1.0 Definitions

Definitions can be found in Section 2.1 of the Administrative Plan. Terms defined below are used only in the Management Plan.

2.0 Lease, Sublease, Assignment, Modification, Permit, EOA, and Sub-Permit Management

2.1 RED Responsibilities for Lease Management

Upon receipt of a fully executed Lease Transaction, RED shall:

A. *Collect the administrative fee.* RED will notify the Lessee that the administrative fee is due, and collect the appropriate fee in accordance with the Administrative Plan Section 2.2.

B. *Assign a Lease number.* All Leases shall be categorized under its five (5) agencies for accounting and recording purposes. The categories shall be:

1. Fort Defiance Agency: NNFD
2. Eastern Agency: NNEN
3. Chinle Agency: NNCH
4. Western Agency: NNTC
5. Shiprock Agency: NNSR

NOTE: A novated Lease shall maintain its original Lease number.

C. *Recording and Distribution.*

1. RED shall record Lease Transactions, renewals, and cancellations with:

Land Title and Records Office
Southwest Regional Office
Bureau of Indian Affairs
P.O. Box 26567
Albuquerque, NM 87125-6567

2. RED shall distribute Lease Transactions, renewals, and cancellations to:

a. Lessee (original)
b. RED (original)
c. Leasing Department (copy)
d. Navajo Nation Land Department (copy)
e. Navajo Nation Office of the Controller Accounts Receivable (copy)
f. Appropriate BIA Agency Real Estate Services Office (copy)

D. *Notice to ONTC.* If the lease transaction is a pre-authorized Sublease entered into under Administrative Plan Section 4.3(F) and 7.2, or a Tenant Agreement entered

into under Administrative Plan Section 7.3 provide notice of the Sublease or Subpermit and identity of Sublessee or Subpermittee to ONTC.

E. *Obtain the Security (Performance and Environmental Audit).*

1. RED will provide notice to Lessee that Security is due and collect Security in the form of cashier's check, or coordinate electronic fund transfer with OOC Cashier's, unless Security is waived or postponed in accordance with the Administrative Plan Section 4.3(C).
2. If Security is postponed, RED shall send a written notice to the Lessee at least thirty (30) days before the Security is due with a copy to the Leasing Department. The notice shall include the following information:

    a. Actual due date,
    b. The amount to be submitted,
    c. Details on where and how the Security is to be submitted, and
    d. Inform the Lessee that failure to provide the Security by the actual due date may result in cancellation of the Lease as provided in Section 10.0, Cancellation.

    This Section 2.1(E)(2) applies to both performance security under Lease Part I, and also environmental audit security under Lease Part II 2.0, Special Terms and Conditions for Navajo Nation Business Site Leases with Storage Tanks.

3. If Security is not submitted by the due date as provided above, RED shall send a second written notice to the Lessee informing the Lessee that the Security is past due, with a copy to the Leasing Department. The notice shall include the following information:

    a. Inform the Lessee that this notice is the "Second Notice," and
    b. If the Lessee does not provide the required security within ten (10) days, the Lease will be canceled as provided in Section 10.0, Cancelation.

F. Insurance

1. RED will provide notice to Lessee that the Certificate of Insurance is immediately due on the Effective Date, or such other date as negotiated and set forth in the Lease.
2. The Lessee shall maintain insurance until the Lease is terminated, cancelled, or expired.
3. The Lessee shall submit the Certificate of Insurance to RED annually.
4. If Lessee does not submit the Certificate of Insurance on the date due, RED shall follow the process as provided in 8.0 and 9.0 of the Management Plan.

G. Development Period

1. RED shall send a written notice to the Lessee one (1) year prior to the expiration of the development period. The notice shall include the following information:

    a. Date the development period expires,
    b. Lessee may be subject to pay the rent that was in existence before any waiver or abatement was granted for failure to undertake agreed upon developments, and
    c. Lease may be subject to cancellation if there is no development as provided in the Lease.

2. RED shall issue a second written notice to the Lessee six (6) months prior to the expiration of the development period. RED shall provide a copy to the Leasing Department and OOC Accounts Receivable. The notice shall include the following information:

    a. Date the development period expires,
    b. Lessee may be subject to pay the rent that was in existence before any waiver or abatement was granted for failure to undertake agreed upon developments, and
    c. Lease may be subject to cancellation if there is no development as provided in the Lease.

3. If the development period is one (1) year or less, RED shall send a written notice ninety (90) days prior to the expiration of the development period. Copy provided to the Leasing Department and OOC Accounts Receivable. The notice shall include the following information:

    a. Date the development period expires, and
    b. Lease may be subject to cancellation if there is no development as provided in the Lease.

2.2 Permits, Sub-Permit, and EOA Management

A. Upon receipt of an executed Revocable Use Permit, Conditional Use Permit, EOA, or Sub-Permit with supporting documents, RED shall:

1. Confirm the Permit, Sub-Permit or EOA has satisfied insurance and procurement clearance requirements, and if so, continue to process the Permit or EOA as set forth below;
2. Collect the Administrative Fee, in accordance with Section 2.1(A) above;
3. Assign a tracking number using the following code categories:

    a. EOA Code E; RUP Code R; CUP Code C

        i) Fort Defiance Agency: [E/R/C] - FD
        ii) Eastern Agency: [E/R/C] - EN
        iii) Chinle Agency: [E/R/C] - CH
        iv) Western Agency: [E/R/C] - TC

v) Shiprock Agency: [E/R/C] - SR

Sub-Permits shall have the tracking number associated with the Lease in effect for that business site.

4. Distribute the Permit, Sub-Permit, or EOA to:

   a. Permittee or Operator, as applicable (original)
   b. Lessee/Sub-permittor and Sub-permittee, as applicable (original),
   c. RED (original),
   d. Leasing Department (copy),
   e. Navajo Nation Land Department (copy), and
   f. OOC Accounts Receivable, if applicable (copy);

5. Provide notice of sub-permits to ONTC, as applicable, in accordance with Section 2.1(D) above.
6. Obtain the Security, as applicable, in accordance with Section 2.1(E) above;
7. Obtain evidence of insurance or indemnification agreement, as applicable, in accordance with Section 2.1(F) above.
8. Maintain a file with the documents and correspondence necessary and appropriate to manage the Permit, EOA, or Sub-Permit.

B. If the Permit, EOA, or Sub-Permit has not satisfied environmental review, insurance, or procurement clearance requirements, it shall be void with no force and effect. RED shall immediately notify the Leasing Department and the applicant (i) that the Permit, EOA, or Sub-Permit is void, (ii) the reason the Permit, EOA, or Sub-Permit is void, and (iii) what must be done to satisfy environmental review, insurance, or procurement clearance requirements if the applicant would like to restart the application process.

C. If, after notice and an opportunity to cure consistent with Section 2.2(B) of the Management Plan, the permittee, operator, or sub-permittee does not pay the applicable Administrative Fee or Security, or is in default under the terms of the Permit, EOA, or Sub-Permit, then RED shall proceed to cancel the Permit, EOA, or Sub-Permit in accordance with Section 10.7 of the Management Plan.

3.0 Lease Compliance

3.1 Rental Compliance

OOC, in conjunction with RED, shall maintain and ensure that the rental payments are timely and that the Lessee is not in default. Rental payments are monitored by OOC Accounts Receivable based on the terms and conditions of the Lease.

A. The Lessee shall remit rental payments to OOC by cashier's check, electronic fund transfer, credit card payment, or in another form acceptable to OOC Cashier's Section.

B. OOC shall provide the Lessee's monthly accounting statement to RED.

C. Late Charges

1. Late fees will apply in accordance with the Lease if rental payment is not received by due date.
2. After ninety (90) days of rental default, the Lease is subject to cancellation as provided in Section 8.0 and 9.0 of the Management Plan.

D. Rental Default

1. Upon receipt of OOC's monthly accounting statement of the Lessee displaying non-payment, RED shall immediately send written notice in accordance with Section 9.2 below to inform the Lessee of the non-payment and that the rental must immediately be paid. RED shall provide a copy to the Leasing Department and OOC. RED shall proceed to Section 9.3 below.
2. In the event of death of a Lessee, RED shall enforce the Lease as set forth in Section 9.0(B) below.
3. Any uncured payment arrearages of employees of the Navajo Nation or entity of the Nation shall be pursued by the following, in accordance with an intradepartmental agreement to be entered into between OOC and DED:

    a. pursuant to the Navajo Nation Executive Branch Personnel Policies Manual Article XVI(B)(2) (regarding garnishment of wages, including payroll deductions),
    b. through judicial means, and/or
    c. pursuant to the Navajo Business and Procurement Act, 12 N.N.C. §1507, if applicable (regarding Navajo Nation's ability to offset money claims against any amount the Navajo Nation owes to or has an account payable to the Lessee).

E. Compromise with delinquent Lessees may be pursued in accordance with Section 8.2 of this Management Plan.

F. Lease Rate Adjustment.

1. If the Lease includes pre-determined rent adjustments (including calculations for CPI or other inflation adjustments) to satisfy the periodic review requirements set forth in Section 4.3(B)(7) of the Administrative Plan, RED will do the following:

    a. After the due date for any initial adjusted rent payment, confirm with OOC Accounts Receivable that the Lessee has made the appropriate rental adjustment in accordance with the updated rent schedule in the Lease. If the Lessee has not made the appropriate adjustment, RED shall promptly give notice to the Lessee, with a copy to OOC Accounts Receivable, that the rent payment is insufficient and any outstanding amount is due immediately. Outstanding rent amounts will be treated as late payments.
    b. If the rent increase involves a CPI or other inflation adjustment, RED will calculate the amount and provide the Lessee 6 months'

advance notice. RED shall send a second 3 months' advance notice. A copy of both notices will be provided to OOC Accounts Receivable.

2. If the Lease provides for periodic review every five years without pre-determined rent adjustments, RED will do the following:

   a. At least 6 months before expiration of the periodic review (i.e., the rent adjustment date), RED will notify the Leasing Department to obtain an Appraisal or MDR giving consideration to economic conditions, exclusive of improvements or development required by the contract or the Lessee's contribution value of such improvements, so the Leasing Department can negotiate rent adjustment in a Lease Modification.
   b. Unless otherwise provided in the lease modification, after the due date for any modified rent amount, confirm with OOC Accounts Receivable that the adjusted rent payment was paid in accordance with the Lease Modification, and, if not, promptly give notice to the Lessee, with a copy to Accounts Receivable, that the rent payment is insufficient, and any outstanding amount is due immediately. Outstanding rent amounts will be treated as late payments.

3.2 Annual Lease Compliance

RED shall conduct an on-site inspection of all Leases on an annual basis to ensure compliance with the Lease's terms and conditions. An Annual Lease Compliance Report shall be completed by July 1st of each year.

A. RED may conduct on-site inspections with at least seventy-two (72) hours' notice to Lessee.

B. Upon completion of the onsite inspection, RED shall prepare and complete the Annual Lease Compliance Report.

C. RED shall provide Annual Lease Compliance Report, and Site Status Report to the Leasing Department and file in accordance with Section 12.0 of this Management Plan.

D. If the Lessee is not in compliance with the terms and conditions of the Lease, RED shall initiate and implement the provisions for enforcement as provided in Section 9.0 of the Management Plan.

3.3 Property Inventory

RED shall complete the Property Inventory Form annually, and when the Lease is expired, terminated, cancelled, or the premises have been abandoned. Upon completion, RED shall provide a copy of the completed Property Inventory Form to the Lessee and the Leasing Department.

3.4 Holdover

After the expiration, termination, or cancellation of Lease, RED will conduct an on-site inspection to ensure the Lessee has vacated the leasehold premises. If the Lessee has not vacated the premises, RED will notify OOC Accounts Receivable what course of action RED will take to address the issue, and whether OOC is to apply holdover rent.

A. If the Lease expires:

1. The Leasing Department may issue a Revocable Use Permit or Emergency Operating Agreement in the event that the Lessee is making a good faith effort to obtain a new Lease, or
2. If the Lessee is not making a good faith effort to obtain a new Lease, RED may refer the matter to DOJ for appropriate action.

B. If the Lease is terminated or cancelled and the holdover Lessee is still occupying the leasehold premises, the Lessee shall be treated as an unauthorized occupant per Section 9.7 of the Management Plan.

C. In the event of a holdover by Lessee beyond the expiration date, the Lessee shall pay the Nation double the most recent rental until a new Lease, Revocable Use Permit, or EOA is issued.

D. In the event Lessee will or has entered into holdover status through no fault of Lessee (e.g., where timely notice was given to the Department of Lessee's intent to renew a Lease, and Lessee exhibited a good faith effort to enter into a new Lease, Revocable Use Permit, or EOA before the Lease expired), then RED, with written consent from DOJ, may direct OOC not to apply holdover rent pending continued good faith negotiation of the new Lease.

4.0 Survey Plat and Legal Description

4.1 Survey Requirements

A. Leases shall contain adequate Surveys and legal descriptions based on metes and bounds, rectangular, or lot and block systems. Surveys should include the square footage of structural improvements (buildings) located on the leased premises.

B. Legible existing Surveys and legal descriptions from previous business site leases on the same premises are permissible if they are legible and can be verified using new technology (or provide updated Survey). These are referred to as "recycled surveys."

C. Record Keeping. The Survey shall be attached to each Lease as an exhibit. The Leasing Department and RED shall each retain an original Survey, unless a recycled survey is used in accordance with 4.1(B). RED's survey may be provided in an electronic format acceptable to RED.

4.2 RED's Responsibilities

A. RED shall review and verify the Survey meets the requirements of this Section 4.0 concurrent with the Lease negotiation by Leasing Department.

B. Within five (5) business days of receiving a request for Survey review from a Leasing Department, RED shall notify the Leasing Department in writing if there are any error(s) that must be corrected. If a party other than the Leasing Department is actually obtaining the Survey, RED shall provide a copy of such notice to the other party and may communicate directly with the other party to address and resolve the errors.

4.3 Qualifications of Land Surveyor

The land surveyor shall be licensed in the State in which the land survey is conducted.

5.0 Navajo Nation Environmental Review Process (ERP)

5.1 ERP General Matters

A. Capitalized terms in this Section 5.0 not defined in the Plan shall have the meanings given to them in the Tribal Regulations.

B. RED shall ensure the ERP is conducted in compliance with Subchapter 800 of the Tribal Regulations. Within RED, the Environmental Reviewer shall be responsible for the ERP.

C. An Applicant shall consult with the Leasing Department for advice and guidance through the ERP. The Leasing Department may serve as a liaison between the Applicant and RED, and may assist the Applicant to obtain and submit required documents to the Environmental Reviewer.

5.2 Threshold Determination and Exemption

A. *Required Documents*. The following documents are required to begin the ERP:

1. legible survey and legal land description for the proposed leasehold premises; and
2. detailed written description of proposed business operation and any improvements to be developed within the leasehold premises.

B. *Prior ERP Documents*. If the Leasing Decision pertains to an existing lease or business site that has undergone an ERP, the Applicant may submit prior environmental review documents to the Environmental Reviewer as early in the process as possible to determine if the previous ERP adequately evaluates the impacts of the proposed Leasing Decision.

C. *Threshold Determination*. Upon receipt of the required documents and any prior ERP documents, the Environmental Reviewer shall determine if the Leasing Decision is subject to the ERP, considering whether it may (i) impact, (ii) alter,

(iii) disturb, or (iv) otherwise cause physical disturbances to the biological or cultural resources of the Navajo Nation. The ERP shall make this threshold determination within five (5) business days after receipt of the required documents.

D. *Leasing Decisions Exempt from the ERP*. If the Leasing Decision is not subject to the ERP, the Environmental Reviewer shall issue an Environmental Summary that states the determination and specifically identifies the documents reviewed. No further ERP action is required unless the acreage is increased, there is a change in lease purpose or site use, or a change in business operations that may impact, alter, disturb, or otherwise cause physical disturbances to biological or cultural resources.

5.3 ERP Compliance Process

A. *Applicability*. A Leasing Decision may be subject to the ERP if there are no previous ERP records, or if an ERP was not previously conducted.

B. *Compliance Determinations*. The Applicant (or Leasing Department) shall obtain Compliance Determinations from Heritage and Historic Preservation Department (HHPD), Department of Fish & Wildlife (DFW), and Environmental Protection Agency (EPA) (each, a "reviewing department"). To initiate the review process, the Applicant shall simultaneously submit the legible survey, legal land description, and detailed written description of the proposed business operation and any improvements to be developed within the leasehold premises to:

1. HHPD with a Cultural Resource Compliance Form (CRCF),
2. DFW with a Biological Resource Compliance Form (BRCF), and
3. EPA with a request for potential environmental impact by human activity determination.

C. *Compliance Determination Timeline*. Each reviewing department's completion of the Compliance Determination will be timely if provided within twenty (20) business days of the department's receipt of the Applicant's request, or receipt of information it requires and requested from the applicant to complete the Compliance Determination, whichever is later.

D. Review by Environmental Reviewer.

1. The Applicant shall submit the Compliance Determinations from HHPD, DFW, and EPA to the Environmental Reviewer, or evidence that a Compliance Determination was requested and not timely provided by the reviewing department.
2. The Environmental Reviewer may conclude the ERP without a Compliance Determination from one or more of the reviewing departments, provided (1) reasonable efforts were made to obtain the three (3) reviewing departments' determinations, and (2) any delays were not the fault of the Applicant.
3. The Environmental Reviewer's review period shall not exceed five (5) business days from the receipt of all three (3) of the reviewing departments'

Compliance Determinations. If the Environmental Reviewer determines that Public Notice is appropriate under the circumstances, the process set forth in Section 5.5 shall be initiated within the initial five (5) day review period.

E. Environmental Summary.

1. If the Compliance Determinations are sufficient, the Environmental Reviewer shall issue an Environmental Summary.
2. If the Compliance Determinations are insufficient, the Environmental Reviewer shall provide notice to the Applicant and Leasing Department with a written explanation of the insufficiency and request for correction.
3. The Applicant, with support from the Leasing Department if appropriate, shall make any required corrections and resubmit the Compliance Determinations to the Environmental Reviewer for another review.
4. If the resubmitted Compliance Determinations are sufficient, the Environmental Reviewer shall issue an Environmental Summary. The Environmental Summary shall be provided to the Applicant and Leasing Department.
5. The only document required in the lease package to reflect that an ERP has been conducted is the ES. However, the Approving Committee may review the Environmental Review Record before approving leasing decisions.

5.4 Lessee Compliance Obligation

An Environmental Summary shall be null and void, and penalties may be imposed by the HHPD, DFW, and EPA , if an Applicant or Lessee increases the acreage of leasehold premises, changes site use, or changes business operations without obtaining a Lease Modification and updated Environmental Summary. Such actions shall be deemed a default subject to the enforcement provisions of this Management Plan, including Lease cancellation.

5.5 Public Notice

A. If the business activities pose a new and/or potential impact to the Navajo Nation's resources, the ER may determine public notice is required prior to certifying the Applicant/Lessee has completed ERP.

B. If public notice is required, RED shall publish the ER in a newspaper of general circulation of the project for fifteen (15) calendar days.

C. The public notice must:

1. Provide at least one opportunity for public comment, for no more than a 30-calendar day period, and
2. Indicate the record is open to the public and outline how the record can be reviewed.

D. Public Comments must be taken into consideration by the ER before issuing an Environmental Summary.

5.6 Environmental Review Records Management

A. RED shall maintain a digital records management system for all NNEPA, FWD, and HHPD compliance records and related documents.

B. The compliance records and related documents may be available for public review to the extent provided by the Navajo Nation Privacy and Access to Information Act 2 N.N.C. § 81 *et. seq.* and applicable Navajo Nation laws and policies.

C. The Environmental Review Record must contain the following information:

1. Compliance Determinations,
2. Correspondence,
3. Required supporting documents,
4. Environmental Summary,
5. Public Notice, if applicable, and
6. Public Comments, if applicable.

6.0 Fair Annual Lease Value

6.1 Implementation

Rental shall be based on fair annual lease value determined by:

A. An Appraisals completed by a certified Appraiser in accordance with the Uniform Standard Procedures of Appraisal Practice. An Appraisal shall be obtained for an Applicant/Lessee that generates more than $2,000,000 in actual or expected gross receipts;

B. MDR may apply to all other leases that do not meet the criteria as provided in Section 6.2(A).

Fair annual lease value determination shall be based on improvement cost, replacement cost, earning capacity, sales and lease data of comparable sites. The appraisal or MDR document shall be attached to every Lease.

6.2 Market Data Research (MDR)

The MDR is a process to obtain fair annual lease value, considering improvement cost, earning capacity, sales and Lease Data. Either RED or the Leasing Department, with assistance from RED, will conduct an analysis based on the Lease Data and other available information to determine a fair annual rent.

A. Required documents

1. Until such time as the Leasing Departments have access to all leasing records on the Navajo Nation, the Leasing Department may submit in writing the following information to RED:

    a. Actual or expected gross receipt total,

b. Real property improvements,
c. Location (Town and State),
d. Acreage,
e. Business purpose, and
f. One photo of the business site and road (if applicable).

B. Upon receipt of the required documents, RED shall provide the data sheet/report to the Leasing Department within three (3) business days. The data sheet/report will not be provided until all required documents have been provided to RED. The Leasing Department may then analyze the Lease Data to determine fair annual lease value.

C. RED or the Leasing Department may use market data analysis for exigent circumstances, such as a new proposed market for the Navajo Nation (e.g., liquor store). The market data analysis may compare a similar outside business to an existing business within the Navajo Nation, or an outside certified appraiser may be used as outlined in Section 6.4.

D. RED's responsibilities:

1. Provide the data sheet/report on the subject property to the Leasing Department with a notice regarding confidentiality for protected information.
2. Provide training on MDR and Lease Data analysis for the Leasing Departments.
3. Develop a process whereby the Navajo Nation Lease Database is automated and constantly updated.
4. Ensure all Lease Data is supported with information from RED's confidential files or other legitimate sources common to statistical research.

6.3 Nominal Rent:

Nominal Rent shall be either:

A. Based on services as consideration, subject to applicable federal or Navajo law; or

B. Not less than $150.00 per year.

6.4 Criteria for Appraisers

A. All Appraisers who perform appraisal assignments shall meet the following criteria:

1. The Appraiser shall

a. Complete the appraisal and appraisal reports in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP). Appraisal reports must meet the requirements of SR 2-2(a) and the Appraiser must comply with the Competency Rule.

b. Provide proof of good standing in the state of the registration or proof of reciprocity from the state in which the Appraiser is conducting the appraisal.
c. Be categorized as a Certified General by the National Registry.
d. Be an LRE authorized to do business on the Navajo Nation.

B. Once the appraisal is complete, the Applicant/Lessee and Leasing Department shall provide a courtesy copy of the Appraisal Report to RED for its file.

C. The Appraiser must include in appraisal report a signed statement agreeing to protect the confidentiality of all information the Appraiser obtains relative to Navajo Trust Lands. This is in addition to the general requirements stipulated in the Confidentiality Clause of the Ethics Rule in USPAP.

7.0 Financial Management

The following accounting procedures shall apply to Leases governed by the Tribal Regulations.

7.1 Accounting Procedures

A. OOC shall send invoices annually to the Lessee.

B. Leases executed during the year shall receive invoices prorated for the current calendar year.

C. If the Lessee, in its present form or any other identifiable capacity as an individual or LRE is in default under the Lease and has outstanding debt or delinquent accounts receivable owing to the Nation, the Lessee will not qualify for procurement clearance under NBPA, as applicable, and the Nation may exercise the right to offset any claim against amount the Navajo Nation owes to or has an account payable to the Lessee. See Management Plan Section 3.1(D)(3) (providing for wage garnishment, offset of monies owed to Lessee, and judicial enforcement) and Navajo Business and Procurement Act, 12 N.N.C. § 1507 (right of offset), as applicable.

D. RED shall have the option to review or generate its own Agency business site leasing report through current accounting software utilized by the OOC.

E. When a Settlement Agreement is executed by the Attorney General, DOJ shall disseminate the fully executed Settlement Agreement to RED within ten (10) days of execution.

1. RED shall provide the fully executed settlement agreement to the Lessee, OOC Accounts Receivable, and the Leasing Department.
2. OOC Accounts Receivable will provide an updated account ledger to RED and DOJ within ten (10) days of confirmation that the Lessee has complied with the Lessee's settlement payment obligations, if any. RED will provide the updated account ledger to the Lessee within 10 days of receipt.

F. Protected Lease information shall be kept confidential in accordance with the Navajo Nation Privacy and Access to Information Act, 2 N.N.C. § 81 *et seq.*, and shall not be made available to any other individual or organization by the OOC. OOC shall not disclose confidential information other than (i) pursuant to the parties' written request, (ii) to DED, (iii) to DOJ, (iv) to the current Lessee, which may be an assignee or successor-in-interest, or (v) as otherwise required by applicable law.

G. DED shall comply with Navajo Business and Procurement Act, Title 12, Chapter 15, as codified in the Navajo Nation Code. Requests for Procurement Clearance from DED through OOC shall be in compliance with the Act to protect the resources and financial integrity of the Nation.

7.2 Financial Reports

To ensure Leases are properly monitored for compliance, OOC Accounts Receivable shall generate the account receivable reports monthly and disseminate or transmit electronically to RED and the Leasing Department.

7.3 Audit

A. Navajo Nation Auditor General's Office may conduct annual random audits of Leases.

B. Written audit reports shall be provided to the Division once a final audit is completed by Navajo Nation Auditor General.

8.0 Lease Collection Procedures

8.1 Collections

OOC will provide notice to RED of Lessees that are in arrears or otherwise not in compliance with the Lease for RED's management of collection efforts. The goal of RED and OOC is to have the Lessee pay their rental debt on a timely basis through the process of negotiation and cooperation without having to resort to legal proceedings.

A. If an account is collected through judicial action, the Lessee, including associated individuals and LREs, shall not be considered for another Lease until a minimum of five (5) years has lapsed.

B. All bankruptcy cases shall be subject to applicable Federal bankruptcy laws and all other applicable laws to discharge a debt to the Nation.

C. However, the continued right to cancel the Lease is subject to all applicable Navajo Nation, Federal and State laws in which the property is located.

D. In the event of death of a Lessee or owner of an LRE Lessee, RED will pursue collections as set forth in Section 9.0(B) below.

E. Any uncured payment arrearages of employees of the Navajo Nation or entity of the Nation shall be pursued in accordance with Section 3.1(D)(3) (providing for wage garnishment, offset of monies owed to Lessee, and judicial enforcement).

8.2 Compromise with Delinquent Lessee

Compromise may be pursued at RED's discretion if the Lease rental is uncollectible after all collection efforts have been exhausted, and the Lessee agrees to settle outstanding debt with the Nation through a Settlement Agreement or Promissory Note. When initiating a Settlement Agreement, RED shall consult with the Leasing Department, OOC Accounts Receivable, and in coordination with DOJ.

A. RED shall consider factors such as death, bankruptcy, other circumstances, and the amount of debt on a case-by-case basis before recommending to the DOJ a Settlement Agreement and/or Promissory Note to be entered into.

B. In consultation with the Leasing Department, OOC Accounts Receivable Section, and DOJ, RED may negotiate with the interested party as to the terms of the Settlement Agreement or Promissory Note, or RED may forward the matter to DOJ to take the lead in negotiations in consultation with RED, the Leasing Department, and OOC Accounts Receivable.

C. Once negotiations are complete, the DOJ shall draft and/or review the Settlement Agreement and/or Promissory Note. If the Agreement includes a settlement payment by the Lessee, it should include a payment deadline and be reviewed by OOC Accounts Receivable before the final Agreement is executed by the parties.

D. Upon execution and completion of any applicable Lessee obligations, the accrued rental and any fees shall be adjusted by OOC Accounts Receivable in accordance with the terms of the Settlement Agreement. The Settlement Agreement and related documents shall become a part of the Lease file maintained by RED.

E. RED shall be responsible for enforcement of Settlement Agreements and Promissory Notes in the event that the Lessee fails to comply with their terms and conditions. RED may work with the DOJ to enforce the terms of a Settlement Agreement.

9.0 Enforcement, Relief and Remedies

RED shall enforce the terms of the Lease.

A. RED shall keep detailed records of periodic contacts with Lessees and efforts to resolve Lease defaults, in accordance with the internal policies and procedures of RED. The Lease file is the Navajo Nation's legal record of Lease transactions and relevant communications, and any entries made must be considered as potential evidence in a court of law.

B. In the event of death of an individual Lessee or the owner of an LRE Lessee, RED will communicate with the deceased's successor-in-interest or the administrator

of the deceased's estate for all Lease management purposes, including collections, enforcement, and the exercise of remedies, in compliance with the terms of the Lease, this Management Plan, and the Navajo Nation Rules of Probate Procedure.

C. RED will send correspondence to the Lessee in accordance with the notice provision of the Lease, which may be updated by the Lessee. It is the responsibility of the Lessee, Lessee's successor-in-interest, or the administrator of Lessee's estate (as applicable) to provide updated notice information to RED.

D. If at any time the Lessee files an appeal with the Office of Hearing and Appeals, any steps taken to cancel the Lease shall immediately cease. Proceed to Section 11.0 of the Management Plan.

E. RED may consult with the DOJ for any legal action.

9.1 Defaults

A. RED shall promptly communicate with Lessee to cure any violations or breach of the terms and conditions of the Lease, for example.

1. Not paying rent, late charges, or repayment plans (proceed to Section 8.0 above)
2. Conducting business outside the business site or without a valid Lease;
3. Not conducting business under the purposes set forth in the Lease;
4. Unlawful conduct or business on the business site;
5. Holdover (unless authorized by the Lease or Section 3.4 above);
6. Assigning, Subleasing, or otherwise transferring an interest in the Lease, including collateral assignment of the Lease, without following the process to authorize such transfer;
7. Not developing or completing development within the time granted in the Lease;
8. Not paying rent, if required, for period of waiver or rent abatement if Lessee failed to undertake development activity required during the period of waiver or abatement;
9. Not maintaining the following:

    a. Premises in an aesthetically clean and orderly appearance,
    b. Rental security throughout the lease term,
    c. A construction bond,
    d. Appropriate insurance throughout the lease term,
    e. Sanitation permits and health codes and standards,
    f. Environmental audit deposit, if applicable,
    g. Storage tank bond, insurance or other qualifying financial responsibility mechanism as required by Lease Part II, Section 2.0 *et seq.* and 40 CFR 280, if applicable.

10. Unlawful construction or violation of applicable building codes;
11. Not complying with the following:

a. Required Environmental laws,
b. Navajo Preference in Employment Act,
c. Navajo Business Opportunity Act, and
d. Navajo Nation tax laws

12. Any other violations or breach of the terms and conditions of the Lease.

If a Default has occurred, proceed to 9.2 of the Management Plan, unless the Default is going to cause death, injury or sickness to anyone, including the business owner, then proceed to 9.6 of the Management Plan.

9.2 Once a Default has occurred, RED shall proceed with the following:

A. Immediately provide a written notice sent by certified mail, return receipt requested, and in accordance with the notice provision of the Lease. The cancellation letter shall include the following:

1. Date the Default occurred;
2. An explanation of the Default;
3. Remedies that will be pursued;
4. Notice of possible cancellation, security and bond/insurance collections, and, if applicable, pursuit of remedies in Management Plan 7.1(C).
5. Notice that the Lessee has three (3) options:

    a. Cure the Default within ten (10) business days of the date the letter is deemed received;
    b. Request additional time to cure the Default; or
    c. Dispute the Default, which must include a written explanation to support the Lessee's position that there is no Default.

6. The Actual Date when the Lessee must respond, in writing, which is ten (10) business days from the date the notice is deemed received. Notice is deemed received three (3) business days after it was sent by certified mail, return receipt requested.

B. RED shall make reasonable efforts to ensure Lessee receives notice, for example to send a courtesy copy by email in addition to notice by certified mail, if the Lessee has provided an email address to RED.

C. RED will provide a courtesy copy of the default notice letter to the Leasing Department.

9.3 Response Process

A. If the Lessee cures the Default, RED shall inform the Lessee by a written notice that the Default has been cured.

B. If Lessee requests additional time before the deadline in Section 9.2(A)(5), then RED shall proceed with the following:

1. Review the request for additional time. In reviewing the request for additional time, RED shall consider whether the Lessee is diligently curing the Default.
2. The request for additional time should not be less than ten (10) business days, but should not extend beyond 90 calendar days from the date of Lessee's written request for additional time.
3. If the Default extends beyond 90 calendar days from the date of Lessee's written request for additional time and there is no reasonable justification for the delay, RED shall proceed to Section 9.4 of the Management Plan.

9.4 Compromise

A. If the Lessee is not able to cure but is willing to cooperate with RED, the RED will begin the process to negotiate a compromise and enter into a Settlement Agreement. See Section 8.2 of this Management Plan.

B. If a Lessee has entered into two (2) prior Settlement Agreements under the Lease term, RED shall not consider additional compromises, and shall proceed to Section 9.5 of this Management Plan. The RED Manager may approve a written request for waiver, with justification, of this limitation on compromise.

C. If, after attempt to compromise, the Default is still not cured and RED determines a compromise is not likely, RED shall proceed to Section 9.5 of this Management Plan.

9.5 Remedies

A. If the Lessee does not respond or cure within the time given, or does not cooperate with RED, the following may be exercised:

1. Cancel the Lease, proceed to Section 10 of the Management Plan;
2. Pursue other remedies, including execution on security and bonds, collection of insurance proceeds, and, if applicable, the remedies in Management Plan 7.1(C); and/or
3. Any combination of remedies listed above.

B. If RED decides to cancel the Lease, proceed to Section 10.2 of the Management Plan.

9.6 Emergency Cancellation of the Lease

A. If (a) conduct causes or threatens to cause immediate and significant harm to the premises or persons, including the business owner, or (b) an individual on the premises undertakes criminal activity thereon as determined by RED, then RED may:

1. contact the Navajo Nation Public Safety, and
2. immediately cancel the Lease without notice to the Lessee.

B. If RED cancels the Lease under this Section 9.6, RED shall provide notice of the emergency cancellation to the Lessee as soon as practicable under the circumstances.

9.7 Unauthorized entry, occupation, and/or use of Lease Premises

RED may seek DOJ assistance and pursue all available remedies, including calling law enforcement and the filing of a forcible entry and detainer action to regain possession if, but not limited to:

A. A person enters, occupies or uses leasehold premises without a Lease or other authorization, and

B. A holdover Lessee is unwilling to vacate the business site after termination, cancellation, or expiration of the Lease.

C. RED's inspection and enforcement responsibility to ensure no unauthorized entry, occupation, and/or use includes all business site lease premises. For example, if a business site lease under BIA management expires, the premises comes under RED management.

RED will consult with, and provide updates to, the Leasing Department regarding the enforcement activity.

10.0 Cancellation and Expiration

10.1 Mutual Cancellation

Mutual Cancellation of a Lease in default may be negotiated as part of a Compromise or Settlement Agreement. See Sections 8.2 and 9.5 of this Management Plan. If a Lessee desires to mutually terminate a Lease in good standing, refer to Administrative Plan Section 11.

10.2 Unilateral Cancellation

A Lease is subject to Unilateral Cancellation if Lessee is in default of the terms and conditions of the Lease, including but not limited to the following: Rental, Purpose, Unlawful Uses, Accounting, Improvements, Non-development, Security, Construction Bond, Unauthorized Sublease, Assignment, Transfer, Management Agreement, Encumbrance, Liens, Taxes, Assessments, Utility Charges, Lessor's Paying Claims, Sanitation, Insurance Requirements, Trespass, and Abandonment.

A. RED responsibilities:

1. Obtain an updated account ledger from OOC Accounts Receivable to verify the account balance as of the cancellation notice date.
2. Send a written notice letter, with a copy to the Leasing Department and OOC Accounts Receivable, to inform the Lessee that the Lease will be cancelled.

3. The cancellation notice letter shall be sent to the Lessee by certified mail, return receipt requested, and in accordance with the notice provision of the Lease. The letter shall include:

    a. Reference to the initial notice of default sent pursuant to Management Plan Section 9.2;
    b. Notice of intent to cancel the Lease, and the grounds for cancellation, with supporting documents attached, as applicable;
    c. Notice of all unpaid amounts, interest charges, and late payment penalties due under the Lease, as shown on the OOC Accounts Receivable ledger;
    d. Demand for full payment;
    e. Notice of intent to collect security and/or insurance, and initiate additional collection remedies, if applicable;
    f. Notice that failure to pay the aforementioned amount and cancellation of the Lease do not relieve the Lessee of its contractual obligation;
    g. Notice that the Lessee will be ineligible to receive future benefits, including but not limited to receiving a lease, loan, priority certification under the Navajo Business Opportunity Act, and other business opportunities from the Navajo Nation.
    h. Notice that the Lessee has the following four (4) options:

        i) Cure the Default,
        ii) Request additional time to cure the Default,
        iii) Dispute the determination of Default, which must include a written explanation, or
        iv) Do nothing, in which case the Lease will be cancelled and any and all collection efforts may be pursued;

    i. The Actual Date when the Lessee must cure the default or vacate the premises, which is ten (10) calendar days from the date the notice is deemed received. The notice is deemed received three (3) business days after it was sent by certified mail; and
    j. Notice of the Lessee's right to appeal the cancellation to the RED Manager in accordance with Section 11 of the Management Plan.

4. If the Lessee provided an email address in the notice provision of the Lease, RED will also provide the notice via email with the certified mail letter to follow.
5. If the Lessee cures the Default, the unilateral cancellation process can stop immediately.
6. If the Lessee requests additional time, RED will:

    a. Immediately send a written response to the Lessee's request for additional time to cure, which will be granted at the sole discretion of RED;

b. The additional time, if granted, should be no less than ten (10) business days, and no longer than ninety (90) calendar days, and
c. This additional time may be granted if the Lessee is diligently pursuing to cure. Additional extensions may be granted, in RED's sole discretion, if Lessee is diligently pursuing to cure.
d. If the Default extends beyond the additional time granted by RED and there is no reasonable excuse or justification for Lessee's failure to cure, RED shall proceed to Section 9.4 or 9.5 of this Management Plan.

7. If the Lessee disputes the default, RED Manager will consider the explanation and determine whether a Default has indeed occurred. The RED Manager may seek a legal analysis from the DOJ.

a. If the RED Manager determines there is no Default, the process to cancel the Lease shall cease immediately.
b. If the RED Manager determine there is a Default, the RED Manager shall send a response letter to Lessee, which should:

i) restate the Default,
ii) provide an explanation with supporting references, applicable laws, and regulations;
iii) state an actual date for the Lessee to cure or vacate the premises, which must be no less than ten (10) business days from the date of the response letter; and
iv) state that the Lessee may appeal RED's determination in accordance with Section 11 of the Management Plan.

10.3 Expiration

This Section applies when the Lease expires, the Lessee has not notified RED and the Leasing Department in a reasonable time to obtain a new Lease, and the Lessee has not vacated the premises.

A. RED shall notify OOC Accounts Receivable that holdover rent shall apply in accordance with the terms of the Lease.

B. Upon the thirtieth (30th) day from the expiration date, RED shall provide the following notice to the Lessee, with a copy to the Leasing Department:

1. Date of Expiration and the application of holdover rent,
2. The Lessee must vacate within ten (10) business days from the date the letter is deemed received, and
3. Failure to vacate may result in RED pursuing all available remedies, including calling law enforcement and filing a forcible entry and detainer action to regain possession.

C. If the Lessee does not vacate the premises within ten (10) calendar days, or another date agreed to by RED after consultation with the Leasing Department, RED shall:

1. contact OOC Accounts Receivable to provide a status update on the application of holdover rent, and
2. contact DOJ to begin a forcible entry and detainer action or other legal proceedings.

10.4 Relinquishment

If a lease is terminated, canceled, or expired, the premises continue to be designated for commercial or industrial use, as applicable. The land withdrawal designation may be changed in accordance with the Navajo Land Withdrawal Designation Regulations, RDCJN-33-15 ("Land Withdrawal Regulations"), as may be amended. If the business site land was administratively or legislatively withdrawn prior to promulgation of the Land Withdrawal Regulations, the land may be relinquished if supported by a Chapter Resolution and approved by the RDC, unless the Land Withdrawal Regulations are amended to provide a different process.

10.5 Property Inspection Upon Expiration, Termination, Cancellation, or Abandonment

A. RED shall inspect and complete a Property Inventory Form on leased premises within thirty (30) calendar days following expiration, termination, cancellation, or abandonment.

B. Copy of the Property Inventory Form shall be disbursed to:

1. Navajo Nation Environmental Protection Agency, if applicable,
2. Division of General Services, Insurance Services Department, Risk Management Program,
3. OOC Property Management Department, and
4. DED Leasing Department.

10.6 Rental Security upon Expiration, Termination, Cancellation, or Abandonment

Upon Lease expiration, termination, cancellation, or abandonment, RED shall retain any or all of the deposit to apply towards Lessee's balance, damages beyond normal wear and tear, or incomplete developments. Within ten (10) business days after calculating the amount, if any, to be retained, RED will (1) submit a request to OOC to return any amount of the deposit not retained to the Lessee in accordance with the terms of the Lease, any applicable intragovernmental agreement, and Navajo Nation fiscal procedures, and (2) notify the Lessee of the amount to be retained by the Navajo Nation, and the amount to be returned to the Lessee.

10.7 Termination, Cancellation, and Expiration of Permits, EOAs, and Sub-Permits

A. *Termination by the Leasing Department*. The Leasing Department may terminate a Permit, EOA, or Sub-Permit at will by providing written notice as set forth in the Permit, EOA, or Sub-Permit. Mutual termination of a Permit or EOA may be

granted and processed by the Leasing Department. Mutual termination of a Sub-Permit may be negotiated by the Lessee/Sub-Permittor and the Sub-Permittee, with notice to the Navajo Nation in accordance with the terms of the Sub-Permit.

B. *Cancellation by RED for Preliminary Non-Compliance*. If the permittee, operator, or sub-permittee does not pay the applicable Administrative Fee or Security to RED, after receiving notice and an opportunity to cure in accordance with Section 2.2(C) of the Management Plan, then RED shall notify the permittee, operator, or sub-permittee of the non-compliance and cancellation of the Permit, EOA, or Sub-Permit. The time granted to cure non-payment of the Administrative Fee or Security shall be determined by RED in RED's sole discretion.

C. *Cancellation by RED upon Default*. If the Leasing Department gives RED notice in writing of non-compliance with a Permit, EOA, or Sub-Permit in accordance with Section 12.2(B), 13.2(D)(3), and 16.2(B) of the Administrative Plan, then within ten (10) business days from receipt of the notice, RED shall notify the permittee, operator, or sub-permittee of the non-compliance and cancellation of the Permits, or EOA, as applicable. If RED becomes aware of non-compliance with a Permit, EOA, or Sub-Permit from another source, RED shall promptly inform the Leasing Department of the non-compliance and RED's intention regarding the Permit, EOA, or Sub-Permit, which may include either (i) working with the permittee, operator, or sub-permittor and sub-permittee to bring the Permit, EOA, or Sub-Permit into compliance, or (ii) cancelling the Permit, EOA, or Sub-Permit.

D. *Notice of Cancellation*. When cancelling a Permit, EOA, or Sub-Permit, RED shall:

1. Obtain an updated account ledger from OOC Accounts Receivable to verify the account balance as of the cancellation effective date.
2. Send notice by certified mail, return receipt requested, with a copy to the Leasing Department and OOC, and shall include the following:

    a. Reason for cancellation,
    b. Effective date of cancellation,
    c. Timeframe for permittee, operator, or sub-permittee to vacate the premises, which shall not exceed ten (10) business days from the date of cancellation, and
    d. Notice of all unpaid amounts, interest charges, and late payment penalties due, as shown on the OOC Accounts Receivable ledger,
    e. Demand for full payment of amount due, and
    f. Notice that failure to pay the amount due will result in the Lessee being ineligible to receive future benefits, including but not limited to receiving a lease, loan, priority certification under the Navajo Business Opportunity Act, and other business opportunities from the Navajo Nation.

E. *Site Inspection*. RED shall inspect and complete an Inventory Report of permit, sub-permit, and EOA premises within thirty (30) calendar days following expiration, termination, cancellation, or abandonment. RED will provide a courtesy copy of the Inventory Report to the Leasing Department.

11.0 Appeals

11.1 Appeal Procedure

Lessee shall notify the RED Manager, in writing, of any appeal within ten (10) business days of the final determination or decision by RED that is being appealed.

11.2 Compromise with RED

A. Upon receipt of a written appeal, RED shall contact the Lessee and attempt to compromise and come to a fair and reasonable solution to the dispute, as provided in 9.4 and 8.2 of this Management Plan. The letter from RED must include the following:

1. Date of the dispute,
2. An explanation of the dispute and the determination,
3. The Actual Date when the Lessee must respond in writing, within thirty (30) days of letter,
4. Supporting documents attached, if applicable, and
5. Other relevant information, if applicable.

B. If the dispute cannot be resolved through compromise, RED shall issue a written decision.

C. Upon receipt of the written decision issued by RED, the Lessee shall have ten (10) business days to appeal to the Office of Hearing and Appeals (OHA).

D. If the Lessee does not appeal within the required time frame, RED shall pursue cancellation as provided in Section 10.2 of the Management Plan.

11.3 Navajo Nation OHA

A. If the Lessee files an appeal under Section 11.2(C) above, OHA shall review whether the determination of RED is:

1. Arbitrary, capricious, or an abuse of discretion,
2. Not supported by substantial evidence, or
3. Not in accordance with the law.

B. OHA shall issue a decision upon reviewing all the information to make a determination as provided in 11.3(A).

11.4 Navajo Nation Supreme Court

A. Lessee or RED may appeal to the Navajo Nation Supreme Court once a decision has been issued by OHA. The appeal shall be filed within thirty (30) calendar days from the date of OHA's decision.

B. The Navajo Nation Supreme Court review will be limited to issues of law and the record.

C. De novo review is not allowed.

11.5 Secretary of the Interior

A. After exhausting all Navajo Nation remedies provided in Sections 11.1 to 11.4 and receiving a decision from the Navajo Nation Supreme Court, the Lessee may appeal to the Secretary of the Interior.

B. The appeal to the Secretary shall be filed within thirty (30) calendar days from the date of the Navajo Nation Supreme Court's decision.

C. The Secretary's review shall be limited to whether the Navajo Nation Supreme Court's decision is not in accordance with the Navajo Nation Business Site Leasing Regulations of 2005.

12.0 File Management

12.1 General Information

Lease files shall be maintained by RED in accordance with the DED Plan of Operations and the Navajo Nation Privacy and Access to Information Act. Digital electronic and paper copies of the lease files shall be kept by RED. Paper files will be kept for seven (7) years after expiration of the Lease. Thereafter, all files shall be archived by RED in digital format.

12.2 RED File Maintenance

RED shall maintain the following files:

A. Lease Agreements

1. Approved and Executed Lease Agreement (including Lease Part I and Part II) with all exhibits, renewal letters, modifications, assignments, subleases, settlement agreements, etc.);
2. Survey, legible or original certified (if hard copy certified is available),
3. Executive Summary;
4. Certificate of Good Standing, if applicable;
5. Procurement Clearance documents;
6. ES Sheet;
7. Appraisal report or MDR Summary Sheet;
8. DED Approving Committee Resolution;

9. Business Organization Documents (e.g., Corporation/LLC/Partnership Paper), if applicable;
10. Evidence of administrative fee payment (Section 2.2), such as copy of check or money order, or electronic payment record, and transmittal memo to OOC;
11. Certificate of Insurance or Signed Indemnification Document;
12. Evidence of the Security Deposit, such as copy of check or money order, electronic payment record, Certificate of Deposit, Bond, or Letter of Credit, with the transmittal memo to OOC;
13. Evidence of the Construction and/or Performance Bond, if applicable;
14. Annual Lease Compliance Reports;
15. Property Inventory Forms; and
16. Miscellaneous Correspondence (including distribution letters and subsequent communications with Lessee and other interested parties).

B. Sub-Permits, Permits, and Emergency Operating Agreements

1. Original Sub-Permit, Permit or Emergency Operating Agreement, with any renewals, modifications, etc.
2. Evidence of Administrative fees,
3. Certificate of Insurance or Signed Indemnification Document,
4. Evidence of Security deposit, if applicable,
5. Certificate of Good Standing, if applicable,
6. Procurement Clearances,
7. Environmental Review documents (if the permittee is conducting a business related to oil, gas, propane, flammable material, hazardous, and regulated substances and plans to initiate any ground disturbing activities),
8. Survey, if applicable, and
9. Miscellaneous Correspondences (including distribution letters and subsequent communications with Lessee and other interested parties).

C. Rental

1. Appraisal Report, or
2. MDR Request and Summary Form.

D. Environmental Review

1. Compliance Determination from EPA, FWD and HPD,
2. ES Sheet,
3. Site Development Plan, and
4. Conceptual Layout: proposed development.

E. Legal Description

1. Evidence of land-withdrawal, or land designation letter,
2. Legal description, and
3. Survey, legible or original certified (if hard copy certified is available).

12.3 Lease Folder Management Table

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6.) Corporation/ Partnership Documents (incl. Certificate of Good Standing)	**8.)** DED Approving Committee Resolution	**4.)** Archaeological Inventory & Cultural Resources Compliance Form	**2.)** Security & Receipts for Fees	**2.)** Executive Summary	**1.)** Miscellaneous Correspondence
5.) Exhibit B	**7.)** Land Withdrawal Letter and/or Chapter Resolution	**3.)** Environmental Review Record	**1.)** Financial & Accounting Information	**1.)** Memorandum from Leasing Department	
4.) Exhibit A	**6.)** Summary Sheet and Supporting Documents	**2.)** Appraisal Report/ MDR			
3.) Survey Plat	**5.)** Letter of Intent	**1.)** Insurance and Indemnification Forms			
2.) Distribution Letters	**4.)** Clearance Documents				
1.) Approved Lease Transaction	**3.)** DOJ-Request for Services (*Attorney-Client Privileged*)				
	2.) Signature Authority Sheet				
	1.) Enforcement/ Compliance Information				

13.0 Appendix – Forms

Forms (for reference, may be updated from time to time by the Department, and may be made available by the Department in a convenient manner):

A. Annual Lease Compliance Report
B. Site Status Report
C. Property Inventory
D. Environmental Summary Sheet Form

Lease No. _____
Administrative Fee: $200.00

PART I
NAVAJO NATION ECONOMIC DEVELOPMENT LEASE
(Navajo Nation Trust Land)

Standard Business Site Lease

THIS LEASE is entered into by and between THE NAVAJO NATION, hereinafter called Lessor, whose address is Post Office Box 663, Window Rock, Navajo Nation (Arizona) 86515, and_____ _____ ***[for multiple Lessee parties, state how the tenancy is held, e.g. joint tenants with right of survivorship or tenants in common]***, hereinafter called the Lessee, whose address is_____ _____, in accordance with the provisions of 25 U.S.C. §§ 415(e) as amended, and as implemented by the regulations contained in the Navajo Nation Business Site Leasing Regulations of 2005 ("Navajo Regulations"); and any amendments thereto relative to business leases on restricted lands which by this reference are made a part hereto. This Lease shall be effective on the date it is signed by the Navajo Nation President or an authorized designee ("Effective Date").

A. LAND DESCRIPTION

1. For and in consideration of the rents, covenants, agreements, terms and conditions contained herein, Lessor hereby leases to the Lessee the following described premises:

[*LEGAL DESCRIPTION OF BUSINESS SITE TRACT INSERT SNIP OF LEGAL DESCRIPTION AVOID RETYPING IF POSSIBLE*]

Said Property is shown on the attached survey plat marked as Exhibit A, which by reference is made part hereof.

2. All of the above land is located in_____Chapter of the Navajo Nation, County of_____, State of_____, subject to any prior, valid, existing rights-of-way and easements. There is hereby reserved and excepted from the leased premises rights-of-way for utilities constructed by or on authority of the Lessor, provided that such rights-of-way do not unreasonably interfere with Lessee's use of the leased premises.

B. PURPOSE, UNLAWFUL USES

1. Lessee shall develop, use and operate the leased premises for the following purposes only:

[*INSERT SPECIFIC PURPOSES*]

2. The leased premises shall not be used by Lessee, Sublessee(s), Tenants, Subpermittee(s), or Assignee(s), for any purpose or purposes other than those set out

above, except with the prior written consent of Lessor. Consent may be withheld, granted, or granted upon conditions, in the sole discretion of Lessor.

3. Lessee agrees that it will not use or cause to be used any part of the leased premises for any unlawful conduct or purpose.

C. TERM

The term of this Lease shall be_____years, beginning on the date this Lease is executed by the Navajo Nation President or an authorized designee.

Lessee may exercise options to renew for one additional term of_____years, and a second additional term of_____years. Both options may be granted provided the Lease is not in default. Lessee shall give written notice to exercise an option to renew this Lease to the Leasing Department at least one year prior to the expiration date of the applicable term. Renewal of this Lease is subject to the written approval of the Navajo Nation President and to applicable provisions of Navajo Nation law and the regulations contained in the Navajo Regulations, including all amendments and successors thereto.

D. RENTAL

1. The Lessee, in consideration of the foregoing, covenants and agrees to pay in lawful money of the United States of America to the Controller of the Navajo Nation for the use and benefit of the Lessor the following:

[Be specific as to the rental terms of the Lease. Rental may be structured as either:

(i) a flat rate;

(ii) a flat rate plus a percentage of Gross Receipts (defined in BSL Part II), if the lessee is a business located in a shopping center or mall, or generates over $1,000,000;

(iii) based on a percentage of Gross Receipts; and/or

(iv) based on a market indicator.]

2. Lessee must make monthly rental payments in advance equal to at least one-twelfth of the aforementioned minimum annual rental. All rental shall be deposited with the Controller of the Navajo Nation. The rents shall be paid to the Controller without prior notice or demand.

3. ***[If percentage rent is applied, insert:*** Not later than April 15, of each successive calendar year or fraction thereof following the Effective Date of this Lease, Lessee shall submit to OOC Accounts Receivable and DED Real Estate Department certified statements of Gross Receipts, with payment of the balance due, if any, for the preceding calendar year under the percentage rental fee. **If there is no percentage rent, insert:** Intentionally omitted.***]***

4. Rental shall be paid on the 1st of each month. If rental is unpaid ten (10) days after the due date, the Lessee shall be subject to a late charge of 10% of the monthly amount due. Should the Lessee not pay rent within thirty (30) days after the due date, the Lessee shall be subject to a continuing late charge of 10% of the monthly amount due until the Lessee has paid the full amount due. If the Lessee has not paid the full amount due after (90) days, the Lease shall be subject to cancellation.

5. In the event a sublease, assignment, amendment, or transfer of this Lease, or any right to or interest in this Lease, or any improvements are made to the leased premises, the rent

and other terms of this Lease shall be subject to renegotiation. In addition, if the Lessee exercises any options to renew, the Lessor reserves the right to renegotiate the rent, for any change in economic conditions and other terms of the Lease.

6. ***[If rent schedule does not include pre-determined 5-year rent adjustments, insert:*** Upon the fifth anniversary of this Lease, the rental will be reviewed and adjusted by the Lessor and each successive five-year period thereafter. In no event will the adjusted rental be less than the amount paid during the preceding five-year period.***]***

7. ***[If rental includes percentage rental, insert:*** Lessor reserves the right to inspect the books and records of Lessee and any Sublessee or Assignee to verify the accuracy of the rentals paid.***]***

E. IMPROVEMENTS

1. The Lessee, in consideration for the granting of this Lease, covenants and agrees that Lessee will construct_____at a cost of and having a reasonable value of $_____or more.

2. Except as otherwise provided in this Lease, all buildings and improvements, excluding removable personal property and trade fixtures, on the leased property shall remain on said property after termination of this Lease and shall thereupon become the property of Lessor. However, Lessor may require Lessee, at Lessee's expense, to remove improvements and restore the premises to the original state, within reason, upon termination of this Lease. Any removal of property by Lessee must be completed within ninety (90) days after termination of this Lease, such presence on the property shall not be deemed a holdover or trespass, provided Lessee is acting in a diligent manner to remove such property. Upon the expiration of the ninety (90) day extension, the Lessor may either grant another extension, or re-enter the premises, at which time the Lessee shall have no further right to or interest in the premises or any remaining property or improvements.

3. The term "removable personal property" as used in this Section shall not include property which normally would be attached or affixed to the buildings, improvements or land in such a way that it would become a part of the realty, regardless of whether such property is in fact so placed in or on or affixed to the buildings, improvements or land in such a way as to legally retain the characteristics of personal property. Lessee shall remove all removable personal property and trade fixtures prior to termination of this Lease. Should Lessee fail to remove said personal property and trade fixtures prior to termination of this Lease, said property shall thereupon become property of Lessor, and may be disposed of in any manner by Lessor.

F. COMPLETION OF DEVELOPMENT

1. The Lessee shall complete the full improvement and development of the leased premises in accordance with the general plan and architect's design. The date for completion of financing and substantial completion of development shall be ____ months from the Effective Date. If the Lessee fails to substantially complete development within such period, ***[select either:*** such failure shall constitute a default and may be cause for cancellation ***or*** *this Lease shall automatically be void without the need for any further action*], subject to this Section (F)(4) or unless otherwise agreed.

2. Prior to the commencement of construction of any new improvements on the leased premises, or prior to the beginning of any repair or alteration thereto, or work or labor thereon, Lessee shall post non-responsibility notices at the site on Lessor's behalf.

3. Upon completion of construction, the Lessee is required to submit any as built layout or general plans of the building or facility to the Navajo Nation Division of Economic Development, Real Estate Department ("DED Real Estate Department").

4. Whenever under this Lease a time is stated within which or by which original construction, repairs, or reconstruction of improvements shall be made and during such period a general or sympathetic strike or lockout occurs, war or rebellion ensues, or some event unquestionably beyond Lessee's power to control, the period of delay so caused shall be added to the period limited herein for the completion of such work.

G. CONSTRUCTION, MAINTENANCE, REPAIR, ALTERATION

1. All improvements placed on the leased premises shall be constructed in a good and workmanlike manner and in compliance with applicable laws and building codes. All parts of building visible to the public or from adjacent properties shall present a pleasant appearance as determined by Lessor and all service areas shall be screened from public view to the satisfaction of Lessor. Lessee shall maintain the premises and all improvements in good order and repair and in a safe, sanitary, neat and attractive condition, and shall otherwise comply with all applicable laws, ordinances and regulations.

2. Lessee shall have the right during the term of this Lease to make alterations, additions or repairs to improvements on the premises without the need for Lessor's prior consent unless the amount of the full completion of the alteration, addition or repair, will exceed $_____. Alterations, additions or repairs in excess of the above amount or any removal or demolition of an improvement can be made only with the written approval of Navajo Nation Division of Economic Development Leasing Department, identified in Section L.

3. Lessee shall indemnify and hold harmless the Lessor and the United States against liability for all claims arising from Lessee's failure to maintain the premises and the improvements thereon as herein above provided, or from Lessee's non-observance of any law, ordinance or regulation applicable thereto.

H. RENTAL AND PERFORMANCE SECURITY DEPOSIT

1. Lessee agrees to post a cash deposit ***[or, if applicable, substitute*** letter of credit ***OR*** surety bond***]*** in the amount of $_____, which is __ percent of the Year __ to __ annual rental rate. The security shall remain in force for the full term of this Lease. For good cause, the amount of such security may be increased or decreased by the DED Real Estate Department, which shall be placed in writing and become an attachment to this Lease. The purpose of the security is to guarantee performance on the Lease.

2. Upon execution of the lease, the cash deposit ***[or if applicable,*** a copy of the security posted***]*** shall be submitted to the DED Real Estate Department, unless granted a postponement by the Lessor.

3. At the termination of the Lease, and upon completion of all compliance reviews and inspections to be performed on the premises, the Lessor shall return any cash security deposited to the Lessee which was not spent to address defaults and non-compliance.

I. CONSTRUCTION BOND

1. At Lessor's option, prior to the commencement of construction of any improvement on the leasehold premises, the Lessee will cause his construction contractor to post a construction bond in favor of Lessor and Lessee. If the construction contractor cannot post such a bond, the Lessee shall post the construction bond. The purpose of the construction bond is to guarantee the completion of the improvements and payment in full of valid claims of all

persons for work performed in or materials furnished for construction of the improvements. The construction contractor or the Lessee may provide security by either:

a. Posting a corporate surety bond in an amount equal to the cost of each improvement, said bond to be deposited with the Lessor and to remain in effect until the improvement is satisfactorily completed. Said bond shall be conditioned upon faithful performance by Lessee or its construction contractor and shall give all claimants a right of action to recover upon said bond in any suit brought to foreclose on any mechanic's or materialmen's liens against the property. If United States Treasury Bonds are provided, Lessee, or its construction contractor, agrees to make up any deficiency in the value deposited that might occur due to a decrease in the value of the bonds. Interest on said bonds shall be paid to Lessee.

b. Depositing cash with the Lessor or non-revocable letter of credit or certificate of deposit at an institution acceptable to the Lessor satisfactory to Lessor in an amount sufficient to pay the entire cost of construction of each building or other improvement then to be erected on the premises. Interest on said security shall be paid to Lessee or its construction contractor. The funds so deposited may then be used, at the option of Lessor, to discharge any valid mechanic's or materialmen's liens; if no such liens exist, the withheld funds shall be disbursed to Lessee or its construction contractor.

2. If Lessee enters into a construction loan agreement with a financial institution, said loan agreement shall be subject to the approval of the DED Approving Committee. Prior to such approval, Lessee shall perform all conditions precedent to the assumption of obligations under the agreement by the financial institution and Lessee shall deposit with the lending institution, or otherwise other security acceptable to the Lessor, the difference between the amount of the loan and the total cost of improvement.

J. INSURANCE

1. Lessee shall, at its expense, maintain insurance as set forth in Part II, Sections 1.11 and 1.12 of this Lease ("Insurance Requirements").

2. Insurance shall be provided by insurance companies duly authorized and licensed, having a Best's Rating of A-VIII or better.

3. The insurance shall expressly identify the Navajo Nation and the United States as additional insured parties.

4. Lessee shall provide Navajo Nation Division of Economic Development, Real Estate Department with a Certificate of Insurance *[*upon execution of the Lease ***OR*** a different date if authorized and negotiated*]*.

5. The Insurance Requirements are minimum requirements and do not limit the indemnity covenants contained in this Lease. Lessor in no way warrants that the minimum requirements are sufficient to protect Lessee from liabilities that might arise from this Lease by Lessee, its agents, representatives, employees, or contractors. Lessee is free to purchase additional insurance as may be determined necessary.

6. Lessee is responsible for paying any deductibles or self-insurance retentions, and such deductibles and self-insurance retentions shall be disclosed on the Certificates of Insurance. Lessee must include all subcontractors (if any) as additional insureds under its policies or ensure each subcontractor meets the same minimum limits and coverages as required of Lessee.

K. SUBLEASES AND TENANT AGREEMENTS

Subleases and Tenant Agreements

*[*must be approved by the Navajo Nation and with written consent from all sureties and are subject to the requirements as set forth in the Navajo Nation Business Site Lease Management Plan and Lease Part II, Section 1.5.*]*

OR

*[*do not require approval from the Lessor and are hereby explicitly authorized, pursuant to the Navajo Nation Business Site Lease Management Plan and Lease Part II, Section 1.5. The Lessee shall ensure*:*

1. *Sublessee or Tenant agrees in writing to be bound by all terms and conditions of this Lease, including, expressly, the requirement in Lease Part II, Section 1.3(B);*
2. *The Sublease or Tenant Agreement must not change from the purposes in Section B;*
3. *The term of the Sublease or Tenant Agreement must not extend beyond this Lease term and any renewals set forth in Section C;*
4. *The Sublease or Tenant Agreement must not be for the entire premises of this Lease;*
5. *The Lessee must conduct a separate operating business on the premises of this Lease;*
6. *The Sublease or Tenant Agreement must be consented to by the sureties of this Lease, if applicable;*
7. *A Sublease includes an updated survey; and*
8. *A copy of the Sublease or Tenant Agreement must be delivered to the Leasing Department with a copy to DED Real Estate Department, within seven (7) days of the Sublessor and Sublessee execution of the Sublease.]*

L. NOTICES AND DEMANDS

1. All notices, demands, requests or other communications to or upon either party shall be in writing and addressed as follows:

To or upon Lessor:
President
The Navajo Nation
Post Office Box 7440
Window Rock, Navajo Nation (Arizona) 86515

Copies to:
Division Director
Division of Economic Development
P.O. Box 663
Window Rock, Navajo Nation (Arizona) 86515

Leasing Department Manager
Division of Economic Development
[insert appropriate Department or RBDO]
[insert appropriate address]

Real Estate Department Manager
Division of Economic Development
P.O. Box 664
Window Rock, Navajo Nation (Arizona) 86515
nnred@navajo-nsn.gov

Initials:_____

for legal notices, demands, and requests:
Attorney General
Navajo Department of Justice
Attn: Economic/Community Development Unit
P.O. Box 2010
Window Rock, Navajo Nation (Arizona) 86515
NNDOJ.General@navajo-nsn.gov

To or upon Lessee: _____
_____
_____
_____
_____
Phone: _____
Email: _____

2. All notices shall be given by personal delivery or sent by certified or registered mail, return receipt requested. Notices shall be effective and deemed delivered three (3) business days after deposit in the mail or on the date actually received, whichever occurs first. Notices may be sent by email, followed by personal delivery or certified or registered mail, return receipt requested.

Lessor and Lessee may at any time change its address for purposes of this Section by providing written notice in accordance with this Section L.

M. APPLICABLE TERMS AND CONDITIONS

The Standard Terms and Conditions for Economic Development Leases on Navajo Nation Trust Land in Part II of this Lease apply to this Lease and are incorporated herein in their entirety Part II, Section 1.0 Terms and Conditions for a Standard Business Site Lease apply to all Leases. Part II, Section 2.0 Terms and Conditions for Business Site Leases with Storage Tanks are included and apply where they are appropriate. If Storage Tanks are on the premises when the Lessee signs the Lease, or are installed after the Lessee signed the Lease, these Terms and Conditions will apply to the Lease as a matter of law. As of the Effective Date, there **[insert** *are* **or** *are not***]** Storage Tanks on the premises.

The specific Version of Standard Terms and Conditions for Navajo Nation Economic Development Leases (Trust Land) is under Resolution No. RDC__-__.

N. EXCEPTIONS TO PART II STANDARD TERMS AND CONDITIONS: None. ***[Consult with NNDOJ if there are exceptions.]***

[*signatures on following page*]

IN WITNESS THEREOF,

[NAME], LESSEE

_____

[*name*], [*title*] Date

_____

[*name*], [*title*] Date

THE NAVAJO NATION, LESSOR

_____

[*name*], President, Navajo Nation or designee

Date: _____

PART II
STANDARD TERMS AND CONDITIONS FOR NAVAJO NATION ECONOMIC DEVELOPMENT LEASES (Navajo Nation Trust Land)

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[Version [--/--/25]
[insert RDC Reso #]

STANDARD TERMS AND CONDITIONS FOR NAVAJO NATION ECONOMIC DEVELOPMENT LEASES (Navajo Nation Trust Land)

1.0 STANDARD TERMS AND CONDITIONS FOR NAVAJO NATION BUSINESS SITE LEASES

1.1 DEFINITIONS.

A. "Approved Encumbrance" means an encumbrance approved in writing by the Lessor, and sureties, if any, in accordance with the terms and conditions of this Lease.

B. "Condemnation" means the taking of any real property right thereof, in condemnation proceeding, by right of eminent domain, or by conveyance in lieu of or in settlement of a condemnation or eminent domain proceeding brought by any governmental authority having jurisdiction and power over the property.

C. "Encumbrancer" means the owner and holder of an Approved Encumbrance, including all successors and assigns.

D. "Federal Laws" means all applicable federal laws, including:

i) "CERCLA," the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601 *et. seq.*, and

ii) "RCRA," the Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et. seq.*

E. "Gross Receipts" means all income, including money and other things of value, received by or paid to Lessee or its affiliates, whether individuals, corporations, partnerships, or other legal entity, or received by or paid to others for Lessee's or its affiliates' use and benefit, derived from business done, sales made, or services rendered directly or indirectly on the leased premises or any portion thereof. All income accruing from credit transactions will be treated as "gross receipts" as of the date credit is extended. Gross Receipts will not include amounts collected and paid out for a sales and excise tax imposed by any duly constituted governmental authority where such tax is billed to the purchaser as a separate item. Any taxes paid by the Lessee as a part of the cost of merchandise purchased by the Lessee are not to be excluded or deducted. It shall not include credits for the exchange of goods or merchandise between stores, if any, of Lessee or its affiliates where such exchange is made solely for the convenient operation of business and not for the purpose of consummating a sale previously made directly from or on the leased premises. It shall not include the amount of any refund where the merchandise sold, or some part thereof is returned by the purchaser and accepted by Lessee or its affiliates. It shall not include income from the sale of fixtures, or good will, or the sale of improvements.

F. "Lessor" means the Navajo Nation who conveys property under a lease agreement.

G. "Secretary" means the Secretary of the Interior or his/her authorized representative, delegate, or successor.

H. "Sublease" means a written agreement by which a lessee grants a person a right of possession no greater than that held by the lessee under the Lease. The term Sublease is generally applied to an agreement that conveys possessory interest in part of the land to a sublessee. A Tenant Agreement is a form of Sublease that conveys possessory interest in a defined area or space within the leasehold improvements to a tenant.

1.2 CONDITION OF LEASED PREMISES.

A. Lessee has examined and knows the leased premises and improvements thereon and accepts the same as-is. No representations as to the condition of the leased premises have been made by Lessor, any agent of Lessor or the United States prior to or at the time of execution of this Lease. Lessee warrants that it has not relied on any warranty or representation made by or on behalf of Lessor or the United States, but solely upon Lessee's independent investigation.

B. The independent investigation, which shall be conducted prior to entering into the Lease, shall include an environmental review which provides the Lessee with knowledge of the environmental status of the leased premises, including the status of the storage tanks and/or other regulated substances.

1.3 ACCOUNTING.

A. Lessee shall maintain full and adequate books of account and such other records as are necessary to reliably reflect the financial position and results of the operation in accordance with Generally Accepted Accounting Principles ("GAAP").

B. The Navajo Nation Office of Auditor General or any of its duly authorized representatives, shall at any time up until the expiration of five (5) years after the expiration of this Lease, have access to and the right to examine any of Lessee's books of account, documents, papers, and records, including Federal and State income tax returns, and such documents of any affiliated companies of Lessee, in connection with any transaction related to this Lease. Lessee shall insert a similar provision in all subleases and shall make available to said representative, agent, or agents, all books and records of Lessee's tenants which may be

Initials _____

requested or may be necessary for completion of a full audit of all business conducted on the leased premises. The scope of documents deemed to be connected to the Lease may be further clarified in Part I of the Lease.

1.4 UTILITY SERVICE LINE AGREEMENTS.

A. Lessee will identify the rights-of-way necessary or appropriate for construction, operation and maintenance of any improvements. Lessee shall obtain approval from any third parties, Lessor, and Secretary as may be necessary or appropriate as required by 25 U.S.C. § 415 and 25 C.F.R. § 169.

B. Lessee is authorized to enter into appropriate service line agreements with utility companies for the provision of necessary or appropriate utility services to the leased premises, including gas, water, sewer, electricity, telephone, television, internet, and other utilities, without further consent by Lessor, on the condition that such agreements:

(1) are for the sole purpose of supplying utility services to the leased premises; and

(2) authorize utility service lines only within the leased premises; and

(3) do not extend beyond the term of this Lease, including any extensions thereof; and

(4) executed copies, together with plats or diagrams showing with particularity the location, size and extent of such service lines are filed by the utility companies with Lessor within thirty (30) days of their execution; and

(5) are in accordance with the provisions of 25 C.F.R. § 169.51 *et seq.*, including any amendments or successors thereto.

C. Lessor reserves the right for Lessor's benefit or for the benefit of other land users, whether or not adjacent to the leased premises, to enter into service line agreements with utility companies for service lines across the leased premises, provided that, after consultation, Lessor and Lessee determine such service lines do not unreasonably interfere with Lessee's use of the leased premises nor otherwise affect any property rights reserved to Lessor.

1.5 SUBLEASE, ASSIGNMENT, AMENDMENT, TRANSFER.

A. Lessee shall not sublease, assign, amend, or in any manner transfer this Lease or any right to or interest in this Lease or any of the improvements on the leased premises, or sell, assign or transfer more than forty-nine percent (49%) of the ownership interest of any business entity named as Lessee without the written consent of the Lessor and Lessee, as well as the sureties. Lessor's consent shall be obtained from the DED Business Site Lease Approving Committee. Lessor, in its sole discretion may authorize the Lessee to enter into subleases without further consent from Lessor, which must be specifically provided for in Part I. Unless otherwise provided for in Part I, no such sublease, assignment, sale, amendment or transfer shall be valid or binding without such approval and then only upon the condition that the Sublessee, Assignee or other successor in interest, excepting an approved encumbrancer(s), shall agree in writing to be bound by each and all of the covenants and conditions of this Lease. Should Lessee attempt to execute such sublease, assignment, sale, amendment, or transfer, except as, set forth herein, such action shall be deemed a breach of this Lease, excepting that an encumbrancer may enforce his rights in the manner hereinafter provided. Unless otherwise provided for in Part I, approval of one sublease, assignment, sale, amendment or transfer shall not validate a subsequent sublease, assignment, sale, amendment or transfer, and the restrictions of this Section shall be severally binding upon each and every Sublessee, Assignee, Transferee and other successor in interest of the Lessee, excepting an encumbrancer. For the purpose of this Section 1.5, the term sublease includes tenant agreements.

B. For purposes of this Section, the creation of a partnership, corporation, joint venture, management agreement or other arrangement under which any person or entity other than Lessee is entitled to share in profits derived directly or indirectly from the leased premises or activities carried out thereon, shall require the written consent of Lessor and Lessee, unless Lessee is the majority owner (i.e. majority shareholder, majority partner, etc.) of the business that is reorganized, then only written notice will be required. Lessor's consent shall be obtained from the DED Business Site Lease Approving Committee.

C. Approval or disapproval of any sublease, assignment, amendment or transfer for any purpose whatsoever by the Lessee shall be within the sole discretion of Lessor. Lessor reserves the right to adjust the rental provisions of this Lease upon any sublease, assignment, amendment, or transfer, unless the Lessee is pre-authorized to approve subleases.

D. For any sublease entered into by the Lessee, the Lessee shall remain liable for the terms and conditions of the sublease, including any outstanding rental owed by the Sublessee to Lessor. The Sublessor shall indemnify the Lessor for any liabilities or debts of the Sublessee to the Lessor and the United States.

1.6 ENCUMBRANCE.

A. This Lease, or any right to or interest in this Lease or any of the improvements on the leased premises, may be encumbered for the purposes of securing a line of credit to develop and improve the leased premises.

B. Any encumbrance will:

(1) be limited to the leasehold interest of the Lessee or subleasehold interest of the Sublessee; and

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(2) not jeopardize in any way Lessor's interest in the land; and

(3) be subject to the written approval of the Lessor as well as the sureties. The Lessor shall not unreasonably withhold its approval to an encumbrance. Lessor's approval of the encumbrance shall be obtained from the DED Business Site Lease Approving Committee and may be in the form of an approved Collateral Assignment.

C. Lessee agrees to furnish as requested any financial statements or analysis pertinent to the encumbrance that the Lessor may deem necessary to justify the amount, purpose and terms of said encumbrance.

D. Lessor shall give each encumbrancer notice of, and the right to cure within a reasonable time, a default by Lessee or Sublessee under this Lease or Sublease, whichever is applicable. Lessor shall accept performance by the encumbrancer for covenants or other obligations under the Lease or Sublease, with the same force and effect as though performed by the Lessee or Sublessee.

E. In the event of default by Sublessee, an encumbrancer of any Sublease may exercise any rights provided in such approved encumbrance, provided that before any sale of subleasehold, whether under power of sale or foreclosure, the encumbrancer shall give to Lessor and Lessee notice of the same character and duration as is required to be given to the Sublessee by the encumbrancer. If notice of such sale is given and the Lessee fails to act, Lessor shall have the following rights which may be exercised at any time prior to the completion of sale proceedings.

(1) to pay the encumbrancer the full unpaid principal amount of the approved encumbrance, plus unpaid interest accrued to the date of such payment, plus foreclosure or sale costs incurred to the date of such payment; and

(2) To execute in favor of the encumbrancer a promissory note and a new encumbrance, which new encumbrance must be approved by the Lessor, for the full unpaid principal amount of the approved encumbrance, plus unpaid interest accrued to the date of such execution plus sale expenses incurred to the date of such execution, upon the same terms and conditions as originally provided by the approved encumbrance, and delivering to the encumbrancer a policy of title insurance in the face amount of such promissory note issued by a reputable title insurance company, and insuring that the new encumbrance is a first lien upon the subleasehold described in said sublease subject only to current taxes and to conditions, restrictions, and reservations of record at the time of recording the approved encumbrance.

F. Each encumbrancer must provide, if Lessee or Lessor exercises the foregoing rights, all of the right, title, and interest of the Sublessee in the Sublease shall automatically terminate on the same date the right is exercised and the Lessor or Lessee, as the case may be, shall, on the same date, acquire the subleasehold interest; provided however, the acquisition of the subleasehold by Lessee or Lessor under these circumstances shall not serve to extinguish the sublease by merger with the Lease or otherwise. As between the Lessor and Lessee, Lessee shall have the first right to exercise the right to pay the amounts due as described above and to obtain the subleasehold interest. The Sublease shall require that the Sublessee will have the duty to execute any documents and take any action needed to effectuate the termination and transfer of Sublessee's subleasehold interest.

G. In the event Lessor or Lessee does not avail itself of the above rights and a sale occurs, whether by power of sale or foreclosure, the purchaser at such sale shall succeed to all of the rights, title, and interest of the Sublessee in the subleasehold covered by said encumbrance. It is further agreed that if the purchaser at such a sale is the encumbrancer, the encumbrancer may assign the subleasehold without any further approval, provided that the assignee shall agree in writing to be bound by all the terms and conditions of the Sublease. If the encumbrancer is the purchaser, it shall be required to perform the Sublease only so long as it retains title thereto. If a sale of the subleasehold interest under the approved encumbrance occurs, and the purchaser is a party other than the encumbrancer, approval by Lessor will be required, and the purchaser, as successor in interest to the Sublessee, shall be bound by all the terms and conditions of the sublease and will assume in writing all the obligations thereunder. Lessor's approval of the sale shall be obtained from the DED Business Site Lease Approving Committee and may be in the form of an approved Assignment and Assumption Agreement.

H. In the event of default by the Lessee, the encumbrancer may exercise any rights provided for in such approved encumbrance, provided that before any sale of the leasehold, whether under power of sale or foreclosure, the encumbrancer shall give to Lessor notice of the same character and duration as is required to be given Lessee by such encumbrance and/or by applicable law. If notice of such sale be given, and the default of any of them upon which notice of sale is based shall then continue, Lessor shall have the following rights which may be exercised at any time prior to the completion of sale proceedings:

(1) To pay to the encumbrancer the full unpaid principal amount of the approved encumbrance, plus unpaid interest accrued to the date of such payment, plus sale costs incurred to the date of such payment.

(2) To execute in favor of the encumbrancer a promissory note and a new encumbrance, which

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new encumbrance must be approved by the Lessor, for the full unpaid principal amount of the approved encumbrance, plus unpaid interest accrued to the date of such execution, plus sale expenses incurred to the date of such execution, upon the same terms and conditions as originally provided by the approved encumbrance, and delivering to the encumbrancer a policy of title insurance in the face amount of such promissory note, issued by a reputable title insurance company, and insuring that the new encumbrance is a first lien upon the property described in this Lease subject only to current taxes and to conditions, restrictions and reservations of record at the time of recording the new encumbrance.

I. Each encumbrancer must provide, if Lessor exercises the foregoing rights, all right, title and interest of Lessee in the Lease shall terminate and Lessor shall acquire the Lease; provided, however, that such termination shall not relieve the Lessee from any obligation or liability which had accrued prior to the date of termination. Acquisition of the Lease by Lessor under these circumstances shall not serve to extinguish the Lease by merger or otherwise. The Lessee shall have the duty to execute any documents and take any action necessary to effectuate the termination and transfer of the Lessee's leasehold interest.

J. In the event Lessor does not avail itself of the rights set forth in this Section and any sale under the approved encumbrance occurs, whether by power of sale or foreclosure, the purchaser at such sale shall succeed to all of the rights, title, and interest of the Lessee in the leasehold estate covered by said approved encumbrance. It is further agreed that if the purchaser at such sale is the encumbrancer, the encumbrancer may assign the leasehold interest without any further approval, provided that the assignee shall agree in writing to be bound by all the terms and conditions of this Lease. If the encumbrancer is the purchaser, it shall be required to perform this Lease only so long as it retains title thereto. If a sale of the leasehold interest under the approved encumbrance occurs, and the purchaser is a party other than the encumbrancer, approval by Lessor of any assignment will be required, and the purchaser, as successor in interest to the Lessee, shall be bound by all the terms and conditions of this Lease and will assume in writing all the obligations thereunder. Lessor's approval of the sale shall be obtained from the DED Business Site Lease Approving Committee and may be in the form of an approved Assignment and Assumption Agreement.

1.7 LIENS, TAXES, ASSESSMENTS, UTILITY CHARGES.

Lessee shall not permit any liens against the leased premises arising from any work performed, materials furnished, or obligations incurred by Lessee. Lessee shall discharge all such liens before any action is brought to enforce same; further, Lessee shall pay before becoming delinquent, all taxes, assessments, licenses, fees, and other like charges levied during the term of this Lease upon or against the leased land and all interests therein and property thereon, for which either Lessee or Lessor may become liable.

Upon request Lessee shall furnish Lessor written evidence duly certified that any and all taxes required to be paid by Lessee have been paid, satisfied, or otherwise discharged. Lessee shall have the right to contest any claim, asserted tax, or assessment against the property, by posting bond to prevent enforcement of any lien resulting therefrom, and Lessee agrees to protect and hold harmless Lessor, United States and the leased premises and all interest therein and improvements thereon from any and all claims, taxes, assessments, and like charges and from any lien therefor, or sale or other proceedings to enforce payment thereof, and all costs in connection therewith. Lessor shall execute and file any appropriate documents with reference to real estate tax exemption of the land when requested by Lessee.

In addition to the rents, taxes and other charges herein described, Lessee shall pay charges for water, sewage, gas, electricity, telephone, trash, and other utility services as required for construction and/or operation and maintenance of any improvements or as necessary for said leased premises.

1.8 LESSOR'S PAYING CLAIMS.

Lessor shall have the option to pay any lien or charge payable by Lessee under this Lease, or settle any action therefor, if the Lessee after written notice from the Lessor fails to pay or to post bond against enforcement. All costs and other expenses incurred by Lessor in so doing shall be paid to Lessor by Lessee on demand, with interest at the rate of eighteen percent (18%) per annum from the date of Lessor's payment until repayment is made. Failure to make such repayment on demand shall constitute a breach of this Lease.

1.9 SANITATION.

A. Lessee hereby agrees to comply with all applicable sanitation codes, requirements, or laws which may be related to the purpose of this document as set forth in Section B(1). Such compliance shall specifically include, but not be limited to, the sanitary regulations of the U.S. Public Health Service. Lessee further agrees to at all times maintain the entire leased premises in a safe, sanitary condition, presenting a good appearance both inside and out in all buildings operated on the leased premises.

B. Lessee further agrees to comply with applicable, state, Navajo Nation and local laws, statutes, ordinances, regulations, court and administrative orders and decrees pertaining to all sanitation matters including but not limited to the storage and disposal of refuse, rubbish, other non-hazardous trash and any other regulated substances. Lessee further agrees that all solid waste, including but not limited to refuse, rubbish, other non-hazardous trash and any other regulated substance generated by the Lessee or by any Sublessee shall be disposed of only at a state or tribally certified public or private landfills. Lessee and Sublessee, if applicable, shall maintain records to demonstrate compliance with this requirement.

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C. Lessee agrees to maintain all records required by applicable law and regulations and to make such records available to appropriate officials of the Navajo Nation and federal government.

1.10 REGULATED SUBSTANCES.

Before Lessee, Sublessee, Assignee, or Sub-Permittee permits or causes any regulated substance (as defined in 2.1(A)) to be used, stored, generated or disposed of on or in the leased premises, Lessee, Sublessee, Assignee, or Sub-Permittee must obtain written consent from the Navajo Nation Environmental Protection Agency. If the Navajo Nation Environmental Protection Agency does not respond to a request for consent within twenty (20) business days such consent shall be deemed given.

If regulated substances are used, stored, generated or disposed of on or in the leased premises, or if the leased premises become contaminated in any manner for which Lessee, Sublessee, Assignee, or Sub-Permittee is legally liable, Lessee, Sublessee, Assignee, and Sub-Permittee shall indemnify and hold harmless the Lessor from any and all claims, damages, fines, judgments, penalties, costs, liabilities or losses (including, without limitation, a decrease in value of the leased premises, damages due to loss or restriction of rentable or usable space, or any damages due to adverse impact on marketing of the space, and any and all sums paid for settlement of claims, attorneys' fees, consultant and expert fees) arising during or after the Lease, Sublease, or Sub-Permit term and arising as a result of such contamination by Lessee, Sublessee, Assignee, or Sub-Permittee.

This indemnification includes, without limitation, any and all costs incurred due to any investigation of the site or any cleanup, removal, restoration or other costs of regulatory compliance mandated by the federal government or Navajo Nation. Without limitation of the foregoing, if Lessee, Sublessee, Assignee, or Sub-Permittee causes or permits the presence of any regulated substance on the leased premises and such results in any contamination of the leased premises or other property including, but not limited to the improvements, soil, surface water, or groundwater, Lessee shall promptly, at its sole expense, take any and all necessary actions to return the leased premises to the condition existing prior to the contamination by any such regulated substance on the leased premises. Prior to any remedial action, the Lessees, Sublesses, Assignees or Sub-Permittees must obtain Navajo Nation Environmental Protection Agency's approval for any such remedial action. Any action taken must follow and comply with the Navajo Nation Storage Tank Act, 4 N.N.C. § 1501 *et seq.*

1.11 LIABILITY INSURANCE

Unless (i) Lessee is a Navajo Nation Enterprise covered by Navajo Nation Risk Management Program, or (ii) otherwise agreed to in writing by Navajo Nation Risk Management Program,Lessee will provide and maintain, from the date the lease is approved and continuing until the Lease is terminated or expired, the minimum insurance coverages listed below. Coverage will be provided with forms and insurers acceptable to the Lessor until all obligations under this Lease are satisfied. All insurers must be a Nationally Accredited Insurance Company with an AM Best rating of "A-VIII" or higher, or the equivalent, and authorized to do business in the State where the leased premises are located. All policies required under this Lease, except for the Worker's Compensation policy and any Professional Liability policy, shall (i) name the Lessor and the United States as additional named insureds, and (ii) provide that the Lessee's policy shall be primary, with Lessor's policies being non-contributory, in the event of a loss. These coverages are as follows:

A. Workers' compensation insurance to cover obligations imposed by federal and state statutes of the entity having jurisdiction over the Lessee's employees working on the leasehold, and Employers' Liability Insurance with minimum limits of $1,000,000 per accident, Bodily Injury by Accident; $1,000,000 each employee, Bodily Injury by Disease; and $1,000,000 policy limit, Bodily Injury by Disease. In case of any contracted work on the leasehold, the Lessee will require the Contractor, and all subcontractors, to provide the same as above. Lessee's policy shall include a waiver of subrogation in favor of Lessor.

B. Commercial General Liability Insurance to cover:

(1) bodily injury, death, personal injury, and damage to property based upon or arising out of the ownership, use, occupancy or maintenance of the premises and all areas appurtenant thereto. Lessee's policy shall include a waiver of subrogation in favor of Lessor. The policy shall also contain a separation of insureds provision.

(2) Lessee shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a following form basis and it contains the required additional insured and waiver of subrogation wording.

- $1,000,000 each occurrence Bodily Injury and Property Damage,
- $1,000,000 each occurrence Personal and Advertising Injury,
- $1,000,000 each occurrence Products/Completed Operations,
- $2,000,000 Products/Completed Operations Aggregate, and
- $2,000,000 General Aggregate.

(3) If the Lessee will be manufacturing, distributing, selling, serving or furnishing alcoholic beverages, for the duration of this lease, Lessee shall maintain the following minimum liquor liability insurance coverages and limits:

- $1,000,000 each occurrence, and
- $1,000,000 annual aggregate.

(4) Whether the leased premises is developed or undeveloped, the Lessee must obtain the appropriate insurance, which shall, include the

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Lessor and the United States as additional insureds. In the case of any contracted work on the leased premises, the Lessee shall require the contractor and all subcontractors to provide the same coverage as above.

C. Commercial Automobile liability insurance to cover bodily injury and property damage for each occurrence with respect to Lessee's owned, hired, and non-owned vehicles assigned to or used in Lessee's business, with a minimum limit of $1,000,000 combined single limit per accident. Lessee's coverage shall include coverage for bodily injury or property damage arising out of the actual, alleged, or threatened discharge, dispersal, seepage, migration, release, or escape of pollutants arising out of the collision, upset, or overturn of an auto as a result of the maintenance or use of a covered auto. Lessee's policy shall provide a waiver of subrogation in favor of Lessor.

In the case of any contracted work on the leased premises, the Lessee shall require the contractor and all subcontractors to provide the same coverage as above.

An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements, provided that the coverage is written on a following form basis and it contains the required waiver of subrogation wording.

D. If the Lessee is engaged in a profession, the Lessee shall carry Professional Liability insurance with a minimum limit of $1,000,000 per claim and in the aggregate. The retro date on the policy shall be no later than the start date of the lease. The retro date shall be disclosed on the certificate of insurance. The policy must be kept in force during the life of the contract and for 2 years (either as a policy force or extended reporting period) after contract termination.

E. Pollution Liability (including Errors and Omissions) coverage and limits for losses caused by pollution conditions that arise from the operations and completed operations of Lessee:

- $2,000,000 each occurrence, and
- $2,000,000 general aggregate.

Lessee's policy shall be written on an "occurrence" basis with no sunset clause or if written on a "claims-made" basis, it shall be maintained for a period of not less than 2 years with the retroactive date to be held constant with the effective date of this Lease. The Certificate of Insurance must provide clear evidence that Lessee's insurance policies contain the minimum limits of coverage and the special provisions prescribed in this clause. Lessee's policy shall provide a waiver of subrogation in favor of Lessor.

Lessee's policy shall include the following coverages:

a. Bodily injury, sickness, disease, mental anguish, or shock sustained by any person, including death and medical monitoring costs.
b. Property damage including physical injury to or destruction of tangible property, including the resulting loss of use thereof, cleanup costs, and the loss of use of tangible property that has not been physically injured or destroyed including diminution in value.
c. Environmental damage, including physical damage to soil, surface water, or groundwater, or plant or animal life, caused by pollution conditions and giving rise to clean-up costs.
d. Defense including costs, charges and expenses incurred in the investigation, adjustment, or defense of claims for such compensation damages.
e. Asbestos or lead – no exclusion.
f. Mold coverage.
g. Transportation cargo.
h. Non-Owned Disposal Site coverage.

Should Lessee's operations involve treatment, storage, or disposal of hazardous wastes, Lessee shall furnish an insurance certificate from the designated disposal facility establishing that the facility operator maintains current Pollution Legal Liability Insurance in the amount of $1,000,000 per occurrence / $2,000,000 general aggregate and will cover sudden and gradual pollution losses arising from the facility, associated with the operations of the Lessee

F. Unless a later date is provided in writing by the Navajo Nation Risk Management Program, an acceptable certificate of insurance shall be issued to the Navajo Nation by the Lessee on the date the lease is approved as evidence that the required coverages are in full force and effect. The certificate shall identify this Lease and indicate the policies will not be canceled unless at least thirty (30) days prior written notice is given to the Lessor.

Certificates of insurance shall be addressed as follows: Navajo Nation Division of Economic Development, Real Estate Department, P.O. Box 663, Window Rock, Arizona 86515.

G. Failure on the part of the Lessee to procure or maintain required insurance shall constitute a material breach of contract upon which the Lessor may immediately terminate this Lease.

H. Lessor reserves the right to request and receive certified copies of any or all of the above policies and/or endorsements.

I. Lessee and its insurers providing the required coverages shall waive all rights of recovery against the Navajo Nation and its agents, officials and employees, and the United States.

J. The insurance limits required under this Lease shall not limit the liability of the Lessee, nor relieve the Lessee of any obligation under this lease.

K. The Lessee shall not do or commit to be done anything in or upon any portions of the leased premises or bring or keep anything there which would in any way conflict with the conditions of any insurance policy upon the leased premises or in any way increase the rate of insurance

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upon the leased premises or on property kept there.

L. Lessor will not be responsible for any omissions or inadequacies of insurance coverage and amounts in the event the insurance purchased by Lessee proves to be inadequate or otherwise insufficient for any reason whatsoever.

1.12 PROPERTY INSURANCE.

A. Unless (i) Lessee is a Navajo Nation Enterprise covered by Navajo Nation Risk Management Program, or (ii) otherwise agreed to in writing by Navajo Nation Risk Management Program, Lessee shall carry "all risks" of loss OR risks of direct physical loss or damage OR causes of loss – special form, including the perils of Equipment Breakdown/Boiler & Machinery, Flood and Earth movement, covering not less than full replacement cost value of all improvements on the leased premises. Said policy shall be obtained from a Nationally Accredited Insurance Company, with an AM Best rating of "A-VIII" or higher or equivalent, licensed to do business in the State in which the leased premises are located and shall be written jointly to protect Lessee, Lessor, and the United States, and shall provide for notification to the Lessor prior to any cancellation or non-renewal of the policy for any reason, including nonpayment of premiums.

A copy of the policy shall be sent to Lessor at the following address: Navajo Nation Division of Economic Development, Real Estate Department, P.O. Box 664, Window Rock, AZ, 86515.

B. Lessee shall maintain business income insurance with limits not less than an amount equal to one year's annual rent.

C. If there is a coinsurance provision, it shall be waived by an Agreed Amount endorsement. Lessee's policy shall name Lessor as Loss Payee as their interest may appear. Lessee's policy shall provide a waiver of subrogation in favor of Lessor. The covered property shall be identified on the certificate of insurance.

D. Lessee, at its cost, shall maintain insurance coverage for full replacement cost on all of Lessee's personal property, Lessee's alterations, Lessee's utility installations, and Lessee's trade fixtures in or about the leased premises. The proceeds from any such insurance shall be used by Lessee for the replacement of Lessee's personal property, alterations, utility installations, or trade fixtures only if Lessor repairs or rebuilds the leased premises.

E. In the event of damage to any improvement on the leased premises, Lessee shall rebuild, repair or otherwise reinstate the damaged improvement or building in a good and substantial manner according to the plan and elevation of the improvement or building so destroyed or damaged or in accordance with any modified plan approved in writing by the Lessor prior to commencement of repair or reconstruction. Lessor's approval shall be obtained from the appropriate DED Leasing Department Manager. Repair or reconstruction shall commence as soon as possible and, in any event, within one (1) year after the damage occurs and shall be pursued diligently. Insurance proceeds shall be deposited in an escrow account with an institution approved by Lessor. Lessee shall also deposit in said escrow account all additional funds required to reconstruct the damaged improvement. Escrow instructions shall include provisions that all funds so deposited shall be used to reconstruct the damaged improvements and that funds shall be disbursed during the progress of reconstruction on proper architect's, engineer's, or contractor's certificates. All money in escrow after reconstruction has been completed shall be paid to Lessee.

F. In the event of damage to the extent of seventy-five percent (75%) or more of the total value of all improvements on the leased premises during the last five (5) years of the term of this Lease, Lessee shall have the option to reconstruct said improvements. Lessee shall provide Lessor with a written notice of the exercise of Lessee's reconstruction option within thirty (30) days of the event of damage giving rise to Lessee's reconstruction option. Should Lessee exercise its option to reconstruct, Lessee shall commence reconstruction of the damaged improvements within ninety (90) days of Lessee's exercise of its reconstruction option and shall diligently pursue the reconstruction to completion. Should Lessee not exercise its option to reconstruct, this Lease shall terminate one hundred and twenty (120) days after the event of damage giving rise to Lessee's reconstruction option. The leased premises shall be cleared of debris at Lessee's expense prior to termination of the Lease. Lessee shall not be charged rent during the period of debris removal unless Lessee occupies the leased premises beyond the Lease termination date, after which the Lessee will be charged hold over rental as provided herein. In the event Lessee does not reconstruct, all insurance proceeds shall be paid to Lessor.

1.13 INDEMNIFY, DEFEND AND HOLD HARMLESS.

Except for Lessor's sole Negligence, Lessee shall indemnify, protect, defend and hold harmless the Lessor and the United States from and against any and all claims, loss of rents, damages, costs, liens, judgments, penalties, permits, attorney's or consultant's fees, expenses and/or liabilities arising out of, involving, or dealing with, the occupancy of the leased premises by Lessee, the conduct of the Lessee's business, any act, omission, neglect or misconduct of Lessee, its agents, contractors, employees or invitees, and out of any Default or Breach by Lessee in the performance in a timely manner of any obligation on the Lessee's part to be performed under this Lease. The foregoing shall include, but not be limited to, the defense or pursuit of any claim or any action or proceeding involved therein, and whether or not litigated and/or reduced to judgment, and whether well-founded or not. In case any action or proceeding be brought against Lessor or the United States by reason of any of the foregoing matters, Lessee, upon notice from any Lessor or the United States, shall defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor and the United States, and the Lessor and the United States shall cooperate with

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Lessee in such defense. Lessee shall have the right to control such defense and to settle or compromise the claim in cooperation with Lessor and the United States as long as such defense, settlement, or compromise does not unduly prejudice Lessor and the United States.

1.14 EMINENT DOMAIN.

If, at any time during the term of this Lease, the leased premises or any part thereof is taken or condemned under the laws of eminent domain, then and in every such case, the leasehold estate and interest of the Lessee in said leased premises or part thereof taken shall forthwith cease and terminate. All compensation awarded by reason of any takings of the leased land and any taking of or injury to the buildings or improvements located thereon shall be awarded to the Lessee and the Lessor as their interests appear at the time of such taking provided that Lessee's right to such awards shall be subject to the rights of an encumbrancer to receive such awards as set out in an approved encumbrance.

If the condemnation is less than the entire leased premises and/or improvements, the lease shall continue as for the remainder of the term of the lease, however the rental shall be reduced proportionately. If the Lessee determines it is not economically feasible to continue business operations on the partially condemned leased premises, Lessee may negotiate a mutual termination of the Lease, provided, however, Lessee shall not be entitled to compensation award based on duration of the condemnation after the mutual termination effective date.

If a temporary condemnation of all or a portion of the leased premises and/or improvements, Lessee will be entitled to the entire amount of an award, whether paid by way of damages, rent or otherwise; however, if such condemnation extends beyond the term of the Lease, such amounts will be apportioned among Lessor and Lessee based upon the duration of the term remaining following the condemnation and the duration of the condemnation following the end of the term of the Lease.

1.15 DEFAULT.

A. Time is declared to be of the essence of this Lease. Where notice of default is given in this Section 1.15, it shall be deemed received three (3) business days after it was mailed by Lessor.

B. Lessor may determine the Lessee is in default for the following:

(1) Lessee fails to pay monies or any other amounts such as posting a bond or acquiring insurance when due and such failure continues for ten (10) business days after notice of default is deemed received by Lessee.

(2) Lessee fails to perform any of its material non-monetary obligations or duties under the lease when required and such failure continues for a period of ten (10) business days after notice of default that such obligation or duty has not been performed; provided that if the default cannot be cured within ten (10) business days, for such longer period of time as is reasonably required to cure such failure provided that Lessee commences a cure within ten (10) business days after the notice of default is mailed and Lessee diligently pursues the cure.

(3) Lessee abandons or surrenders the leased premises and if the operations required hereunder are not operated for a period of sixty (60) consecutive calendar days for any reason other than a closure for major repairs or renovation, acts of god, casualty, war or insurrection, strikes or labor disputes or other matters beyond the reasonable control of Lessee after written notice thereof has been received by Lessee from Lessor.

C. Lessee shall, within ten (10) business days, from the mailing of the notice of default either:

(1) Notify in writing to the Lessor that the default has been cured and submit documentation necessary to indicate the default has indeed been cured; or

(2) Submit in writing to the Lessor a statement and explanation disputing the Lessor's determination that the Lease is in default and why the Lease should not be terminated; or

(3) Request in writing to be given an additional ten (10) business days to cure unless found not reasonably susceptible to cure within ten (10) business days there is no default for such longer period of time as is reasonably required to cure. Any additional time granted to cure shall be in the discretion of the Division of Economic Development Real Estate Department.

D. Should a default occur the Lessor may take any action in accordance with § 503 of the Navajo Nation Business Site Leasing Regulations of 2005. Additionally, Lessor may exercise the following options upon Lessee's default :

(1) Collect, by suit or otherwise, all monies as they become due hereunder, or enforce, by suit or otherwise, Lessee's compliance with all terms of this Lease; or

(2) Re-enter the leased premises if the Lessee has abandoned the leased premises or has failed to conduct business for a period of time without notice and remove all persons and property therefrom, excluding the property belonging to authorized Sublessees, and re-let the leased premises without terminating this Lease as the agent and for the account of Lessee, but without prejudice to the right to terminate the Lease thereafter, and without invalidating any right of Lessor or any obligations of Lessee hereunder. The terms and conditions of such re-letting shall

Initials:_____

be in the sole discretion of Lessor who shall have the right to alter and repair the leased premises as it deems advisable and to re-let with or without any equipment or fixtures situated thereon. Rents from any such re-letting shall be applied first to the expense of re-letting, collection, altering, and repairing, including attorney's fees and any real estate commissions actually paid, insurance, taxes and assessments and thereafter toward payment to liquidate the total liability of Lessee. Lessee shall pay to Lessor monthly when due, any deficiency and Lessor may sue thereafter as each monthly deficiency shall arise; or

(3) Take any other action deemed necessary to protect any interest of Lessor.

E. No waiver of any of the covenants of this Lease shall be construed to be a waiver of any succeeding breach of the same or any other covenant of this Lease.

F. Exercise of any of the remedies outlined in this Section shall not exclude recourse as to any other remedies, by suit or otherwise, which may be exercised by Lessor or any other rights or remedies now held or which may be held by Lessor in the future.

G. If any approved encumbrancer shall give Lessor, before any default shall have occurred in this Lease, a written notice containing the name and address and the interest in the leased premises of such encumbrancer, Lessor shall thereafter give to such encumbrancer a copy of each notice of default by Lessee at the same time as such notice of default shall be given by Lessor to Lessee. Lessor shall accept such encumbrancer's performance of any of Lessee's covenants or other obligations under this Lease, with the same force and effect as though performed by Lessee. Upon providing such written notice, the encumbrancer shall have standing to pursue any appeals permitted by applicable statutes and regulations that Lessee would be entitled to pursue. Further, Lessor shall not terminate the Lease if an encumbrancer has commenced and is diligently pursuing a foreclosure action to terminate Lessee's interest in said Lease and has cured or is taking action to cure the breach that is the cause of the termination.

H. In the event of death of an individual Lessee, or the individual owner of an entity Lessee, the Lessor will communicate with the deceased's successor-in-interest or the administrator of the deceased's estate for all lease management purposes, including Lease collections, enforcement, and the exercise of any remedies available to Lessor. It is the responsibility of the successor-in-interest or administrator to provide the Lessor with updated contact information in accordance with the Lease's notice provision. Lessor may enforce this Lease in accordance with its terms by providing notice to a deceased Lessee's successor-in-interest or the administrator of the Lessee's estate in accordance with the notice provision in Part I of the Lease.

1.16 REMEDIES

A. If the Lessee fails to cure pursuant to Section 1.15 the Lessor may at its option pursue the following:

(1) terminate this Lease, as a matter of law; or

(2) grant an extension of time to cure the default; or

(3) pursue the execution on bonds or collection of insurance proceeds; or

(4) pursue any other remedy set forth in the business site lease management plan.

B. If the Lessor cancels the Lease, the Lessor shall send a cancellation letter to Lessee within a reasonable time period from the date of determination by the Lessor to cancel, by certified mail, return receipt requested. Lessee shall vacate the premises within ten (10) business days upon deemed receipt of the cancellation letter, unless an appeal has been filed.

C. The cancellation shall become effective ten (10) business days after deemed receipt of the letter. Any filing of an appeal shall not change the effective date of a cancellation. Pending the outcome of an appeal, the Lessee shall make all requisite payments, as well as comply with the terms of the Lease.

D. If a grant of extension for time to cure is given by DED Real Estate Department, the Lessee shall diligently perform and complete the corrective actions within a time frame agreed, in writing, between the Lessor and Lessee.

1.17 MUTUAL TERMINATION

The Lessee may terminate this Lease, without penalty, subject to approval from the Lessor, only during the development period, set forth in Part I of this Lease and conditioned upon compliance with the Navajo Business and Procurement Code, 15 §§ N.N.C. 1501 *et. seq.* Lessee must notify the Lessor in writing of its intention to terminate no later than thirty (30) days prior to the expiration of the development period. Lessor's approval of the mutual termination shall be obtained by the DED Business Site Lease Approving Committee.

1.18 ATTORNEY'S FEES.

Lessee agrees to pay and discharge all reasonable costs, attorney's fees and expenses that may be incurred by Lessor in enforcing provisions of this Lease.

1.19 NO PARTNERSHIP.

No term of this agreement shall be so construed as to provide that a partnership exists between Lessor and Lessee; the only relationship between the parties being that of Lessor and Lessee.

1.20 TERMINATION OF FEDERAL TRUST.

Initials:_____

Nothing contained in this Lease shall operate to delay or prevent a termination of Federal Trust responsibility with respect to the land by the issuance of a fee patent or otherwise during the term of this Lease; however, such termination shall not serve to abrogate the Lease. The owners of the land and Lessee and their approved encumbrancers, surety or sureties, if any, shall be notified of any such change in the status of the land.

1.21 OBLIGATIONS OF LESSEE.

While the leased premises are in trust or restricted status, all of Lessee's obligations under this Lease, and the obligations of their approved encumbrancers and sureties, are to the United States as well as to the Lessor.

1.22 STATUS OF SUBLEASES.

Termination of this Lease, by cancellation or otherwise, shall not serve to cancel approved subleases and/or subtenancies, but shall operate as a temporary assignment to Lessor, without merger of the Lease and sublease or subtenancy, of any and all such subleases and/or subtenancies, until a lease can be obtained between the Sublessee, Assigneee, and the Lessor, which the parties shall diligently pursue.

1.23 INSPECTION.

A. Lessor and its authorized representatives, shall have the right, at any reasonable time during the term of this Lease, to enter upon the leased premises, or any part thereof, to inspect the same and all buildings and other improvements erected and placed thereon for purposes, including, but not limited to, conditions affecting the health, safety and welfare of those entering the leased premises, the protection of the leased premises, any improvements thereto or any adjoining property or uses, or compliance with applicable environmental health or safety laws and regulations. No showing of probable cause shall be required for such entry and inspection. If testing for environmental contamination reveals environmental contamination in violation of applicable law, Lessee shall pay the costs of such testing. Nothing in this paragraph shall limit Lessee's obligation under applicable law or this Lease to perform testing or remediation or otherwise limit Lessee's liability.

B. Lessor and its authorized representatives, shall have the right, during normal business hours, during the term of this Lease and if the Lease is terminated or expired, at any time, to enter upon the leased premises, or any part thereof, to inspect the same and all buildings and other improvements as is required under the Navajo Nation Lease Compliance Form, and the Lessor and its authorized Representatives shall notify the Lessee not less than three (3) business days before conducting the inspection. Such inspection shall not unreasonably interfere with the Lessee's business operations, unless the Lease has expired or is terminated.

1.24 HOLDING OVER.

Holding over by the Lessee after the termination of this Lease shall not constitute a renewal or extension thereof or give the Lessee any rights in or to the leased premises. In the event of a holding over by Lessee, the Lessee shall be subject to immediate removal and shall agree to pay as hold over rental an annual rental computed at double the rental amount charged during the twelve months immediately preceding the commencement of the holding over period. Accepting holdover rent from Lessee does not extend the Lease or constitute an election of remedies or adversely affect any of Lessor's other remedies.

The Division of Economic Development Real Estate Department, with written consent from Navajo Nation Department of Justice, may direct Navajo Nation Office of the Controller Accounts Receivable to not apply holdover rent pending good faith negotiation of a new lease if the Lessee is in the process of renewing an expired Lease, and the renewal is delayed by no fault of the Lessee.

1.25 LEASE REQUIREMENTS NOT EXCLUSIVE.

Nothing in this Lease shall be construed to relieve Lessee of any obligations pursuant to any Federal or Navajo Nation law for the protection of the environment or the public health, safety, or general welfare which is currently enacted or which may be enacted at a later date.

1.26 DELIVERY OF LEASED PREMISES.

A. At the termination or expiration of this Lease, Lessee will peaceably and without legal process deliver up the possession of the leased premises, in good condition, usual wear and tear excepted.

B. Lessee agrees to allow the Navajo Nation Environmental Protection Agency to conduct an environmental audit 360 days prior to the expiration or termination of such Lease. Such assessment shall be delivered to the Navajo Nation Division of Economic Development Real Estate Department sixty (60) days prior to the expiration or termination or the delivery of the leased premises, whichever occurs first. In turn, the Division of Economic Development shall submit to the Lessee a copy of such audit within ten (10) business days of receipt.

1.27 NAVAJO PREFERENCE.

In connection with all employment and contracting opportunities arising out of Lessee's activities under this Lease, Lessee shall give preference in employment and contracting to qualified Navajo individuals and certified contractors in compliance with the Navajo Preference in Employment Act, 15 N.N.C. §§ 601 et seq. ("NPEA"), and the Navajo Nation Business Opportunity Act, 5 N.N.C. §§ 201 et seq. ("NBOA"). The terms and provisions of the NPEA and NBOA are specifically incorporated in, and become a part of this Lease. Violation of such laws by the Lessee shall constitute a breach of this Lease and provide grounds for suspension or termination of the Lease or any other remedy prescribed by the NPEA and NBOA, provided such compliance does not violate applicable federal laws.

1.28 MINERALS.

All minerals, including sand and gravel, contained in or on the lease premises are reserved for the use of Lessor, unless placed on the leased premises by the Lessee. Lessor also reserves the right to enter upon the leased premises and search for and remove minerals located thereon, paying just compensation for any damage or injury caused to Lessee's personal property or improvements constructed by Lessee.

1.29 SUCCESSORS AND ASSIGNS.

Initials:_____

The terms and conditions contained herein shall extend to and be binding upon the successors, heirs, assigns, executors, employees and agents, including all contractors and subcontractors, of Lessee. Except as the context otherwise requires, the term "Lessee," as used in this Lease, shall be deemed to include all such successors, heirs, assigns, executors, administrators, employees and agents.

1.30 INTEREST OF MEMBER OF CONGRESS.

No member of, or delegate to Congress, or Resident Commissioner shall be admitted to any share or part of this Lease or to any benefit that may arise herefrom, but this provision shall not be construed to extend to this Lease if made with a corporation or company.

1.31 USE OF NAVAJO PRODUCED GOODS AND SERVICES.

Lessee agrees to make all purchases of materials, equipment, goods, services and transportation from Navajo-owned businesses, whenever such purchase is economically feasible, as required by Navajo law.

1.32 AGREEMENT TO ABIDE BY NAVAJO AND FEDERAL LAWS.

The Lessee and the Lessee's employees, agents, and sublessees and their employees and agents agree to abide by all laws, regulations, and ordinances of the Navajo Nation, and all applicable laws, regulations and ordinances of the United States, now in force and effect or as may be hereafter in force and effect.

1.33 GOVERNING LAW AND CHOICE OF FORUM.

Except as may be prohibited by applicable federal law, the laws of the Navajo Nation shall govern the construction, performance and enforcement of this Lease. All actions or proceedings brought by Lessee against the Navajo Nation in connection with or arising out of the terms and conditions of this Lease shall be brought only in the Courts of the Navajo Nation, and no action or proceeding shall be brought by Lessee against the Navajo Nation in any court or administrative body of any state.

1.34 CONSENT TO JURISDICTION.

Lessee hereby consents to the legislative, executive and judicial jurisdiction of the Navajo Nation in connection with all activities conducted by the Lessee within the Navajo Nation.

1.35 COVENANT NOT TO CONTEST JURISDICTION.

Lessee hereby covenants and agrees never to contest or challenge the legislative, executive or judicial jurisdiction of the Navajo Nation on the basis that such jurisdiction is inconsistent with the status of the Navajo Nation as an Indian nation, or that the Navajo Nation government is not a government of general jurisdiction, or that the Navajo Nation government does not possess full police power (i.e., the power to legislate and regulate for the general health and welfare) over all lands, persons and activities within its territorial boundaries, or on any other basis not generally applicable to similar challenges to the jurisdiction of a state government. Nothing in this Section shall be construed to negate or impair federal responsibilities with respect to the leased premises or to the Navajo Nation.

1.36 NO WAIVER OF SOVEREIGN IMMUNITY.

Nothing in this Lease shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.

1.37 SAVINGS CLAUSE.

It is agreed that if any provision of this Lease shall be determined to be void then such determination shall not affect any other provision of this Lease and all such other provisions shall remain in full force and effect; and it is the intention of the parties hereto that if any provision of this Lease is capable of two interpretations, one of which would render the provision void and the other of which would render the provisions valid, then the provision shall have the meaning which renders it valid.

1.38 QUALIFICATIONS OF BUSINESS.

In the event Lessee hereunder is a business entity, the person(s) executing this Lease on behalf of Lessee hereby covenant and warrant that Lessee is a duly qualified business entity and all steps have been taken prior to the date hereof to qualify the Lessee to do business in the Navajo Nation; all franchise and corporate taxes have been paid to date; and all future forms, reports, fees, and other documents necessary to comply with applicable laws will be filed when due.

1.39 COMPLIANCE WITH NAVAJO NATION BUSINESS SITE LEASING REGULATIONS.

Lessee, its sublessees and assignees and other successors in interest shall comply with the provisions of the Navajo Nation Business Site Leasing Regulations of 2005, which prescribe rules for the regulation of reservation business for the protection of Indian consumers on the Navajo Nation as required by 25 U.S.C. § 415(e), and Uniform Business Site Leasing Regulations of 2008, which prescribes uniform rules and regulations to delegate the authority of Resources and Development Committee.

1.40 NO ORAL AGREEMENTS.

It is understood that there are no oral agreements between the parties hereto affecting this Lease, and this Lease supersedes and cancels any and all previous negotiations, arrangements, brochures, agreements and understandings, if any, between the parties hereto or displayed by Lessor to Lessee with respect to the subject matter hereof, and none thereof shall be used to interpret or construe this Lease.

1.41 VALIDITY.

This Lease, and any modification of or amendment to this Lease, shall not be valid or binding upon either party hereto until approved by the Resources and Development Committee of the Navajo Nation Council and/or any other appropriate oversight committees and the President of the Navajo Nation, pursuant to Navajo Law.

Initials:_____

2.0 SPECIAL TERMS AND CONDITIONS FOR NAVAJO NATION BUSINESS SITE LEASES WITH STORAGE TANKS

2.1 DEFINITIONS.

A. "Regulated Substance" is defined in the Navajo Nation Storage Tank Act, Title 4, Section 1502 of the Navajo Nation Code; Resources Conservation and Recovery Act, Section 9001(7); 42 U.S.C. 6991(7) which is any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1990 (42 U.S.C. 9601(14)) (but not including any substances regulated as a hazardous waste under subtitle C of the Resource Conservation and Recovery Act (42 U.S.C. 6921 et seq.) and petroleum).

B. "Storage Tank" is any above or underground tank which is defined by:

(1) Title 4, Section 1502 of the Navajo Nation Code, as amended; and

(2) An underground storage tank is defined at 42 U.S.C. 6991 (1), or any storage tank, regardless of the percentage of such tank which is located above or below ground, which is not excluded under 42 U.S.C 6991 (1) and which is used for the storage of regulated substances.

2.2 REGULATED SUBSTANCES.

A. Before Lessee, Sublessee, Assignee, or Sub-Permittee permits or causes any regulated substance (as defined in 2.1(A)) to be used, stored, generated or disposed of on or in the premises, Lessee, Sublessee, Assignee, or Sub-Permittee must first obtain written consent of the Navajo Nation Environmental Protection Agency. If the Navajo Nation Environmental Protection Agency does not respond to a request for consent within twenty (20) business days consent shall be deemed granted.

If regulated substances are used, stored, generated or disposed of on or in the premises, or if the premises become contaminated in any manner for which Lessee, Sublessee, Assignee, or Sub-Permittee is legally liable, Lessee, Sublessee, Assignee, and Sub-Permittee shall indemnify and hold harmless the Lessor from any and all claims, damages, fines, judgments, penalties, costs, liabilities or losses (including, without limitation, a decrease in value of the premises, damages due to loss or restriction of rentable or usable space, or any damages due to adverse impact on marketing of the space, and any and all sums paid for settlement of claims, attorneys' fees, consultant and expert fees) arising during or after the Lease, Sublease, or Sub-Permit term and arising as a result of such contamination by Lessee, Sublessee, Assignee, or Sub-Permittee.

This indemnification includes, without limitation, any and all costs incurred due to any investigation of the site or any cleanup, removal, restoration, or other costs of regulatory compliance mandated by the federal government or Navajo Nation. Without limitation of the foregoing, if Lessee, Sublessee, Assignee, or Sub-Permittee causes or permits the presence of any hazardous or regulated substance on the premises and such results in any contamination of the leased premises or other property including but not limited to the improvements, soil, surface water, or groundwater, Lessee, Sublessee, Assignee, and Sub-Permittee shall promptly, at its sole expense, take any and all necessary actions to return the premises to the condition existing prior to the contamination by any such regulated substance on the premises. Prior to any remedial action, the Lessees, Sublessees, Assignees and Sub-Permittees must obtain Navajo Nation Environmental Protection Agency's approval for any such remedial action. Any action taken must follow and comply with the Navajo Nation Storage Tank Act.

B. Lessee, Sublessee, Assignee, and Sub-Permittee shall provide the Navajo Nation Environmental Protection Agency and the Navajo Nation Division of Economic Development with a clear and legible copy of all notices or reports concerning storage tank installation, testing, leakage, or remediation at the premises subject to this Lease which Lessee, Sublessee, Assignee, and Sub-Permittee are required by applicable law or regulation to provide to the United States Environmental Protection Agency, or which Lessee otherwise provides to the United States Environmental Protection Agency. Service of documents as required by this Lease upon the Navajo Nation Environmental Protection Agency shall be by first class mail to:

Storage Tank Program
Navajo Nation Environmental Protection Agency
Post Office Box 3089
Window Rock, Navajo Nation (Arizona) 86515

and

Navajo Nation Division of Economic Development, Real Estate Department
Post Office Box 663
Window Rock, Navajo Nation (Arizona) 86515

with copies to Lessor in accordance with the Notice provision of Part I of this Lease,

2.3 FINANCIAL RESPONSIBILITY FOR STORAGE TANKS.

If Lessee, Sublessee, Assignee or Sub-Permittee installs or operates storage tanks on the leased premises, the Lessee, Sublessee, Assignee, and Sub-Permittee shall post a bond, obtain insurance, or provide other evidence of financial responsibility that meets all the requirements of Navajo Nation Storage Tank Act and 40 C.F.R. Part 280, Subpart H regardless of whether the storage tank in question is an aboveground or underground storage tank. Lessee, Sublessee, Assignee, and Sub-Permittee shall provide proof of this bond,

Initials:_____

insurance, or other qualifying financial responsibility mechanism to the Real Estate Department, Division of Economic Development, and Navajo Nation Environmental Protection Agency. The bond, insurance or other qualifying financial responsibility mechanism shall not include a pollution liability exclusion, and shall remain in effect for the term of the base lease, sublease, or permit and any renewals thereof, and shall not be released or terminated until such time as the Navajo Nation Environmental Protection Agency certifies that the facility is in compliance with all applicable law and regulations, or that the tanks have been removed and the site has been remediated, or that the base lease or sublease has been assigned and the new assignee-operator has assumed all liability and provided proof of an adequate bond, insurance or otherwise satisfied the Navajo Nation Storage Tank Act and 40 C.F.R. Part 280, Subpart H financial responsibility requirements. It shall be the responsibility of the Lessee, Sublessee, Assignee, and Sub-Permittee to provide the Navajo Nation Environmental Protection Agency and Real Estate Department, Division of Economic Development with all required documentation or information for release of bond or termination of insurance coverage. In order to meet the requirements of this section, the insurance policy shall not contain a pollution liability exclusion policy.

2.4 ENVIRONMENTAL AUDITS AND COMPLIANCE DOCUMENTS.

A. Entry Audit: If storage tanks are located at the Lease site, the Lessee, Sublessee, Assignee, and Sub-Permittee will supply the Navajo Nation Environmental Protection Agency and the Real Estate Department, Division of Economic Development with a complete copy of the report and underlying data generated in preparation of a Phase Two environmental audit before Lessee, Sublessee, Assignee, or Sub-Permittee places any regulated substance in the storage tanks or releases any regulated substances from the storage tanks but no later than ninety (90) days after the Lease is approved by the Lessor.

The Lessee, Sublessee, Assignee, and Sub-Permittee shall notify the Navajo Nation Environmental Protection Agency and the Real Estate Department, Division of Economic Development, of the firm chosen to perform the Phase Two Environmental audit prior to the performance of such audit. Navajo Nation Environmental Protection Agency may accept or decline the choice of environmental auditor within twenty (20) business days of written notice by Lessee. If Lessor does not respond within twenty (20) business days of receipt of the Lessee's written notice, the environmental auditor is deemed accepted. If, however, the most recent prior Lessee of the premises of the Navajo Nation has performed a Phase Two environmental audit on the premises at or after the termination of the prior tenancy, Lessee is not required to perform a Phase Two environmental audit if Lessee agrees to be conclusively legally bound by the findings of the above referenced Phase Two environmental audit.

B. Environmental Audit(s): Lessee, Sublessee, Assignee, and Sub-Permittee shall pay to the Navajo Nation the total amount of $15,000 in three installments, as set forth below, for Environmental Audit Security. The Environmental Audit Security will be held by the Navajo Nation during the term of the Lease. One year after Lessee's rental obligation begins, Lessee shall pay an initial installment of $5,000 toward the total Environmental Audit Security, and shall pay two additional installments of $5,000 at the end of second and third years after Lessee's rent payment obligation begins.

The amounts shall be deposited with the Real Estate Department, Navajo Nation Division of Economic Development:

P.O. Box 664
Window Rock, Arizona 86515

This sum is in addition to any other rental obligations of Lessee. This sum shall be used to pay for a Phase Two environmental audit to be performed during the last year of the Lease and any other environmental audit(s) during the term of the Lease which Lessor determines, based on probable cause, to be reasonably necessary to ascertain whether environmental contamination by regulated substances has occurred. The Navajo Nation Environmental Protection Agency shall determine whether an audit shall be performed.

If the Navajo Nation Environmental Protection Agency determines an environmental audit should be performed at the leased premises prior to the Lessee's deposit of the entire $15,000 deposit and the amount deposited is insufficient to pay for the environmental audit, and the environmental audit determines regulated substances are unlawfully present, Lessee shall, upon written demand by Lessor, promptly deposit with Lessor an amount sufficient to pay for the environmental audit or to bring Lessee's deposit to $15,000, whichever is less. If Lessor performs an environmental audit pursuant to this article during the term of the Lease which finds regulated substances unlawfully present and which is financed by all or part of the above referenced sum, Lessee shall, at the end of the year in which the audit is completed, deposit funds with the Navajo Nation sufficient to reestablish the amount deposited prior to the audit and to reimburse the Navajo Nation for any amount the Navajo Nation spent on the environmental audit in excess of the $15,000 deposit.

The deposit shall be kept in an account by the Navajo Nation Office of the Controller on behalf of the Lessee to meet the expenses of the obligations stated above. At the termination of the Lease and upon completion of all environmental audits, removal and remediation to be performed on the premises, the Navajo Nation shall return any of the money deposited to the Lessee which was not spent to conduct environmental audits of the leased premises or to remediate or remove regulated substances which were released on the leased premises.

Nothing stated herein shall be construed to limit Lessee's liability for costs associated with investigation, or remediation, of regulated substances located on the leased premises including Lessee's liability for litigation costs and attorneys' fees.

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2.5 OWNERSHIP AND REMOVAL OF STORAGE TANKS

A. The ownership and removal responsibility for any regulated substances or petroleum product manufacturing, processing, storage, or conveyance facilities placed in or on the leased premises shall be the responsibility of the Lessee. All facilities or storage tanks must comply with applicable federal, state, Navajo Nation and local law including requirements for corrosion protection, spill and overfill protection and leak detection. Any repairs made to such facilities or storage tanks must comply with applicable repair standards. Lessee shall provide the Navajo Nation Environmental Protection Agency with complete and legible copies of all documents establishing Lessee's ownership of, lease of, or acquisition of any other use interest in any storage tanks installed on the leased premises.

B. Unless otherwise notified by the Lessor, regulated substances and storage tanks are the property of the Lessee who placed them on the property and do not become the property of the Lessor for liability purposes under RCRA or the Navajo Nation Storage Tank Act. Petroleum manufacturing, processing, storage, storage tanks, or conveyance facilities shall be removed by Lessee unless notified by Lessor in writing not to remove all or part of such property.

C. Prior to termination, cancellation, or expiration of the Lease and prior to vacancy of the property the Lessee shall remove those improvements that are subject to removal , assess the site for potential contamination, remediate any contamination discovered, and satisfy or actively and in good faith seek resolution of any third party damages which may have occurred. The ownership and obligation to remove storage tanks shall survive the termination, cancellation, or expiration of this Lease. Should any of the above activities extend past the termination, cancellation, or expiration date of the Lease, the Lease shall be extended and Lessee shall remain financially responsible for completing these activities. The bond, unless waived, or the insurance covering the Lease shall not be released or terminated until these activities are completed.

Initials:_____

**** END OF PART II ****

Initials:_____

SAMPLE

NOTICE TO EXERCISE OPTION TO RENEW BUSINESS SITE LEASE

[*Date - should be 1 year prior to expiration of term*]

[*Leasing Department address*]

Re: Notice to Exercise Option to Renew Business Site Lease [*insert Lease No.*]

Dear Leasing Department Manager,

The purpose of this letter is to exercise the option to renew provided for in Business Site Lease [*insert Lease No.*] ("Lease"), Section C [*or different section, if the Lease varies from standard form*] for an additional term of [#] years. The expiration date of the current term is [*insert expiration date*], and the renewal term will commence on [*insert first date of renewal term*].

I have attached a current Certificate of Good Standing from the Navajo Nation Business Regulatory Department.

I affirm that [*Name of Lessee*] (i) is operating a business on the premises, (ii) is in compliance with the Lease terms and conditions, and with applicable laws and regulations, and (iii) will enter into a negotiated Lease Modification with an updated rental rate to begin on the first date of the renewal term.

I may be contacted at [*insert contact information*], which [*is / is not*] the same as the Notice address in the Lease.

Sincerely,

[*Lessee signature and printed name, title*]

ACKNOWLEDGMENT AND APPROVAL

The Navajo Nation acknowledges and grants approval for the Lease renewal pursuant to the terms of the Lease.

APPROVED BY

_____ _____

Name: Date:

Navajo Nation President

SUBLEASE
UNDER *[INSERT* BASE LEASE NO.*]*

THIS SUBLEASE is made and entered this _____ day of _____, 20____, by and between _____ whose address is: _____ hereinafter called "Sublessor" and _____ whose address is: _____ hereinafter called "Sublessee."

RECITALS

A. Sublessor and the Navajo Nation entered into Lease No. _____, effective on **[*insert effective date*] [**as modified by **(list all modifications and assignments, if applicable)]** (the "Base Lease").

B. Pursuant to Section __ of the Base Lease, Subleases [**select:** must be approved by the Navajo Nation and have written consent from all sureties ***or*** do not require approval from the Navajo Nation, provided the Sublessee agrees in writing to be bound by all terms and conditions of the Base Lease].

C. As required by the Navajo Nation Business Site Leasing Administrative Plan, Sublessor, by executing this Sublease, acknowledges and agrees that the Sublessor must continue operating a separate business on the Base Lease premises, and the Sublease will in no way relieve Sublessor from carrying out its duties under the Base Lease.

D. Sublessor and Sublessee further acknowledge that within seven (7) days of executing this Sublease, a copy of the Sublease must be provided to the Navajo Nation Division of Economic Development Leasing Department with a copy to the Division of Economic Development Real Estate Department.

E. **[Add recitals as needed for background or context.]**

AGREEMENT

1. PROPERTY SUBLEASED

For and in consideration of rents and covenants hereinafter specified to be paid or performed by the Sublessee, the Sublessor hereby subleases and lets to the Sublessee its interests in the following described part of the Base Lease premises ("Sublease Premises") within the Navajo Nation, County of _____, State of _____ _____ and appurtenances thereto, and more particularly described as follows:

[LEGAL DESCRIPTION OF SUBLEASED PREMISES]

The Sublease Premises is shown on the attached survey plat marked as Exhibit A, which by reference is made part hereof.

2. AUTHORIZED PURPOSES

During the term of this Sublease, the Sublessee may **[**develop, use, and operate **(select as applicable)]** the Sublease Premises for the following purposes only, which are authorized in the Base Lease:

[INSERT AUTHORIZED PURPOSES]

3. TERM

This Sublease shall be for the term of _____ years commencing _____, 20____, except as it may be terminated or extended as provided in the Base Lease. The term shall not exceed the Base Lease term.

4. RENTAL

The Sublessee shall pay $_____ monthly rent to the Sublessor. ***[Add detail if applicable.]***

[Insert if applicable.] The Sublessee shall pay $_____ monthly rent to the Navajo Nation. The rent shall be due on the first day of each month. If rental is unpaid ten (10) days after the due date, the Sublessee shall be subject to a late charge of 10% of the monthly amount due. Should the Sublessee not pay rent within thirty (30) days after the due date, the Sublessee shall be subject to a continuing late charge of 10% of the monthly amount due until the Sublessee has paid the full amount due. If the Sublessee has not paid the full amount due after (90) days, the Sublease shall be subject to cancellation by the Navajo Nation.

5. SECURITY

Sublessee agrees to post a cash deposit **[or if applicable:** *letter of credit* ***or*** *performance bond***]** with the Sublessor in the amount of $_____.

[Insert if applicable: Sublessee agrees to further post a cash deposit in the amount of $____ ("Navajo Nation Deposit") with the Navajo Nation, Division of Economic Development, Real Estate Department, at the address provided for in the Notice section of the Base Lease. The Navajo Nation Deposit shall remain in full force for the term of this Sublease. This security shall be posted 30 days from approval signature of the Sublease by the Navajo Nation President or designee.**]**

6. ASSIGNMENT

The Sublessee may assign or transfer the Sublease during the term of this Sublease, subject to the written approval of the Sublessor **[insert if applicable:** and the Navajo Nation]. In the event an assignment or transfer is completed the rent may be subject to re-negotiation. **[Insert if applicable:** Within seven (7) days of executing an Assignment that does not require Navajo Nation approval, a copy of the Assignment must be provided to the Navajo Nation Division of Economic Development Leasing Department with a copy to the Division of Economic Development Real Estate Department.**]**

7. IMPROVEMENTS, REPAIRS, ALTERATIONS, CONSTRUCTION

Improvements as used herein shall be deemed to mean buildings, structures, fixtures, equipment and other improvements affixed to or resting upon the lands leased hereunder in such a manner as to be a part of the realty. It shall include all present improvements, and all improvements hereafter constructed upon or affixed to the land by Sublessee as approved in compliance accordance with the Base Lease and applicable Navajo law. Sublessee is authorized to make any renovations, repairs or alterations unless these exceed $_____, then it shall require the consent of the Sublessor and the Navajo Nation, Division of Economic Development Leasing Department. Any demolition or removal of the improvements shall require written approval from the Navajo Nation, Division of Economic Development Leasing Department, with environmental review by the Real Estate Department, if applicable. Sublessee and the Sublessor shall indemnify and hold harmless the Lessor and the United States against liability for all claims arising from Lessee's failure to maintain said premises and the improvements thereon as herein above provided, or from Lessee's non-observance of any law, ordinance or regulations applicable thereto.

8. TERMINATION

This Sublease and all rights hereunder may be terminated in one of the following ways:

a. Upon the expiration of the original term of the Base Lease.

b. Expiration of Sublease term or any renewal or extension thereof.

c. For cause: This Sublease may be terminated for default or breach of any of its terms. In the event of default or breach of any of the terms hereof by the Sublessee, the Sublessor shall give written notice of such default. Within thirty (30) days after receipt of such notice, the Sublessee shall correct the default. Failure to correct the default shall terminate the Sublease.

d. Mutual termination.

9. INSURANCE

The Sublessee shall, during the full term of this Sublease, and at its expense, maintain insurance in accordance with all requirements set forth in Parts I and II of the Base Lease, including the requirement to include the Navajo Nation and the United States as additional insureds, and to provide Navajo Nation Division of Economic Development, Real Estate Department with a Certificate of Insurance upon execution of this Sublease.

10. SOVEREIGN IMMUNITY

Nothing herein shall be deemed a waiver of the sovereign immunity, expressed or implied, of the Navajo Nation.

11. INCORPORATION OF BASE LEASE

This Sublease is expressly made subject to all of the terms, conditions, and limitations contained in the Base Lease, including, without limitation, the consent to legislative, executive, and judicial jurisdiction of the Navajo Nation. In case of conflict between this Sublease and the Base Lease, the provisions of the Base Lease and any amendments thereto shall govern.

12. ACCOUNTING

In accordance with Base Lease Part II, Section 1.3(B), Sublessee shall provide the Navajo Nation Office of Auditor General or any of its duly authorized representatives access to and the right to examine any

of Sublessee's books of account, documents, papers, and records in connection with any transaction related to this Sublease which may be requested or necessary for completion of a full audit of all business conducted on the leased premises.

13. NOTICES AND DEMANDS

a. All notices, demands, requests or other communications shall be given in writing by personal delivery, or sent by certified or registered mail, return receipt requested, to the addresses below. Notices shall be effective and deemed delivered three (3) business days after deposit in the mail or on the date actually received, whichever occurs first. Notices may be sent by email, followed by personal delivery or certified or registered mail, return receipt requested.

To or upon Sublessee: _____

To or upon Sublessor: _____

To or upon the Navajo Nation (Lessor):
President
The Navajo Nation
Post Office Box 7440
Window Rock, Navajo Nation (Arizona) 86515

Copies to:
Division Director
Division of Economic Development
P.O. Box 663
Window Rock, Navajo Nation (Arizona) 86515

Leasing Department Manager
Division of Economic Development
[insert appropriate Department or RBDO]
[insert appropriate address]
Window Rock, Navajo Nation (Arizona) 86515

Real Estate Department Manager
Division of Economic Development
P.O. Box 664
Window Rock, Navajo Nation (Arizona) 86515
nnred@navajo-nsn.gov

b. Sublessee, Sublessor, or the Lessor may at any time change its address for purposes of this Section by written notice to the Base Lease and Sublease parties listed above.

[signatures on following page]

IN WITNESS WHEREOF, the parties have entered into this Sublease, which shall be effective on **[*insert*** the date approved by the Lessor **or** _____, 20__**]**.

SUBLESSOR

_____

[***Name, Title***] Date

SUBLESSEE

_____

[***Name, Title***] Date

[SURETY CONSENT [if applicable]

The foregoing Sublease is consented to by

_____

[***Name, Title***]
[Surety Company Name]

Date:_____**]**

[LESSOR APPROVAL [if applicable]

The foregoing Sublease is consented to and approved by

_____

President, Navajo Nation

Date: _____**]**

SAMPLE FORM TENANT AGREEMENT[1]
UNDER BUSINESS SITE LEASE NO. [INSERT LEASE NO.] BETWEEN
[LESSEE NAME]
AND
[TENANT NAME]

This **TENANT AGREEMENT** is made and entered into as of the Execution Date by the Navajo Nation shown on the final page, and is effective as of the Commencement Date in Section 2, by and between **[LESSEE/LANDLORD NAME], [Landlord Address]**, hereinafter called "Landlord," and **[TENANT NAME], [Tenant Address]**, hereinafter called "Tenant."

*RECITALS

A. Landlord and the Navajo Nation entered into Lease No. _____, effective on ***[insert** effective date**]*** [as modified by **(list all modifications and assignments, if applicable)]** (the "Base Lease").

B. Landlord currently operates a [insert description, e.g., Property Management] Company offering [insert description, e.g., commercial and office space] rentals under the Base Lease.

C. Tenant desires to rent [insert description, e.g., office] space from Landlord.

D. The Parties desire to enter into a tenant agreement defining their respective rights, responsibilities, and liabilities relating to the Premises to be rented.

E. Pursuant to Section __ of the Base Lease, Tenant Agreements [**select:** must be approved by the Navajo Nation and have written consent from all sureties ***or*** do not require approval from the Navajo Nation, provided the Tenant agrees in writing to be bound by all terms and conditions of the Base Lease].

F. Landlord and Tenant acknowledge that within seven (7) days of executing this Tenant Agreement, a copy of the Tenant Agreement must be provided to the Navajo Nation Division of Economic Development Leasing Department with a copy to the Division of Economic Development Real Estate Department, at the addresses provided in the Notice provision of the Base Lease.

AGREEMENT

In consideration of the mutual covenants contained herein, the Parties agree as follows:

*SECTION 1. DESCRIPTION OF PREMISES

Landlord rents to Tenant approximately ***Add # square feet*** of office space as depicted in EXHIBIT A: Site Plan and Exhibit B: Space Details attached hereto, hereinafter referred to as the "Premises," located within the Navajo Nation, County of _____, State of _____ on the property described in the above Base Lease.

Landlord reserves and excepts from the Premises, the roof and exterior walls of the building of which the Premises are a part, the right to construct additions to the building of which the Premises are a part, and the right of access in, over, and upon the Premises as may be reasonably necessary or advisable for maintenance, repairs, or construction additions to the building or other portions of the

[1] Provisions with an asterisk (*) are required. Any variation from these provisions must comply with applicable Navajo and Federal law, and be approved by the Navajo Nation Department of Justice.

Premises.

***SECTION 2. TERM OF TENANT AGREEMENT**

The rental period shall be for a term of ***Add text (Add #) months*** commencing on Select date ("Commencement Date"), and terminating Select date. *[If applicable: Landlord and Tenant shall have* Add text (Add #) *option to renew this Tenant Agreement under provisions set forth in Section 18 herein.]* The term*[, including all options to renew, if applicable,]* shall not exceed the Base Lease term. Tenant shall surrender the Premises to Landlord immediately upon termination of this Tenant Agreement, unless renewed.

SECTION 3. RENTAL

Tenant shall pay to Landlord ***Add text dollars and Add text cents ($Add #)*** per month as Rent for the Premises, which is subject to the Navajo Nation Sales Tax (currently at six percent 6%).

***[*Insert if Tenant is the Navajo Nation*: Availability of Funds.** Tenant's liability to and obligation to pay Landlord is subject to the availability of funds provision of 2 N.N.C. § 223, whereby the liability of the Navajo Nation under this Tenant Agreement is contingent upon the appropriation of funds by the Navajo Nation Council or other funding source. The Navajo Nation Council may, at any time, choose to non-appropriate the funds for the Tenant Agreement.]

Rent Payable Annually. After execution, the monthly Rent plus Navajo Nation Sales Tax calculated at the time of invoicing shall be due and payable within thirty (30) days of the *[insert Execution or Commencement]* Date for the remainder of the Select date fiscal year (Select date – Select date). Beginning October 1, Select date, the annual Rent plus Navajo Nation Sales Tax calculated at time of invoicing for the Premises shall be due and payable within thirty (30) days of the beginning of each fiscal year.

Invoices. Landlord shall provide Tenant with an invoice no less than thirty (30) days in advance of the Rent payment due date, which shall provide a cost breakdown of all associated costs, including monthly rental rates, taxes, and fees.

Annual Rental Adjustment. The monthly rental rate for this Tenant Agreement shall be increased by approximately five percent (5%) each Navajo Nation Fiscal Year such that the rental owed for the term of the Tenant Agreement as described in Exhibit C: Rental Rates & Schedule and as shown below:

Fiscal Year	Annual Rental	NN Tax 6%	Total
Year1 (10/1/ Select year – 9/30/Year1)	$Add #	$Add #	$Add #
Year2 (10/1/Year1 – 9/30/Year2)	$Add #	$Add #	$Add #
Year3 (10/1/Year2 – 9/30/Year3)	$Add #	$Add #	$Add #
Year4 (10/1/Year3 – 9/30/Year4)	$Add #	$Add #	$Add #
Year5 (10/1/Year4 – 9/30/Year5)	$Add #	$Add #	$Add #

***Contract Number.** Upon execution and confirmation of compliance with the Base Lease, the Navajo Nation, Division of Economic Development, Real Estate Department shall assign a Contract Number to this Tenant Agreement. All invoices, notices, and communications between Landlord and Tenant shall reference the Contract Number.

***[*Insert if Tenant is the Navajo Nation*: Offsets Allowed.** The amount to be paid under the Contract Number to be assigned to this Tenant Agreement may be reduced by any current or past

due Navajo Nation outstanding money judgment against Landlord, Navajo taxes, or if any delinquent accounts receivable debt exists that is due and owing to the Navajo Nation by Landlord in its present form or in any other identifiable capacity under the provisions of 15 N.N.C. §1507, which states:

> If the applicant entity in its present form or any other identifiable capacity as an individual, business, corporation, partnership, or entity, has an outstanding money judgment against it in favor of the Navajo Nation or a delinquent accounts receivable debt which is due and owing to the Navajo Nation, upon due notice the Navajo Nation may offset its money claim against any amount it owes to or has an account payable to the individual, business, corporation, partnerships, or other entity. The Navajo Nation shall notify Landlord as to what amounts, if any, have been offset pursuant to this section.]

SECTION 4. PAYMENT OF RENTAL/LATE CHARGES

Payment. Tenant shall pay Rent and all other sums which are payable to Landlord at the address set forth in Section 23 of this Tenant Agreement, or to such person and at such address as Landlord shall from time to time designate in writing, issued as a notice pursuant to Section 23.

Late Payments. Any payment of Rent or other sums required to be made by Tenant to Landlord under the terms of this Tenant Agreement not received within thirty (30) days after the due date thereof, as established in Section 3, shall be subject to a late charge of five percent (5%) of the delinquent amount, which late charge shall be immediately payable, together with the delinquent amount, by Tenant to Landlord.

Any Rent or other sum payable by Tenant to Landlord shall bear interest at the rate of eighteen percent (18 %) per annum from that date which is ten (10) days after the due date.

If Tenant's Rent Payments become more than thirty (30) days late, Landlord may elect to stop all services, including, but not limited to, maintenance, utilities, property management, security, janitorial, cleaning, technology, and administrative support.

SECTION 5. SECURITY DEPOSIT

Tenant has, upon delivery of this Tenant Agreement, deposited ***Add text dollars and Add text cents ($Add #)*** with Landlord as security deposit for this Tenant Agreement, receipt of which is hereby acknowledged by Landlord, as security for the full and faithful performance of each and every term and condition of this Tenant Agreement.

If Tenant defaults on any of the terms and conditions of this Tenant Agreement, including but not limited to the payment of rental when due, or any other sum payable by Tenant to Landlord when due, Landlord may, but need not, use, apply, or retain the whole or any part of this security not as liquidated damages but for the payment of any rental or other sum in default or for any sum which Landlord may spend or be required to spend by reason of Tenant's default. If any portion of said deposit is so used or applied, Tenant shall, within thirty (30) days after written demand therefore, deposit with Landlord in an amount sufficient to restore the security deposit to its original amount. Should Tenant fully and faithfully comply with all of the terms, provisions, covenants, and conditions of this Tenant Agreement, the security or any balance of the security deposit shall be returned to Tenant or, within ninety (90) days after expiration of the Tenant Agreement Term and surrender of the Premises by Tenant. Landlord's rights with reference to the security deposit shall be in addition to and shall not preclude any other rights, remedies, or recoveries available to Landlord by law or under the terms of this Tenant Agreement.

Tenant agrees that in the event the Landlord may sell or exchange Landlord's interest in the Premises, during the Tenant Agreement Term, Landlord may pay the security deposit to any subsequent owner and in that event, Tenant does hereby release Landlord from all liability for the return of such deposit. Landlord shall not be required to maintain such funds in a segregated account, but may deposit such funds in any general account of Landlord, provided that such commingling shall in no way affect Landlord's obligations to Tenant regarding application or return of such funds hereunder. Tenant shall not be entitled to any interest on the security deposit.

SECTION 6. USE, HOURS OF OPERATION, AND RESTRICTIONS

The Premises shall be used for the purpose of [insert purpose, e.g., office space] and for no other purpose. Tenant is restricted to use of space solely to conduct [insert restrictions, e.g., internal business by its staff and personnel]. Space is not allowed to be sublet nor lent for purpose of other entities, organizations, or individuals without prior written permission from Landlord.

Tenant's normal hours of operation will be [insert hours of operation, e.g., Monday through Friday, 8:00 a.m. to 5:00 p.m.]; however, occasional earlier or later and weekend use of Premises is permitted provided that such occasional use is not so excessive as to cause abnormal utility or other costs to Landlord.

*Tenant shall not use or cause to be used any part of the Premises that results in (a) a waste on the Premises; (b) a public or private nuisance that may disturb the quiet conditions of other tenants of the Landlord, (c) a violation of the Base Lease between the Navajo Nation and Landlord, or (d) a violation of Navajo Nation Law. Tenant shall comply with all governmental regulations and statutes affecting the Premises either now or in the future, and shall not use or cause to be used any part of the rented Premises for any unlawful conduct or purpose.

Tenant shall not:

(a) conduct or permit any auction sale to be held on or about the Premises, whether such auction be voluntary or involuntary;

(b) display merchandise, signage, advertise or solicit business on the exterior walls, doors, sidewalks, or other common areas without first securing the prior written consent of Landlord;

(c) employ any type of sound emitting device in or about the Premises that is audible outside the Premises, except for fire and burglar alarms;

(d) commit, or suffer to be committed, any waste upon the Premises;

(e) engage in any activity which will increase the existing premium rate of insurance on the Premises or cause a cancellation of any insurance policy or permit to remain in or about the Premises any article that may be prohibited by standard form fire insurance policies;

(f) use the Premises for or carrying on or permit any offensive, noisy, illegal, or dangerous trade, business, manufacture or occupation, or any nuisance or anything against public policy, or interfere with the business of or disturb the quiet enjoyment of the Landlord any other Tenant, if any;

(g) use the exterior of the roof or walls of the Premises for any purpose except maintenance or performing Tenant's maintenance obligations under Section 11; or

(h) host gatherings or unauthorized events on the property or in any suite. Suites and common areas are only for regular business activities. Gatherings involving guests, clients, customers, etc., events or non-tenant meetings are NOT allowed without prior written approval from Landlord.

SECTION 7. CONDITION OF PREMISES, ALTERATIONS, AND MODIFICATIONS

Tenant acknowledges that the Premises are in a tenantable and good condition. Tenant shall not alter, repair, or make any changes without Landlord's prior written consent. Any alterations, improvements, or changes that Tenant may desire shall be done either by Landlord or under the direction of Landlord, but at the expense of Tenant. All alterations, improvements, repairs, signage, equipment, or mechanical apparatus affixed to the Premises shall become the property of Landlord and remain with the Premises. However, at the option and by selection of Landlord, Tenant shall, at its expense and in a good and workmanlike manner, remove from the Premises any partitions, counters, railings, signage, equipment, mechanical apparatus, computer cabling and accessories, and similarly installed improvements when surrendering the Premises.

Tenant shall pay for repair of all damage or injury done to the Premises or common areas by Tenant or any person who may be in the Premises or utilizing the common area with the consent of Tenant. Tenant shall, at the termination of this Tenant Agreement, surrender the Premises to Landlord in good condition and repair, reasonable wear and tear excepted.

SECTION 8. UTILITIES. TAXES, ASSESSMENTS, AND GOVERNMENTAL CHARGES

Landlord shall initiate, contract for, and obtain in Landlord's name, utility services (water, wastewater, gas, electricity, and direct internet access) required on the Premises occupied by Tenant, and Landlord shall pay all charges for those utility services as they become due. Direct internet access utility services shall be limited to 100 MBPS and is provided by a third-party utility service company. Landlord shall not be liable to Tenant for any delays, stoppages, or interruptions in the provision of such utilities or services, or any consequential damages resulting therefrom, cause by sources or occurrences beyond the control of the Landlord and no such failure shall entitle Tenant to terminate this Tenant Agreement.

Tenant agrees that it will not install or use any equipment which will exceed or overload the capacity of any utility facilities and that if any equipment installed by Tenant shall require additional utility capacity or facilities, the same shall be installed at Tenant's expense in accordance with plans and specifications to be approved in writing by Landlord.

Landlord agrees to pay for all taxes, assessments, and governmental charges in effect and imposed on these utility services at the time of the signing of this Tenant Agreement. However, any increase in the cost of utility services due to the enactment of imposition of any increase in existing taxes, rates, assessments, or governmental charges after the date of the signing of this Tenant Agreement shall be passed on to Tenant and will be billed separately, and Tenant shall pay to Landlord those increased costs and/or assessments when due.

Any additional services, equipment installations, or technologies requiring a "Right Of Way" usage agreement must include Landlord as Owner/Operator.

SECTION 9. JANITORIAL, PEST CONTROL, AND WASTE REMOVAL SERVICES

Janitorial Services. Landlord agrees to provide basic janitorial services five (5) days per week excluding Navajo Nation official holidays and weekends or closures beyond the control of the Landlord. Services are based on standard custodial cleaning as described and agreed upon in the Custodial Service document attached hereto as EXHIBIT D, for the property described in the Base Lease.

Janitorial services do not include management nor service of hazardous materials clean up, disaster recovery, infectious disease sanitization or disinfection, water damage due to Tenant or Tenant visitor negligence, or biological waste cleanup. Any Premises cleaning requests beyond services

described in EXHIBIT D will be provided on a cost basis, billable to Tenant and paid within thirty (30) days of invoicing the service. Based on access to the Premises and conditions, Landlord will also provide carpet/floor cleaning at least once per year.

Pest Control. Landlord shall also provide bimonthly pest control services through a licensed pest control contractor. Monthly pest control services include treatment of crawling and flying pests and rodents and service, products, and chemical treatment to interior and exterior of all office suites and Landlord buildings.

Waste Removal. Waste removal services are inclusive of duties provided in EXHIBIT D. All trash containers within Tenant space will be emptied on a regular basis. Excess packing, shipping and container materials, recycling materials and food or drink waste contained within Tenant appliances are the responsibility of the Tenant and must be disposed of properly.

SECTION 10. OTHER SERVICES

In addition to the leased office space, the Premises shall include the following use and accessibility: use of common driveways, parking area for employee and client/visitor parking, and "handicap parking space(s)" in compliance with the Americans with Disabilities Act of 1990 and in close proximity to the entrance. Specifically excluded is overnight and/or all-day parking of company or business vehicles or equipment at the front or rear of the Premises without the prior written approval of Landlord.

Landlord does not provide designated or reserved parking spaces or areas of parking lots for Tenant or Tenant visitors. All parking spaces are for the common use and joint accessibility of **[Landlord Business Name]** tenants, visitors, and occupants. Any abuse of this accessibility will be dealt with by property management and/or Landlord representatives including potential towing at the expense of the owner of the vehicle. Landlord is not held responsible for any damage, vandalism, or theft of vehicles or vehicle contents while parked on Landlord's Base Lease premises, and all tenants and visitors park and make use of property at their own risk.

SECTION 11. REPAIRS, REPLACEMENTS AND MAINTENANCE

Landlord shall be responsible for performing routine maintenance to the Premises within a reasonable time upon written notification from Tenant. [Describe how Tenant shall make repair requests of Landlord]. Repairs, replacements, and maintenance shall include, but not be limited to all common areas, parking and sidewalks, structural systems, roofs, exterior and interior walls, HVAC systems, doors, windows, and interior and exterior lighting fixtures and bulbs. Excluded is maintenance to Tenant property, materials, furnishings, equipment, or appliances. Any maintenance, replacement, or repairs caused by or due to the misuse, neglect, or deliberate act of Tenant or any person who may be in the Premises or surrounding area with the consent of Tenant shall be at the expense of Tenant and will be billed accordingly.

Tenant shall permit Landlord or its agent to enter the Premises at all reasonable times to inspect the Premises. If at the time of any inspection Landlord or its agent finds any unsafe or unsatisfactory conditions existing, caused by Tenant in its use of the Premises, or by any person who may be in the premises or surrounding area with the consent of the Tenant, Landlord shall notify Tenant in writing of any such condition stating a reasonable time frame within which Tenant must correct the deficiency or unsafe condition. These conditions include maintaining safe environment as related to recommendations made by Fire Codes. For Business including but not limited to: safe use and limitation extension cords; power strips and surge protectors; food preparation equipment; space heaters and fans; plug in fragrance equipment; and uncluttered halls, entrances, and exits, as well as ceiling clearances.

If Tenant fails to make corrections or to take remedial action within the time frame provided, if reasonable, then Landlord may correct the deficiency and charge the reasonable cost of the correction or remedial action to Tenant as a charge separate from the rental, with payment due and payable net ten (10) days from date of invoice.

SECTION 12. ABANDONING PREMISES OR PERSONAL PROPERTY

Tenant shall not vacate or abandon the Premises at any time during the term of this Tenant Agreement. If Tenant vacates or abandons the Premises or is dispossessed by process of law, any personal property belonging to Tenant and left on the Premises shall be deemed abandoned at the option of Landlord and shall become the property of the Landlord.

SECTION 13. DESTRUCTION OF PREMISES

In the event of a partial destruction of the Premises during the term of this Tenant Agreement from any cause, Landlord shall repair the same, provided the repairs can be made within ***thirty (30) days***. Any partial destruction shall not void this Tenant Agreement, except that the Tenant shall be entitled to proportionate reduction of Rent while the repairs are being made. Any proportionate reduction shall be based on the extent to which the making of repairs shall interfere with the business carried on by Tenant in the Premises.

If the repairs cannot be made in the specified time, Landlord may, at its option, make repairs within a reasonable time, and the Tenant Agreement shall continue in full force and effect with the Rent to be proportionately reduced. In the event that the Landlord elects not to make repairs, which cannot be made in the specified time, or those repairs cannot be made under the laws and regulations of the applicable governmental authorities, either party may terminate this Tenant Agreement.

A total destruction of the building in which the Premises are situated shall terminate this Tenant Agreement. Landlord shall refund Rent already paid by Tenant to Landlord for the remainder of the Tenant Agreement term following the termination date within ***thirty (30) days*** of such termination.

SECTION 14. CONDEMNATION OF PREMISES

A condemnation of the entire building or a condemnation of the portion of the Premises occupied by Tenant shall terminate this Tenant Agreement. Landlord shall refund to Tenant all Rent already paid by Tenant to Landlord for the remainder of the rental term following the condemnation proceeding within ***thirty (30) days*** of such condemnation. Landlord shall receive the total of any consequential damages awarded as a result of condemnation proceedings.

SECTION 15. BREACH OR DEFAULT

Tenant shall have breached this Tenant Agreement and shall be considered in default hereunder if (a) Tenant fails to pay any Rent when due, *(b) Tenant fails to comply with any covenants, conditions, or other provisions of this Tenant Agreement, or (c) Tenant files a petition in bankruptcy or insolvency or for reorganization under any bankruptcy act, or makes an assignment for the benefit of creditors. Landlord shall have breached this Tenant Agreement and shall be considered in default hereunder if Landlord fails to comply with any covenants, conditions, or other provisions of this Tenant Agreement.

SECTION 16. EFFECT OF BREACH

In the event of a breach of this Tenant Agreement, the Landlord shall have the following rights:

Landlord may terminate this Tenant Agreement by giving Tenant thirty (30) days written notice of the termination. Should Tenant fail to have corrected the default within the time fixed in this notice,

this Tenant Agreement shall terminate with the same force and effect, except as to Tenant's liability, as if the termination were the end of the term.

Where, in Landlord's reasonable opinion, a breach by Tenant may constitute waste of the Premises, a public or private nuisance, a danger to public safety or health, or a violation of Navajo law, Landlord may immediately re-enter the Premises and remove the property and personnel of Tenant, and store the property in a place selected by Landlord, at the Tenant's expense. After re-entry, Landlord may terminate this Tenant Agreement by giving Tenant ***fifteen (15) days*** written notice of termination. Re-entry without the notice will not terminate the Tenant Agreement. On termination, Landlord may recover from Tenant all damages proximately resulting from the breach, including the cost of recovering the Premises and the balance of this Tenant Agreement over reasonable rental value of the Premises for the remainder of this rental term, which sum shall be immediately due to the Landlord from Tenant.

After re-entry, Landlord may relet the Premises for any term without termination the Tenant Agreement, Landlord must make a reasonable effort to relet the Premises at a rental amount at least equivalent to the rate set forth in this Tenant Agreement. Landlord may make alterations and repairs to the Premises necessary to put the Premises back into the condition that existed prior to Tenant taking possession of the Premises, normal wear and tear excepted. The responsibilities and liabilities of the Parties if the Premises are relet shall be as follows: In addition to Tenant's liability to Landlord for breach of this Tenant Agreement, Tenant shall be liable for all expenses of the reletting, for the alterations and repairs made, and for any negative difference between the Rent received by Landlord under the new Tenant Agreement and the Rent installments that are due for the same period under this Tenant Agreement.

SECTION 17. REMEDIES OF LANDLORD AND TENANT CUMULATIVE

The remedies herein given to Landlord or Tenant shall be cumulative, and the exercise of any one remedy by Landlord or Tenant shall not be to the exclusion of any other remedy.

SECTION 18. OPTION TO RENEW [IF APPLICABLE.]

Tenant shall have Add text (Add #) option to renew this Tenant Agreement for a reasonable or comparable period following the expiration of this Tenant Agreement. The rental rates and conditions for the renewal option period, if exercised, shall be established by mutual agreement of the Parties hereto. Tenant shall indicate its intent to exercise its option to renew in writing no later than ***ninety (90) days*** prior to its expiration. The term, including all options to renew, shall not exceed the Base Lease term.

SECTION 19. HOLDING OVER

If Tenant holds possession of the Premises after the expiration of this Tenant Agreement or after the option to renew, Tenant shall become a Tenant from month-to-month on the terms specified in the Tenant Agreement, except that Tenant shall pay to Landlord a rental equal to 1.5 times the monthly rental rate expressed in the current terms and conditions of this Tenant Agreement for the most recent fiscal period. Month-to-month rental fees MUST BE paid in advance on the ***first (1st) day*** of each month, and Tenant shall continue to be a month-to-month tenant until the tenancy is terminated by Landlord, or until Tenant has given to Landlord thirty (30) days written notice of its intention to vacate its tenancy.

SECTION 20. ASSIGNMENT OF TENANT AGREEMENT

Tenant shall not assign this Tenant Agreement nor allow any other person or entity to occupy or use the Premises, or any potion thereof, without the prior written consent of Landlord. Any assignment, occupancy, or use by other persons or entities without the Landlord's prior written consent shall be

void.

Landlord shall not unreasonably withhold consent to assignment or occupancy by other persons or entities of the Premises by Tenant, if Tenant will provide evidence of the financial responsibility of the intended assignee or occupant, evidence of compatibility of the business or activity of proposed assignee or occupant with the Base Lease and operations of Landlord, and other matters reasonably deemed to be necessary or desirable by Landlord in determining whether to approve such assignment or occupancy.

*An Assignment of this Tenant Agreement shall be made in writing, signed by the parties, and provided to the Division of Economic Development Leasing Department, with a copy to the Real Estate Department, in accordance with Recital F above.

***SECTION 21. INSURANCE**

Tenant and Landlord agree that each party shall be responsible for its own professional liability insurance coverage in accordance with Parts I and II of the Base Lease. Tenant shall be responsible for its own liability insurance on the Premises to protect against liability for damage claims through public use of or arising out of accidents occurring in or around the Premises and resulting from Tenant's use of occupancy of the Premises, and property insurance coverage for contents and Tenant property within the Premises. Landlord shall provide for its own public liability insurance as well as property insurance on the buildings and premises. Tenant must submit a current certificate of insurance to Landlord which shows proof of coverage inclusive of the tenancy terms and dates.

***Additional Insured.** Tenant and Landlord shall, at their sole expense, (i) add the other party as an additional insured, and (ii) add the Navajo Nation and the United States as additional insureds, as verified by the attached Exhibit E: Tenant and Landlord Insurance shall remain in place for the entire Tenant Agreement term. Within two (2) days of any change in insurance policy, Tenant shall notify Landlord of the change, and Landlord shall notify Tenant and the Navajo Nation Risk Management Program of the change.

***SECTION 22. AGREEMENTS IN WRITING**

All negotiations, considerations, representations, and understandings between the Parties are incorporated and expressly stated herein and may be modified and altered only by written agreements between Landlord and Tenant, and their representative Parties. Any verbal or other agreements not included in this Tenant Agreement are null/void and any evidence of same is prohibited.

***SECTION 23. NOTICES**

Any notices shall be given in writing and may be given by certified mail or personal delivery to the addresses below. *[Insert additional notice procedures, if applicable.]*

To Tenant,

[*Error! Reference source not found.* ***Name]***
Address 1
Address 2

And to Landlord,

[Landlord Name]
Address 1

Address 2

For copies of documents in accordance with Recital F:

Leasing Department Manager
Division of Economic Development
[insert appropriate Department or RBDO]
[insert appropriate address]

Real Estate Department Manager
Division of Economic Development
P.O. Box 664
Window Rock, Navajo Nation (Arizona) 86515
nnred@navajo-nsn.gov

***SECTION 24. APPLICABLE LAW**

This Tenant Agreement shall be construed in accordance with the laws and in the courts of the Navajo Nation, which law shall govern.

***SECTION 25. TERMINATION.**

This Tenant Agreement and all rights hereunder, may be terminated in one of the following ways:

(a) Upon the expiration of the term of the Base Lease.

(b) Expiration of the Tenant Agreement or any renewal or extension thereof.

(c) For cause: This Tenant Agreement may be terminated for default or breach of any of its terms. In the event of default or breach of any of the terms hereof by the Tenant, the Landlord shall give written notice of the default. Within thirty (30) days after receipt of such notice, the Tenant shall correct the default. Failure to correct the default shall terminate the Tenant Agreement.

(d) By mutual agreement of the parties.

***[Insert if Tenant is a Navajo Nation Division or Department:* TENANT'S RIGHT TO TERMINATE IF TENANT IS NAVAJO NATION GOVERNMENT**. The rights of Tenant to terminate this Tenant Agreement include the following:

(a) Landlord's non-compliance with or violation of any Navajo Nation laws and regulations, regardless of such non-compliance or violation's connection with this Tenant Agreement; or

(b) Tenant determines to be false any statement or documentation of Landlord regarding licensing, business registration, insurance coverage, or debts owed; or

(c) The Navajo Nation or any of its political subdivisions, enterprises, or other related entities, or if any federal or state governmental entity, has for any reason debarred or suspended the Landlord (such debarment or suspension shall be considered effective notwithstanding any appeal, and shall be effective unless and until conclusively resolved in favor of Landlord); or

(d) Landlord's failure to satisfactorily comply with the terms of this Tenant Agreement; or

(e) Landlord is otherwise in breach of any material term or condition of this Tenant Agreement; or

(f) The Navajo Nation Council non-appropriates or fails to appropriate funds for this Tenant Agreement, in which case this Tenant Agreement shall terminate automatically, and Tenant shall provide Landlord with immediate written notice of such termination. The Navajo Nation's decision as to whether sufficient appropriations or authorizations are available to fund this Tenant Agreement is final and shall be accepted by Landlord.

Pursuant to 12 N.N.C. § 360, Tenant shall have the right to terminate this Contract for the convenience of the Navajo Nation.]

***SECTION 26. SOVEREIGN IMMUNITY**

Nothing in this Tenant Agreement shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.

***SECTION 27. INCORPORATION OF BASE LEASE**

This Tenant Agreement is expressly made subject to all of the terms, conditions, and limitations contained in the Base Lease. In case of conflict between this Tenant Agreement and the Base Lease, the provisions of the Base Lease and any amendments thereto shall govern.

***SECTION 28. ACCOUNTING**

In accordance with Base Lease Part II, Section 1.3(B), Tenant shall provide the Navajo Nation Office of the Auditor General or any of its duly authorized representatives access to and the right to examine any of Tenant's books of account, documents, papers, and records in connection with any transaction related to this Sublease which may be requested or necessary for completion of a full audit of all business conducted on the leased premises.

***SECTION 28. TENANT AGREEMENT MODIFICATION**

Modifications to this Tenant Agreement, including its Exhibits, shall be made only by a duly approved written agreement, deemed a Modification, signed by the parties, and provided to the Division of Economic Development Leasing Department, with a copy to the Real Estate Department, in accordance with Recital F above.

***SECTION 29. TENANT AGREEMENT DOCUMENTS**

The below are considered, collectively, the Tenant Agreement, which shall include other documents referenced therein and Modifications issued after the Execution Date:

- This Tenant Agreement;
- Exhibit A: Site Plan;
- Exhibit B: Space Details;
- Exhibit C: Rental Rates & Schedule;
- Exhibit D: Custodial Services; and
- Exhibit E: Tenant and Landlord Insurance.

SIGNATURES OF THIS TENANT AGREEMENT

IN WITNESS, WHEREOF, the Parties have executed this Tenant Agreement to be effective on the Execution Date.

LANDLORD: **TENANT:**

[NAME]

_____
[Insert Signatory Name, Title]

_____
Date

[NAME]

_____
[Insert Signatory Name, Title]

_____
Date

Appendix E-2
Provisions in this sample may be considered by Lessee for inclusion in 'Tenant Agreement Form. Leasing Department may consult with NNDOJ for legal sufficiency.

SAMPLE TENANT AGREEMENT

THIS LEASE ("Lease") is made and executed as of _____, 20___, by and between_____ ("hereinafter Landlord"), and _____, (hereinafter "Tenant").

Article I

DESCRIPTION OF BUILDING AND PREMISES

Section 1.01. Building. The buildings and other improvements commonly known as _____ are located at _____ (collectively the "Project") and are legally described on **Exhibit A** attached hereto. Landlord and Tenant hereby acknowledge and agree that for purposes of this Lease, the Project shall be deemed to contain _____ rentable square feet, notwithstanding that the actual square footage of the Project may be a greater or smaller amount. The Project is subject to restriction contained in either the Master Lease to Landlord known as Lease No. _____ the terms and conditions of which is hereby incorporated herein (*or* The Project is subject to restriction contained in certain Declaration of Covenants, Conditions, Restrictions, Assessments, Changes, Servitudes, Liens, Reservations and Easements for _____ recorded in the Official Records of _____ County, _____ as Instrument No._____ (hereinafter the "Master Declaration").

Section 1.02. Premises. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, upon the terms and conditions set forth in this Lease, **[Suite ____]** of Building No. ___ of the Project (the "Building") as depicted on **Exhibit B** attached hereto (the "Premises"). Tenant's right to use the Premises shall include the non-exclusive right to use such common areas within the Building and the Project, including, without limitation, lobbies, hallways and restroom facilities, as Landlord shall designate from time to time, subject to the terms and conditions hereof. Landlord and Tenant hereby acknowledge and agree that for purposes of this Lease, (i) the Premises shall be deemed to contain _____ rentable square feet, notwithstanding that the actual square footage of the Premises may be a greater or smaller amount and (ii) the Building shall be deemed to contain _____ rentable square feet, notwithstanding that the actual square footage of the Building may be a greater or smaller amount.

Article II

TERM AND POSSESSION

Section 2.01. Term. The term of this Lease (the "Lease Term") shall commence on _____, 20__ ("Commencement Date") and shall continue until _____, 20__, unless extended in accordance with Section 2.03 below.

Section 2.02. Possession. Landlord shall be deemed to have delivered possession of the Premises ready for occupancy on the Commencement Date. Tenant shall be responsible for the payment of Rent from the Commencement Date regardless of the date upon which Tenant actually occupies the Premises. In the event Landlord is, for any reason whatsoever, unable to deliver possession of the Premises to Tenant on or before the Commencement Date, this Lease shall not be void or voidable nor shall Landlord be liable to Tenant for any loss or damage arising as a consequence of any such failure; provided, however, that if Landlord fails to deliver possession of

the Premises to Tenant within ninety (90) days after the Commencement Date, Tenant shall have the right at any time prior to the delivery of the Premises to terminate the Lease by giving written notice thereof to Landlord. In such event, Tenant agrees to accept possession of the Premises upon tender of the Premises by Landlord for Tenant's occupancy (and "Commencement Date" as used herein shall mean the date of tender of possession by Landlord), and Landlord hereby waives payment by Tenant of Rent covering any period prior to such delivery of possession to Tenant.

Section 2.03. Option to Extend Lease Term. Tenant shall have the option to extend the Lease Term upon the same terms and conditions, except that Tenant shall have no further right or option to extend the Lease Term, for one (1) additional consecutive period of _____ years; provided that at the time such option is exercised, Tenant is not in default under this Lease. Tenant shall exercise said option by giving written notice thereof to Landlord at least one hundred eighty (180) days prior to the end of the original Lease Term. In the event Tenant fails to timely exercise such option, or is in default hereunder at the time of such exercise or at any time thereafter prior to the end of the original Lease Term, then, in either such event, Tenant shall be deemed to have waived its option to extend and said option shall be null and void and of no force or effect.

Article III

RENT

***Section 3.01. Rent.** Tenant shall pay to Landlord, the Rent (as defined below), without deduction, offset, or prior notice or demand, as provided herein. The monthly installments of the Rent shall be paid in advance on the Commencement Date and thereafter on or before the first day of each calendar month during the Lease Term. All payments of Rent and other sums due hereunder shall be paid by Tenant at Landlord's address set forth in **Article XXVI** hereof or at such other place as Landlord may designate from time to time in writing. In the event Landlord has not received payment of the monthly installment of Rent within twenty (20) days after the due date, Tenant shall pay a late charge equal to five percent (5%) of the unpaid amount. No payment by Tenant of a lesser amount than the Rent nor any endorsement on any check or letter accompanying any check or payment as Rent shall be deemed an accord and satisfaction of full payment of Rent, and Landlord may accept such payment without prejudice to Landlord's right to recover the balance of such Rent or to pursue other remedies.

Section 3.02. Additional Rent. Tenant's Proportionate Share of the Project Operating Costs(asset forth in Section 7.01) and all other amounts payable by Tenant hereunder (the "AdditionalRent") shall be paid by Tenant at the times and in the manner provided in this Lease. The Minimum Rent, the Additional Rent and all other amounts payable hereunder by Tenant are referred to herein as "Rent."

Article IV

PREMISES' USE

Tenant shall use the Premises only for general office use and all legal uses directly related thereto and no other purpose. No use shall be made of the Premises, and no act shall be done in or about the Premises, which is illegal, unlawful or which will materially increase the existing rate of insurance upon the Premises or which is in violation of the terms of the Master Declaration or any of the documents referenced therein. Tenant shall not commit or allow any public or private nuisance or other act or thing which unreasonably disturbs the quiet enjoyment of any other tenant

in the Project or of any neighboring persons, nor shall Tenant, without the prior written consent of Landlord, such consent not to be unreasonably withheld, use any apparatus, machinery or device in or about the Premises which shall cause any substantial noise or vibration.

Article V

SECURITY DEPOSITS

Section 5.01. Landlord's Rights. Upon execution of this Lease, Tenant shall deposit with Landlord the sum of $_____ (the "Security Deposit"), which sum shall be held by Landlord, without obligation for interest, as security for the performance of Tenant's covenants and obligations under this Lease. The Security Deposit is not an advance rental deposit nor a measure of Landlord's damages in the event of Tenant's default. Upon the occurrence of any default by Tenant hereunder beyond any applicable cure period, Landlord may, from time to time, without prejudice to any other remedy provided herein or at law or in equity, use and apply all or any portion of the Security Deposit to the extent necessary to remedy any arrearage of Rent or other expense or liability caused by such default. Tenant shall pay to Landlord within ten (10) days after written demand any amount so applied by Landlord in order to restore the Security Deposit to its original amount. Landlord shall not be required to segregate such deposit from other funds of Landlord, and may use the Security Deposit for such purposes as Landlord may determine.

Section 5.02. Return of Deposit. Any part of the Security Deposit not used by Landlord as permitted hereunder shall be returned to Tenant (or, at Landlord's election, to the last approved assignee, if any, of Tenant's interest hereunder) within twenty (20) days following the expiration or earlier termination of the Lease Term and delivery of possession of the Premises to Landlord, if, at such time, Tenant has performed and complied with all of the terms, covenants and conditions of this Lease. In the event of termination of Landlord's interest in this Lease, Landlord shall transfer said deposit to Landlord's successor in interest, whereupon Landlord shall be released from all liability for the return of such deposit or the accounting therefor. Tenant shall not assign or encumber its rights in the Security Deposit.

Article VI

MAINTENANCE AND UTILITIES

Landlord shall maintain the exterior walls, roof, foundation and all other structural components of the Project including, without limitation, plumbing, HVAC and electrical systems. Except as otherwise provided in this Lease, Tenant will maintain, at its sole cost, all other aspects of the Premises, such as equipment, fixtures, interior walls, interior surfaces of exterior walls, windows, doors and plate glass located within the Premises. Landlord shall have no obligation to make repairs under this Section until a reasonable time after receipt of written notice of the need for such repairs. Tenant, to the fullest extent permitted by law, expressly waives the benefits of any statute now or hereafter in effect which would otherwise afford Tenant the right to make repairs at Landlord's expense or allow an offset against rent or allow Tenant to terminate this Lease because of Landlord's failure to perform its repair obligations.

Tenant shall be solely responsible for and promptly pay all charges for heat, water, electricity, sewers, or any other utility used on consumed in or for the Premises commencing from the Commencement Date to the extent that such utilities are separately metered. To the extent any utility serving the Premises is not separately metered but, instead, is metered for the Building,

Tenant shall promptly reimburse Landlord for its pro rata share of same (for purposes hereof, Tenant's pro rata share shall be computed by dividing the rentable square footage of the Premises by the rentable square footage of the Building). In no event shall Landlord be liable for an interruption or failure in the supply of any such utilities to the Premises or for the character of such services, except as a result of Landlord's gross negligence or willful misconduct.

Article VII

PROJECT OPERATING COSTS

Section 7.01. Definitions. For purposes of this Lease:

(a) "Project Operating Costs" shall be defined to mean those costs and expenses (as the same may be adjusted by Landlord's accountant pursuant to **Section 7.02** hereof) paid or incurred by Landlord or Landlord's agents with respect to the operation and maintenance of the Project, including, without limitation, all appurtenant real property and improvements, machinery, furniture, fixtures, furnishings and equipment related thereto, including, without limitation:

(i) All real property taxes and special assessments now or hereafter levied or imposed upon the Project and all appurtenant real property and improvements of Landlord. If because of any change in method of taxation of real estate, any tax or assessment is imposed upon Landlord or the Project, or upon or with respect to the land and/or the Project or the rent or income therefrom, in substitution for or in lieu of any tax or assessment which would otherwise be a real estate tax, such other tax or assessment shall be deemed to be included under this subparagraph;

(ii) All personal property taxes now or hereafter levied or imposed on equipment, fixtures, and other property of Landlord located in the Project and used in connection with the operation thereof;

(iii) Reasonable wages, salaries and other compensation (including all fringe benefits and all taxes and charges which Landlord is required to pay in connection with such compensation) paid to all persons performing regular and recurring duties in connection with the operation and maintenance of the building, including, without limitation, any contractual management fees;

(iv) Costs of utilities used in the operation of the Project, including, without limitation, water, gas, sewer, electricity, telephone service, and refuse, garbage and trash collection, removal and disposal;

(v) Costs and premiums of all insurance maintained by Landlord with respect to the Project and appurtenances and Landlord's personal property used in connection therewith; provided, however, that same shall not apply to any insurance applicable to any business conducted by Landlord at the Project (other than the ownership and operation of the Project);

(vi) Plumbing, electrical, heating, air conditioning, exterior walls, roof, foundation and all other structural upkeep costs, including expenses of operation, repair, replacement and maintenance;

(vii) Costs of equipment, supplies and materials (new and/or replacement) used in the Project;

(viii) Costs of janitorial, window cleaning, and other cleaning contracts and services;

(ix) Costs relating to the operation and maintenance of all real property and improvements appurtenant to the Project, including, without limitation, all parking areas, service areas, walkways, and landscaping;

(x) Costs of compliance with any laws, ordinances, codes, orders, rules or regulations of any governmental authority;

(xi) Any and all costs incurred by Landlord under the Master Declaration; and

(xii) All other costs and expenses which may be considered expenses of operating, managing, overhauling, repairing, and maintaining the Project. Project Operating Costs shall not, however, be deemed to include expenses for which Landlord is reimbursed or indemnified (whether by an insurer, condemnor, tenant or otherwise), interest or amortization payments on any encumbrance, ground rental payments, if any, tenant improvements or leasing commissions, or overhead and administrative costs of the Landlord not directly incurred in the operation and maintenance of the Project.

(b) "Tenant's Proportionate Share" means _____ percent (__%), calculated by dividing the rentable square footage of the Premises (numerator) by the rentable square footage of the Project (denominator), and expressing the fraction as a percentage.

Section 7.02. Payment.

(a) Tenant hereby agrees to pay to Landlord, as Additional Rent hereunder, Tenant's Proportionate Share of the Project Operating Costs in each calendar year period or portion thereof during the Lease Term; provided, however, if less than ninety-five percent (95%) of the rentable area of the Project shall have been occupied by tenants at any time during such period, Project Operating Costs for such period shall be deemed, for purposes hereof, increased to an amount reasonably determined by Landlord's accountant to be equivalent to the actual operating costs that would have been incurred had such occupancy been ninety-five percent (95%) during the entire period.

(b) Such Additional Rent shall be computed annually on a calendar year basis, and will be estimated by Landlord and collected and impounded from Tenant on a monthly basis together with the Minimum Rent. With respect to any partial calendar year occurring at the beginning or end of the Lease Term, the Project Operating Costs shall be prorated and the amounts payable by Tenant hereunder for such period(s) shall be adjusted accordingly.

(c) Unless delayed by causes beyond Landlord's control, Landlord shall endeavor by not later than March 31st of each calendar year during the Lease Term (and in the year following the year in which this Lease terminates, notwithstanding that Tenant has vacated the Premises, unless Landlord, in its sole discretion, elects to cause same to be delivered to Tenant

within sixty (60) days of the expiration of the Lease Term) to provide Tenant with a statement of the Project Operating Costs for the preceding calendar year, a determination of the amount of Tenant's Proportionate Share of same, and a reconciliation of Tenant's impound account, if any. Tenant shall pay to Landlord within thirty (30) days after delivery of such statement any deficiency disclosed by such statement, and any overage shall be credited to any other amounts owed or to be owed by Tenant under this Lease, or refunded to Tenant, at Landlord's election.

(d) Project Operating Costs shall be computed on a consistent manner and Landlord shall use its best efforts to obtain the services for which such costs are incurred at commercially reasonable prices.

Section 7.03. Review of Records. Tenant, at its expense, shall have the right, within thirty (30) days of its receipt of the statement of Project Operating Costs, during Landlord's business hours and upon prior written notice to Landlord, to audit Landlord's books and records relating solely to the determination of Project Operating Costs following any calendar year during the Lease Term; provided, however, Landlord, in its sole discretion, may provide Tenant with an audit prepared by an independent certified public accountant, which accountant shall be reasonably satisfactory to Tenant, which shall be conclusive and binding on the parties. Tenant agrees that it shall hold in strictest confidence all information obtained pursuant to this paragraph.

Article VIII

TAXES ON PERSONAL PROPERTY

Tenant shall pay, prior to delinquency, all taxes levied upon fixtures, furnishings, equipment, and all other personal property belonging to Tenant and/or placed on the Premises by Tenant. In the event any or all of Tenant's fixtures, furnishings, equipment and other personal property shall be assessed and taxed with Landlord's real property, Tenant shall pay to Landlord its share of such taxes within ten (10) days after delivery to Tenant by Landlord of a statement in writing setting forth the amount of such taxes applicable to Tenant's property. To the extent possible, Tenant shall cause said fixtures, furnishings, equipment and other personal property to be assessed and billed separately from the real property of Landlord.

Article IX

CONDITION, REPAIRS, AND ALTERATIONS

TENANT AGREES THAT EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN THIS LEASE, IT IS TAKING POSSESSION OF THE PREMISES IN AN "AS IS" CONDITION, THAT THE PREMISES ARE IN A TENANTABLE AND GOOD CONDITION FREE FROM DEFECTS, THAT TENANT WILL TAKE GOOD CARE OF THE PREMISES, AND THAT NEITHER THE OUTSIDE OF THE BUILDING NOR THE STRUCTURAL COMPONENTS OF THE PREMISES WILL BE ALTERED OR CHANGED WITHOUT THE PRIOR WRITTEN CONSENT OF LANDLORD, WHICH CONSENT SHALL NOT BE UNREASONABLY WITHHELD, DELAYED OR CONDITIONED. TENANT HEREBY WAIVES ANY RIGHT TO MAKE REPAIRS AT LANDLORD'S EXPENSE. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN THIS LEASE, TENANT ACKNOWLEDGES THAT LANDLORD HAS NOT MADE ANY REPRESENTATION AS TO THE CONDITION OF THE PREMISES OR ITS SUITABILITY FOR TENANT'S USE. Except as may be expressly

prohibited by this Lease, Tenant may make any non-structural improvements, alterations, and additions to the interior of the Premises as Tenant desires if such improvements, alterations, and additions do not affect the safety or preservation of the Premises, the Building and/or the Project and provided same is accomplished in accordance with the provisions of the Master Declaration. All damage or injury done to the Building or the Premises by Tenant or by any persons who may be in or upon the Project or the Premises with the consent of Tenant shall be paid for by Tenant, and Tenant shall pay for all damage to the Building, the Project or the Premises caused by Tenant's misuse. All alterations, additions, and improvements, except fixtures installed by Tenant and which are removable without damage to the structure of the Premises, the Project or the Building, shall become or remain, as applicable, the property of Landlord; however, any alterations, additions, and improvements that are removable by Tenant with minimal damage to the Premises, the Project or the Building may be removed by Tenant if and only if Tenant repairs any damage and leaves the Project and the Premises in a clean and safe condition and if and only if Tenant is not in default under this Lease.

Article X

ENTRY INTO PREMISES

Tenant will permit Landlord and its agents to enter into and upon the Premises at all reasonable times and after reasonable notice for the purpose of inspecting the same or for the purpose of cleaning, repairing, altering, or improving the Premises or Building. When necessary for such purpose, Landlord may reasonably close entrances, doors, corridors or other facilities while Landlord is diligently pursuing such cleaning, repairs, alteration or improvements without liability to Tenant by reason of such closure and without such action by Landlord being deemed an eviction of Tenant or to relieve Tenant from the duty of observing and performing any and all of Tenant's obligations of this Lease. Landlord and its agents may enter the Premises at all reasonable times and after reasonable notice for the purpose of showing the Premises to prospective tenants, prospective purchasers, or lenders.

Article XI

DAMAGE OR DESTRUCTION

If any part of the Building is damaged by fire or other casualty which is fully covered by Landlord's insurance and which is without the fault of Tenant, the damage shall be repaired by Landlord, provided such repairs can be made within sixty (60) days after the occurrence of such damage, and until such repairs are completed, the rent shall be abated in proportion to the part of the Premises which is unusable by Tenant in the conduct of its business. If such repairs cannot be made within sixty (60) days, Landlord may, at Landlord's election, make them within a reasonable time (not exceeding an additional sixty (60) days) using due diligence, and in such event this Lease shall continue in effect and the rent shall be abated in the manner provided above. Landlord's election to make repairs which cannot be made within sixty (60) days after the occurrence of the damage must be evidenced by written notice to Tenant within thirty (30) days after the occurrence of the damage. If Landlord does not so elect to make such repairs or does not make all repairs within the time periods described above, then either party may, by written notice to the other, given within thirty (30) days after the end of Landlord's thirty (30)-day election period described above or at the end of the one hundred twenty (120)-day repair period described above, as applicable,

terminate this Lease. In no event shall Landlord be liable to Tenant for any damages to Tenant's business, and Tenant's sole remedy shall be an abatement of rent, as provided above.

Article XII

HOLD HARMLESS AND RELEASE

Tenant shall defend, indemnify, and hold Landlord fully free and harmless from, and against any and all liability, damages, costs, and expenses, including attorney's fees, arising from any act or omission of Tenant, or the officers, directors, contractors, licensees, agents, servants, employees, guests, invitees, or visitors of Tenant in or about the Premises or the Building. Except for injuries, losses or damages caused by the gross negligence or intentional misconduct of Landlord or its agents, employees, guests or invitees or caused by a breach by Landlord of its obligations under this Lease, Tenant hereby agrees that Landlord shall not be liable for injury to Tenant's business or any loss of income, or for damage to the goods, wares, merchandise or other property of Tenant, Tenant's employee's, invitees, customers, or any other person in or about the Premises, resulting from fire, steam, electricity, gas, water, or rain, or from breakage, leakage, obstruction or other defects of pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixture, or from any other cause.

Article XIII

INSURANCE

Section 13.01. Tenant, as an entity of the Navajo Nation which is self-insured, shall during the term of the Lease maintain reserves against liability for injury or death of persons and loss of or damage to property occurring in or on the Premises. Tenant shall maintain such reserves in an amount not less than an amount as is regulated by the state in which the property sits. Tenant shall also maintain fire and water damage reserves to cover Tenant's improvements and all property located on or in the Premises. Tenant may further comply with its obligations under this Lease by endorsements to any surplus line policy of insurance carried by Tenant. Policies for such insurance shall waive any right of subrogation against Landlord, shall name Landlord as an additional insured and shall not be cancelable with less than thirty (30) days notice to Landlord. Prior to taking possession of the Premises and thereafter within thirty (30) days prior to the expiration or cancellation of any previously delivered policy, Tenant shall deliver to Landlord evidence satisfactory to Landlord, that such insurance is fully paid for the immediately succeeding one year period. Landlord is under no obligation to provide insurance for any of Tenant's property located on or used in connection with the Premises.

Section 13.02. Landlord shall obtain from insurance carriers licensed to do business in Arizona and keep in force during the term of this Lease a policy or policies in the name of Landlord, insuring loss or damage to the Building ("Hazard Insurance"). The amount of such insurance shall be equal to the full replacement cost of the Building, as the same shall exist from time to time, or such other amount as may be required by Landlord's lender ("Lender"). If the coverage is available and commercially appropriate, such policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake unless required by Lender), including coverage for any additional costs resulting from debris removal and reasonable amounts of coverage for the enforcement of any ordinance or law regulating the reconstruction or replacement of any undamaged sections of the Premises required to be

demolished or removed by reason of the enforcement of any building, zoning, safety or land use laws as the result of a covered cause of loss. The cost of any premium for such Hazard Insurance shall be included as a Building Operating Cost.

Article XIV

LIENS AND BANKRUPTCY

Tenant shall keep the Building and Premises free from any liens or encumbrances arising out of any work performed by or on behalf of Tenant or otherwise relating to any act of Tenant. Tenant shall not perform or obtain any work as Landlord's agent, for any purposes, and any lien which may arise from the Tenant's performance (or obtaining the performance of) such work shall be a lien solely against the Tenant and not against the Landlord, the Building or the Premises. In the event Tenant is adjudged bankrupt, or insolvent, or makes any assignment for the benefit of creditors, or if the business conducted on the Premises passes into the hands of any receiver, court, trustee, or officer, or if the Lease Term, or any extended term, shall be attached or taken on execution, such shall constitute an event of default under this Lease, and Landlord may, at its option, exercisable in its sole discretion by written notice to Tenant, among other things, terminate this Lease and recover possession of the Premises from any and all parties whatsoever.

Article XV

DEFAULT BY TENANT OR LANDLORD

Section 15.01. Upon breach or default on the part of Tenant hereunder which has not been cured as provided herein, Landlord may pursue any and all rights, at law or equity, against Tenant. Tenant shall have thirty (30) days after receipt of written notice from Landlord within which to completely cure any non-monetary default; provided, however, if such non-monetary default is not completely cured within thirty (30) days and Tenant demonstrates to Landlord that Tenant is using (and will continue to use) its best efforts to completely cure the non-monetary default, Tenant shall have such additional time to cure as Landlord deems reasonably appropriate under the circumstances. Without limiting the foregoing, at expiration of the term of this Lease, or any renewals thereof, or if default is made in the payment of rent which is not cured within twenty (20) days after the due date (in which case no notice need be given), or in the performance of any agreement herein contained which has not been cured as provided herein, Landlord, or its agent, shall have the right to enter and take possession of the Premises pursuant to 16 N.N.C. §§ 1801 *et seq.*, and Tenant's rights to occupy or control the Premises shall cease upon judgment of the court and this Lease, at the option of Landlord set forth in writing, shall terminate. In the event of any retaking of possession of the Premises by Landlord as herein provided or otherwise, Landlord may remove and store all personal property of Tenant in any place selected by Landlord, including but not limited to a public warehouse, at the expense and risk of Tenant. Landlord may sell any or all of such property at public or private sale as provided by law and shall apply the proceeds of such sale first to the cost of such sale, second to the payment of charges for storage, if any, third to the payment of other sums which may be due from Tenant to Landlord under the terms of this Lease and fourth the balance, if any, to Tenant. Except for damages caused by the gross negligence or intentional misconduct of Landlord or its agents, employees, guests or invitees, Tenant hereby waives all claims for damages that may be caused by Landlord's re-entering and taking possession of the Premises, removing, storing, and/or selling the property of Tenant as herein provided.

Tenant shall also hold Landlord fully harmless from loss, costs or damages incurred or suffered by Landlord hereunder.

Section 15.02. Upon breach or default on the part of Landlord hereunder which has not been cured as provided herein, Tenant may pursue any and all rights, at law or equity, against Landlord. Landlord shall have ten (10) days after receipt of written notice from Tenant within which to completely cure any default; provided, however, if such default is not completely cured within ten (10) days and Landlord demonstrates to Tenant that Landlord is using (and will continue to use) its best efforts to completely cure the default, Landlord shall have such additional time to cure as Tenant deems reasonably appropriate under the circumstances.

Article XVI

COSTS AND ATTORNEYS' FEES

In the event either party employs legal counsel to enforce any term of this Lease, whether suit be brought or not, each party shall be responsible for its own costs, expenses, and attorney's fees and neither party shall have a claim against the other party for such costs, expenses and attorney's fees.

Article XVII

NON-WAIVER

Waiver by either party of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition, or of any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of rent hereunder by Landlord shall not be deemed to be a waiver of any existing breach by Tenant of any term, covenant or condition of this Lease, other than the failure of Tenant to pay the particular rental so accepted, regardless of Landlord's knowledge of such existing breach at the time of acceptance of such rent.

Article XVIII

TRANSFER, ASSIGNMENT AND SUBLETTING

Section 18.01. Restriction of Transfers. Tenant shall not, either voluntarily or by operation of law, transfer, assign, convey, encumber, pledge, grant a security interest in, mortgage or hypothecate this Lease or any interest therein, nor permit the use of the Premises by any person or persons other than Tenant, nor sublet the Premises or any part thereof, without Landlord's prior written consent, which may be withheld in Landlord's sole and absolute discretion. Any transfer or assignment of this Lease by Tenant pursuant to any merger, consolidation, or liquidation or any change in the ownership, management, effective voting or operating control of Tenant from that existing as of the date of this Lease, shall constitute an assignment for the purposes of this Lease. Tenant shall not be permitted to assign this Lease or to sublet any portion of the Premises to any tenant currently occupying space in the Building or to any prospective tenant with whom Landlord is engaged in discussions or negotiations for space in the Building. The consent by Landlord to any assignment of subletting shall not be construed as releasing Tenant from obtaining the express written consent of Landlord to any further assignment or subletting.

Section 18.02. Tenant's Liability. Notwithstanding any permitted assignment or subletting, Tenant shall at all times remain fully responsible and liable for the payment of the Rent and all other amounts herein specified and for compliance with all of Tenant's other obligations under the terms, provisions and covenants of this Lease.

Section 18.03. Excess Rentals. If Tenant or any assignee or Sublessee assigns this Lease or sublets the Premises or any portion thereof for a rental greater than that paid to Landlord hereunder, measured per rentable square foot, fifty percent (50%) of such excess shall be paid to Landlord.

Section 18.04. Void Transfers. Any transfer, sale, assignment, mortgage, encumbrance, pledge, grant of security interest in or hypothecation of this Lease or Tenant's interest therein or subletting of the Premises by Tenant which does not comply with the provisions of this Article shall be voidable, at Landlord's option, and shall constitute a default under this Lease without notice.

Article XIX

SUCCESSORS

All of the covenants, agreements, terms and conditions contained in this Lease shall apply to and be binding upon Landlord and Tenant and their respective heirs, executors, administrators, and permitted successors, and assigns.

Article XX

ESTOPPEL CERTIFICATE

Within ten (10) business days after receipt by Tenant of Landlord's written request, Tenant shall execute, acknowledge and deliver to Landlord a written statement on a form provided by Landlord and reasonably acceptable to Tenant (i) certifying that to the best of Tenant's actual knowledge this Lease is unmodified and in full force and effect (or if modified stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect) and the day to which rent and other charges are paid in advance, if any, (ii) affirmatively representing that to the best of Tenant's actual knowledge there are not any uncured defaults on Landlord's or Tenant's part hereunder (or specifying such defaults if they are claimed) and (iii) providing any other information reasonably requested by Landlord. Tenant's written statement may be relied on by a prospective purchaser or encumbrancer of all or any portion of the Premises or the Building. Tenant's failure to deliver such a written statement within such time shall be conclusive against Tenant that (i) this Lease is in full force and effect, without modification except as may be represented by Landlord, (ii) there are no uncured defaults in Landlord's performance or Tenant's except as may be represented by Landlord, and (iii) not more than one month's rent has been paid in advance.

Article XXI

CONDEMNATION

If the whole of the Premises, or if such portion of the Building as may be required for the use of the Premises, shall be taken by virtue of any condemnation or eminent domain proceeding, this Lease shall automatically terminate as of the date of such final condemnation, or as of the date possession is taken by the condemning authority, whichever is earlier. Current rent shall be apportioned as of the date of such termination. In case of a taking of a part of the Premises, this Lease shall continue in full force and effect, and if the rentable area of the Premises is reduced, the rent shall be reduced in proportion to the reduction in rental area of the Premises, such rent reduction to be effective on the date of such partial taking. No award for any partial or entire taking shall be apportioned, and Tenant hereby assigns to Landlord any award which may be made in such taking or condemnation together with any and all rights of Tenant, now or hereafter arising in or to the same or any part thereof; provided, however, that nothing herein shall be deemed to give Landlord any award made to Tenant for the taking of personal property belonging to Tenant, for the interruption of or damage to Tenant's business or for Tenant's moving expenses.

Article XXII

HAZARDOUS WASTE

Section 22.01. Tenant shall not produce, dispose, transport, treat, or store on the Premises any hazardous waste or toxic substance as defined in the Arizona Hazardous Waste Management Act, A.R.S. § 36-2821 *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.*; or regulation under the Toxic Substance Control Act, 15 U.S.C. § 2601 *et seq.*, or any superceding Navajo Nation law and/or regulations. No activity may occur on the Premises which could have toxic results. The Premises may not be used for the production, treatment, collection, storage, or disposal of any refuse, objectionable waste, or any material: in any manner inconsistent with the regulations issued by the Arizona Department of Health Services, ACR R9-8-401 *et seq.*; or which would require a permit or approval from the Arizona Department of Health Services under to ACR R9-8-401 *et seq.* if they were located on lands subject to the jurisdiction of the state of Arizona. Tenant hereby agrees to indemnify and hold harmless Landlord for Tenant's failure by reason of any breach of this covenant, including any and all costs, fees, penalties, and any other liabilities incurred by Landlord arising out of violation of this covenant.

Section 22.02. During its term of ownership of the Building, Landlord has not produced, disposed, transported, treated, or stored on the Premises any hazardous waste or toxic substance as defined in the regulations issued under the Arizona Hazardous Waste Management Act. A.R.S. § 36-2821 *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.*; or regulation under the Toxic Substance Control Act, 15 U.S.C. § 2601 *et seq.*, or any superceding Navajo Nation law and/or regulations. Landlord hereby agrees to indemnify and hold harmless Tenant for any breach of the foregoing, including any and all costs, fees, penalties, and any other liabilities incurred by Tenant arising out of violation of these representations and warranties.

Article XXIII

SUBORDINATION AND ATTORNMENT

Section 23.01. Subordination. This Lease shall automatically be subordinate to any ground lease or other underlying leasehold interest, to the lien of any mortgage, deed of trust or other security device heretofore or hereafter placed upon the Premises and/or the Building, to any and all advances made or to be made thereunder, to the interest on the obligations secured thereby, and to all renewals, replacements and extensions thereof, and to any reciprocal easement agreement now or hereafter imposed upon all or any portion of the real property upon which the Building is situated; provided, however, that in the event any proceedings are brought for default under any such ground or underlying lease, or in the event of foreclosure or the trust or other security device, Tenant shall attorn to the purchaser of the Premises at such foreclosure or sale and recognize such purchaser as Landlord under this Lease, provided such purchaser expressly agrees in writing to be bound by the terms of this Lease. If any mortgagee, beneficiary or other lienholder elects to have this Lease superior to its mortgage, deed of trust or other security device and gives notice of such election to Tenant, then this Lease shall thereupon become superior to the lien of such mortgage or deed of trust.

Section 23.02. Further Documentation. Tenant covenants and agrees to execute and deliver within ten (10) days following Landlord's written demand, without charge therefor, such further instruments evidencing such subordination of this Lease to such ground or underlying leases, to the lien of any such mortgages, deeds of trust or other security devices, and/or to any such reciprocal easement agreement as may be reasonably required by Landlord or any ground lessor, encumbrancer or other applicable party.

Article XXIV

HOLDING OVER

Section 24.01. Surrender. Upon the expiration of earlier termination of this Lease, Tenant shall quit and surrender the Premises, "broom-clean," in good condition and repair (reasonable wear and tear accepted) together with all alterations, additions and improvements that may have been made. If the Premises are not surrendered at the end of the Lease Term, Tenant shall indemnify Landlord against any loss or liability resulting from delay by Tenant in so surrendering the Premises, including without limitation, any claims made by any succeeding tenant based on such delay.

Section 24.02. Holding Over. If Tenant or any successor in interest of Tenant should remain in possession of the Premises after the expiration or earlier termination of the Lease Term, the amount of the Rent payable with respect to the holdover period shall be one hundred and fifty percent (150%) of the Minimum Rent in effect for the last month of the Lease Term plus any Additional Rent, and Tenant's occupancy shall otherwise be subject to all covenants, terms, provisions and obligations of this Lease. Nothing contained herein shall be construed to give Tenant any right to hold over or relieve Tenant from liability therefor. If Tenant holds over with Landlord's consent, the holdover shall be a tenancy from month-to-month only.

Section 24.03. No Merger. The voluntary or other surrender of this Lease by Tenant or the cancellation of this Lease by mutual agreement of Tenant and Landlord shall not work a

merger, and shall at Landlord's option terminate all or any subleases and subtenancies, or operate as an assignment to Landlord of all or any subleases or subtenancies. Landlord's option hereunder shall be exercised by notice to Tenant and all known sublessees and subtenants in the Premises or any part thereof.

Article XXV

RULES AND REGULATIONS

Tenant, its employees, agents, and permitted subtenants shall comply with (and Tenant shall use its best efforts to ensure that its clients, customers, invitees, and guests comply with) the following rules and regulations. The Premises shall not be used or permitted to be used for residential, lodging or sleeping purposes or for the storage of personal effects or property not required for business purposes. Tenant shall not permit vehicles inside or on the sidewalks outside the Premises or Building except in areas designated from time to time by Landlord for such purposes. Tenant shall see that the doors of the Premises are closed and securely locked before leaving the Premises. Except with Landlord's prior written consent and in accordance with arrangements approved by Landlord, Tenant shall not permit on the Premises the use of equipment for dispensing food or beverages or for the preparation, solicitation of orders for, sale, serving or distribution of food or beverages. Notwithstanding however, Tenant may maintain for the use of its employees on the Premises, a refrigerator, vending machines, microwave oven, and other like items customarily made available to employees of Tenant. Tenant shall place all refuse in proper receptacles provided by Tenant at its expense in the Premises or in receptacles (if any) provided by Landlord for the Building, and shall keep sidewalks and driveways outside the Building, and lobbies, corridors, stairwells, ducts and shafts of the Building, free of all refuse. Any violation of such rules and regulations shall constitutes a breach and default of this Lease.

Article XXVI

NOTICES

Any and all notices required or permitted hereunder shall be given in writing and telecopied, personally delivered, sent by registered or certified mail, return receipt requested, postage prepaid, or sent by Federal Express or other similar reputable overnight courier, addressed as follows:

To Landlord: _____

_____

_____

_____

Attention: _____

Telecopier No.: _____

with a copy to: _____

_____

_____

_____

Attention: _____

Telecopier No.:_____

To Tenant: _____
_____
_____
_____
Attention: _____
Telecopier No.: _____

with a copy to: _____
_____
_____
_____
_____
Attention:_____
Telecopier No.:_____

or at any other address or telecopier number designated by Landlord or Tenant in writing, and any such notice or communication shall be deemed to have been given as of the date of receipt, if sent by telecopier, as of the date of delivery, if hand delivered or sent by overnight courier, as of three (3) days after the date of mailing if mailed within the continental United States, or seven (7) days after mailing, if mailed outside the continental United States.

Article XXVII

CAPTIONS

The titles to Sections of this Lease are not a part of this Lease and shall have no effect upon the construction or interpretation of any part hereof.

Article XXVIII

TIME OF ESSENCE AND CHOICE OF LAW

Time is of the strictest essence in the observance and performance of every term and condition of this Lease. This Lease shall be governed by the laws of the Navajo Nation.

Article XXXI

WARRANTY OF AUTHORITY

Each party hereby warrants and represents to the other party that it is solvent and fully capable of performing the terms of this Lease, and that it has full and requisite power and authority to execute, deliver and perform this Lease and the documents and instruments identified herein, all in accordance with their respective terms, and that the execution of this Lease and other documents and instruments shall not act or to cause a violation or breach of any court order, judgment or agreement to which it is a party. Furthermore, any person executing this Lease in other than an individual capacity, hereby warrants and represents that such person has full authority to execute this Lease on behalf of, and legally bind, such party.

Article XXXII

ENTIRE AGREEMENT

This Lease and all Exhibits hereto embody the entire agreement between the parties, and any prior oral or written understanding and/or representation not specifically enumerated herein is hereby deemed ineffective and of no force or effect. This Lease may only be amended by written instrument executed by both Landlord and Tenant.

Article XXXIII

SECURITY MEASURES

Tenant hereby acknowledges that Landlord shall have no obligation whatsoever to provide guard service or other security measures for the benefit of the Premises. Tenant assumes all responsibility for the protection of Tenant, its agents, and invitees and the property of Tenant and of Tenant's agents and invitees from acts of third parties.

Article XXXIV

LIMITATION OF LANDLORD'S LIABILITY

The obligations of Landlord under this Lease are not personal obligations of the individual owners, members, directors or officers of Landlord. Tenant shall look solely to the Building for satisfaction of any liability and shall not look to other assets of Landlord nor seek recourse against the assets of the individual owners, members, directors or officers of Landlord.

Article XXXV

TENANT IMPROVEMENTS

Landlord and Tenant hereby acknowledge and agree that their respective obligations and covenants regarding the "build-out" of the Premises prior to Tenant's occupancy thereof, including, without limitation, the nature and extent of such improvements, and assumption of responsibility for the construction thereof, the obligation and manner of payment for the architectural and construction costs relating thereto, and the procedures to be followed by Landlord and Tenant to accomplish the completion of such improvements, shall be set forth on **Exhibit C** attached to this Lease and incorporated herein by this reference.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease on the day and year first above written.

LANDLORD:	DATE:_____	TENANT:	DATE:_____
By:_____		By:_____	
Its:_____		Its:_____	

EXHIBIT A

LEGAL DESCRIPTION

[To Be Attached]

EXHIBIT B

SITE PLAN

[To Be Attached]

EXHIBIT C

TENANT WORK LETTER

[To be attached]

Assignment Fee: $150.00

ASSIGNMENT AND ASSUMPTION AGREEMENT FOR BUSINESS SITE LEASE NO. _____

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT is made and entered into this _____ day of _____, 20____ **[Insert the date of the latest party signature after signature by both Assignor and Assignee]** ("Execution Date"), by and between the Assignor named in the Assignment below and the Assignee named in the Assumption below. This Assignment and Assumption Agreement shall be effective on the date it is signed by the Navajo Nation President ("Effective Date").

ASSIGNMENT OF LEASE

Assignor hereby assigns to Assignee all of Assignor's rights, title, interest, and liabilities in that certain Navajo Nation Business Site Lease No. _____, attached as Exhibit A, TO HAVE AND TO HOLD the same unto the Assignee from and after the date of approval of this Assignment by the Navajo Nation. This Assignment includes Assignor's right, title, and interest in the security deposit(s), if any, being held by the Navajo Nation, as Lessor, in connection with the Lease. Assignor understands and agrees that this Assignment and Assumption Agreement shall not be valid or binding upon either party hereto until approved by the Navajo Nation and signed by the Navajo Nation President, but otherwise shall be of full force and effect irrevocable by Assignor upon the Execution Date.

Name(s) of Assignor:

_____ _____

Signature of Assignor Date

Address of Assignor:

_____

_____ _____

_____ Signature of Assignor Date

STATE OF _____)

) §

COUNTY OF _____)

This instrument was acknowledged before me this _____day of _____20__, by _____ _____.

In witness whereof, I have hereunto set my hand and seal.

MY COMMISSION EXPIRES:

_____ _____

Notary Public

ASSUMPTION OF LEASE

For and in consideration of the approval by the Navajo Nation of this Assignment and Assumption Agreement, Assignee hereby assumes and agree to pay and be bound by all the rents, covenants, terms, and conditions of that certain Navajo Nation Business Site Lease No. _____, including all of the Lessor's liabilities, to the same extent as if I were the Lessee originally named therein. Assignee understands and agree that this Assignment and Assumption Agreement shall not be valid or binding upon either party hereto until approved by the Navajo Nation and signed by the Navajo Nation President but otherwise shall be of full force and effect irrevocable by Assignee upon the Execution Date.

Name(s) of Assignee:

_____ _____

Signature of Assignee Date

Address of Assignee:

_____

_____ _____

_____ Signature of Assignee Date

STATE OF _____)

) §

COUNTY OF _____)

This instrument was acknowledged before me this _____day of _____2009, by _____ _____.

In witness whereof, I have hereunto set my hand and seal.

MY COMMISSION EXPIRES:

_____ _____

Notary Public

Effective Date of Original Lease Being Assigned: _____
Business Site Lease No.: _____

DESCRIPTION OF PREMISES
(Must agree exactly with description appearing in Lease)

The above assignment and assumption are hereby approved.

NAVAJO NATION, LESSOR

By: _____
President/Vice-President

Date: _____

EXHIBIT A

to
ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENT
FOR BUSINESS SITE LEASE NO. _____

[*Insert on this page a chronological list of all Lease Transactions for this Lease, including any and all modifications, renewals, prior assignments, collateral assignments, collateral releases, and subleases, if any.*]

[*Attach all Lease Transaction documents in chronological order behind this Exhibit A cover page.*]

Assignment Fee: $150.00

ASSIGNMENT AND ASSUMPTION AGREEMENT FOR BUSINESS SITE LEASE NO. _____

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT is made and entered into this _____ day of _____, 20____ **[Insert the date of the latest party signature after signature by both Assignor and Assignee]** ("Execution Date"), by and between the Assignor named in the Assignment below and the Assignee named in the Assumption below. This Assignment and Assumption Agreement shall be effective on the date it is signed by the Navajo Nation President ("Effective Date").

ASSIGNMENT OF LEASE

Assignor hereby assigns to Assignee all of Assignor's rights, title and interest in that certain Navajo Nation Business Site Lease No. _____, attached as Exhibit A, TO HAVE AND TO HOLD the same unto the Assignee from and after the date of approval of this Assignment by the Navajo Nation. This Assignment includes Assignor's right, title, and interest in the security deposit(s), if any, being held by the Navajo Nation, as Lessor, in connection with the Lease. Assignor understands and agrees that this Assignment and Assumption Agreement shall not be valid or binding upon either party hereto until approved by the Navajo Nation and signed by the Navajo Nation President but otherwise shall be of full force and effect irrevocable by Assignor upon the Execution Date.

Name(s) of Assignor:

_____ _____

Signature of Assignor Date

Address of Assignor:

_____

_____ _____

Signature of Assignor Date

_____

STATE OF _____)

) §

COUNTY OF _____)

This instrument was acknowledged before me this _____day of _____20__, by _____ _____.

In witness whereof, I have hereunto set my hand and seal.

MY COMMISSION EXPIRES:

_____ _____

Notary Public

ASSUMPTION OF LEASE

For and in consideration of the approval by the Navajo Nation of this Assignment and Assumption Agreement, Assignee hereby assumes and agrees to pay and be bound by all the rents, covenants, terms, and conditions of that certain Navajo Nation Business Site Lease No. _____, attached as Exhibit A, to the same extent as if Assignee were the Lessee originally named therein. Assignee understands and agrees that this Assignment and Assumption Agreement shall not be valid or binding upon either party hereto until approved by the Navajo Nation and signed by the Navajo Nation President but otherwise shall be of full force and effect irrevocable by Assignee upon the Execution Date.

Name(s) of Assignee:

_____ _____

Signature of Assignee Date

Address of Assignee:

_____

_____ _____

_____ Signature of Assignee Date

STATE OF _____)

) §

COUNTY OF _____)

This instrument was acknowledged before me this _____day of _____20__, by _____ _____.

In witness whereof, I have hereunto set my hand and seal.

MY COMMISSION EXPIRES:

_____ _____

Notary Public

Effective Date of Original Lease Being Assigned: _____
Business Site Lease No.: _____

DESCRIPTION OF PREMISES
(Must agree exactly with description appearing in Lease)

This Assignment and Assumption Agreement is hereby approved.

NAVAJO NATION, LESSOR

By: _____
President, or designee

Date: _____

EXHIBIT A
to
ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENT
FOR BUSINESS SITE LEASE NO. _____

[*Insert on this page a chronological list of all Lease Transactions for this Lease, including any and all modifications, renewals, prior assignments, collateral assignments, collateral releases, and subleases, if any.*]

[*Attach all Lease Transaction documents in chronological order behind this Exhibit A cover page.*]

Modification Fee: $150.00

LEASE MODIFICATION *[insert modification #]*
BUSINESS SITE LEASE NO. _____

It is hereby agreed by and between the Navajo Nation, Lessor, and _____ _____, Lessee, that Business Site Lease No. _____, be modified as follows. This Modification shall be effective on the date it is signed by the Navajo Nation President or an authorized designee ("Effective Date").

RECITALS:

A. Lessee and the Lessor entered into Lease No. _____, effective on **[*insert effective date*]** **[**as previously modified by **(list all modifications and assignments, if applicable)]** (the "Lease").

B. **[Add recitals as needed for background or context.]**

C. Lessee and Lessor desire to modify the Lease as follows.

AGREEMENT:

An amendment to Paragraph __, to **[select** read, delete**, etc.]**:

Paragraph __ shall be deleted in its entirety and replaced with: **[insert replacement provision]**

Paragraph __ shall be added to read: **[insert added provision]**

This Modification does not change any of the terms and conditions of the Lease except as specifically set forth herein. All other terms and conditions shall remain in force and effect.

[signatures on the following page]

[INSERT ENTITY NAME], LESSEE

_____

[Name, Title]

_____

Date

THE NAVAJO NATION, LESSOR

_____

President, Navajo Nation or designee

_____

Date

SURETY CONSENT [if applicable]

The foregoing Sublease is consented to by

_____

[Name, Title]
[Surety Company Name]

Date:_____

Termination Fee: $150.00

MUTUAL TERMINATION
BUSINESS SITE LEASE NO. _____

THIS TERMINATION of Business Site Lease No. _____ is made and entered into by and between THE NAVAJO NATION, Lessor, whose address is: P.O. Box 663, Window Rock, Navajo Nation (Arizona) 86515, _____ _____, Lessee, whose address is: _____ _____. This Termination shall be effective on the date it is signed by the Navajo Nation President or an authorized designee ("Effective Date").

RECITALS:

A. Lessee and the Lessor entered into Lease No. _____, effective on **[*insert effective date*]** [as previously modified by **(list all modifications and assignments, if applicable)]** (the "Lease").

B. **[*Add recitals to explain reason for termination*]**

NOW THEREFORE:

1. The Lessees and the Lessor mutually agree that it is in the best interest of all parties to terminate Business Site Lease No. _____.

2. The Lease is terminated under the following terms and conditions.
   a. This mutual termination shall not be valid until approved by the Navajo Nation and signed by the Navajo Nation President, or designee.
   b. This mutual termination shall not relieve the Lessee of their environmental cleanup obligation, if any, to the Navajo Nation incurred prior to the termination.
   c. This mutual termination shall not relieve the Lessee of any financial obligation to the Navajo Nation.

3. Nothing herein shall be deemed a waiver, express or implied, of the sovereign immunity of the Navajo Nation.

IN WITNESS WHEREOF, the parties have entered into this Termination, which shall be effective on the Effective Date, as defined in the preamble.

[signatures on following page]

[INSERT ENTITY NAME], LESSEE

_____

[Name, Title]

_____

Date

THE NAVAJO NATION, LESSOR

_____

President, Navajo Nation or designee

_____

Date

SURETY CONSENT [if applicable]

The foregoing Mutual Termination is consented to by:

_____

[Name, Title]
[Surety Company Name]

Date:_____

Assignment Fee: $150.00

COLLATERAL ASSIGNMENT OF LEASE
FOR BUSINESS SITE LEASE NO. _____

This **Collateral Assignment of Lease** is made by and between the _____, whose address is: _____ _____, hereinafter called Assignee and _____ whose address is _____ hereinafter called the Assignor or Lessee. This Collateral Assignment of Lease is subject to approval of the Navajo Nation, as Lessor, and shall be effective on the date it is signed by the Navajo Nation President.

RECITALS

A. Lessor and Lessee entered into Lease No. _____, effective on **[*insert effective date*]** [as previously modified by **(list all modifications and assignments, if applicable)]** (the "Lease"), a copy of which is attached as Exhibit A.

B. Assignee has agreed to make a loan to Lessee in the amount of $_____ to develop or improve the Lease premises ("Loan"), which Loan amount is sufficient to assure completion of the project. The Loan is evidenced by a Promissory Note ("Note") and related loan documents ("Loan Documents").

C. To secure the Loan, Lessee agreed to assign to Assignee, and Assignee has agreed to take from Lessee, an assignment of the Lease for collateral purposes, on the terms and conditions set forth herein.

AGREEMENT

SECTION I. ASSIGNMENT

A. In consideration of the Loan, the Lessee, as Assignor, hereby assigns and transfers to Assignee all of the Lessee's rights, title, and interest in the Lease in accordance with the encumbrance provisions in Lease Part II, Section 1.6.

SECTION II. WARRANTIES AND COVENANTS

A. Assignor shall pay all applicable rents and other charges as they fall due under the terms of the Lease.

B. Assignor shall not surrender its Lease and interest in the Lease, nor terminate or cancel the Lease. The Assignor shall not modify, change, supplement, alter or amend the Lease without the express written consent of the Assignee. Any such termination, cancellation, modification, change, supplement, alteration, or amendment of the Lease without the prior written consent of Assignee shall be null and void and have no force or effect. However, Assignee shall not unreasonably withhold or delay approval of any requested changes or amendments to the Lease which do not impair Assignee's security interest.

SECTION III. PERFORMANCE OF LEASE OBLIGATIONS AND RIGHT TO CURE

A. The Assignor shall perform and comply with all covenants, terms and conditions of the Lease.

B. If Assignor fails to perform and comply with the Lease and the Lessor notifies the Assignee in writing of the default, Assignee shall not take action that would jeopardize in any way the Navajo Nation's interests

in the land, and shall have the option, in its sole discretion, but not the obligation, to take any actions it deems necessary or desirable to cure the default by the Assignor. Assignee may rely on the notice and take any reasonable action to cure the default, including taking possession of the leased premises, even though the existence of such a default, or the nature thereof, is questioned or denied by the Assignor, or by any party on behalf of the Assignor. If Assignee takes possession of the premises it shall have the right under the the Lease to the same extent as if it were the Lessee.

C. The Assignor hereby expressly grants to Assignee, and agrees that Assignee shall have the absolute and immediate right to enter in and on the leased premises, or any part thereof, in the event that Assignee deems it necessary or desirable to prevent or cure any default on the Lease by the Assignor.

D. Assignee may pay and expend reasonable sums of money that are necessary to prevent or cure any default on the Lease by the Assignor, and the Assignor in turn agrees to pay to Assignee, immediately and without demand, all sums paid and expended by Assignee in preventing or curing a default of the Lease by the Assignor together with interest thereon from the date of each such payment by Assignee at the rate of the Wall Street Journal Prime Rate plus two percent adjusted daily from the date of Assignee payment. All sums so paid and expended by Assignee and the interest thereon shall be secured by this assignment.

SECTION IV. RELEASE OR FORBEARANCE

No release or forbearance by Assignee of any of the Assignor obligations under the Loan Documents shall release the Assignor from any of its obligations under the Lease, including the Assignor's obligation to perform all of the terms, covenants and conditions contained in the Lease.

SECTION V. ACCELERATION AND RIGHT OF POSSESSION OR SALE

Upon an event of default, as defined in the Loan Documents, and upon the Assignor's failure to cure within the period provided in the Loan Documents, Assignee shall be entitled to immediate possession of the leased premises, subject to the terms and conditions of the Lease, to which Assignee expressly agrees. Assignee further expressly agrees to furnish to Lessor, as requested, any financial statements or analysis pertinent to the encumbrance that the Lessor may deem necessary to justify the purpose, terms, or exercise of Assignee's rights under this Assignment.

SECTION VI. DEFAULT AND SALE

A. In the event of default under the Loan Documents, and if the Assignor fails to cure the default, Assignee may exercise the rights provided for in the Loan Documents and this Assignment. However, before any subsequent assignment, transfer, or sale of the Lease, whether under power of sale or foreclosure, Assignee shall give written notice of the event of default and the Assignor's failure to cure the default to the Lessor. Before any notice of sale, subsequent assignment, transfer or any other form of alienation, the Lessor with first priority shall be given the right to pay Assignee the full unpaid principal, accrued interest due under the Loan Documents, plus reasonable sale and enforcement costs incurred by Assignee through the date of such payment by the Lessor. This right may be exercised at any time before the completion of the sale proceedings.

B. If the Lessor exercises its right to pay Assignee the full unpaid amount and interest due under the Loan Documents, plus reasonable sale and enforcement costs incurred through the date of payment, this Assignment shall automatically terminate on the date such right is exercised, and shall have no further force

or effect. However, the termination of this Assignment shall not relieve Assignee from any obligation or liability which has accrued before the date of termination. Upon payment by the Lessor in accordance with this paragraph, Assignee shall execute and distribute a termination statement and/or release in accordance with Sections VII and IX below.

C. In the event that the Lessor does not avail itself of the rights set forth above, Assignee shall have the right to either 1) remain in possession of the Lease, assume the position of the Lessee and perform the terms and conditions of the Lease so long as Assignee retains title thereto, or 2) sell its interest in the Lease by either public or private sale on terms that are commercially reasonable. If a sale occurs resulting in a purchase by a party other than Assignee, the Assignee shall obtain the Lessor's approval, and the purchaser shall be bound by all of the terms and conditions of the Lease and shall expressly assume those obligations in writing as a condition of the sale. Any purported sale where the purchaser does not expressly assume in writing the terms and conditions of the Lease shall be null and void and without effect.

SECTION VII. TERMINATION UPON PAYMENT IN FULL

In the event that the Assignor pays the amount specified in the Loan Documents in full plus interest thereon, this Assignment shall cease to have effect and Assignor shall file such termination statement and/or release in a form reasonably acceptable to Lessor within ten (10) days after the Assignor makes the payment, or at such time as the Assignor requests that such termination statements and/or releases be filed.

SECTION VIII. CHOICE OF LAW

The laws of the Navajo Nation shall govern this Assignment. If there is Navajo or applicable federal law, the court shall apply such law. Any dispute arising under, or related to, this Assignment shall be decided exclusively in the Courts of the Navajo Nation.

SECTION IX. NO WAIVER OF SOVEREIGN IMMUNITY

Nothing in this Collateral Assignment of Lease shall be construed as a waiver, either express or implied, of the Sovereign Immunity of the Navajo Nation.

SECTION IX. COPY OF RELEASE TO LESSOR

Upon termination and/or release of this Assignment, the Assignor and Assignee shall deliver a copy of the termination and/or release to the Navajo Nation, Division of Economic Development, Real Estate Department, P.O. Box 664, Window Rock, Navajo Nation (Arizona) 86515 for Lessor's records and recording in the Land Title and Records Office. A copy shall be delivered to the Leasing Department [insert appropriate Department/Program and address.]

[signatures on the following page]

IN WITNESS WHEREOF, the parties have executed this Collateral Assignment on the day and year first above written.

[INSERT ENTITY NAME], ASSIGNOR AND LESSEE

_____

[Name, Title]

_____

Date

[INSERT ENTITY NAME], ASSIGNEE

_____

[Name, Title]

_____

Date

SURETY CONSENT [if applicable]

The foregoing Collateral Assignment is consented to by

_____

[Name, Title]
[Surety Company Name]

Date:_____

APPROVAL BY

THE NAVAJO NATION, LESSOR

_____

President, Navajo Nation or designee

_____

Date

Tracking No._____
Permit Fee $150.00

REVOCABLE USE PERMIT
THE NAVAJO NATION AND [PERMITTEE NAME]

This Revocable Use Permit ("Permit") is entered into by and between the Navajo Nation, hereinafter called the Permitter, whose address is Division of Economic Development ("DED"), P.O. Box 663, Window Rock, Arizona 86515, and _____, hereinafter called Permittee, whose address is _____, under the provision of the Navajo Nation Business Site Leasing Regulations of 2005, hereinafter referred to as the "Navajo Regulations." This Permit shall be effective on the date it is signed by the DED **[Leasing Department or Program]** Manager ("Effective Date").

1. The Permitter hereby permits the Permittee to use a tract of tribal trust land that has been withdrawn for commercial purposes and is more particularly described and shown at Exhibit A, attached hereto and made a part hereof, for the purpose of **[short term business, events, fundraising, government operations, or political events, OR short term sale of goods or services OR continuing from an expired lease]**, specifically:_____.

2. TERM. The term of this Permit shall be for a period of _____ **[days, weeks, months, or years]**, beginning on the Effective Date, with one option to renew for _____ **[days, weeks, months, or year]**. To exercise an option, the Permittee must be in good standing, and must notify the Permitter ten (10) days before the Permit expires, otherwise, the Permitter may select another Permittee.

3. RENTAL. The Permittee shall pay to the Permitter $_____ per **[day, week, month, or year]** for the use of the premises described above for the term of the permit, unless otherwise agreed in writing. Payments shall be made to the Controller of the Navajo Nation. Rental shall be paid to the Controller without prior notice or demand.

4. UTILITY SERVICE LINE AGREEMENT. Permittee specifically is authorized to enter into appropriate service agreement with utility companies for the provision of utility services to the permitted area, including gas, water, sewer, electricity, telephone, television, internet, and other utilities, without further consent by Permitter. Fees and monthly utility charges by these utility companies are solely the responsibility of the Permittee.

5. DELIVERY OF PREMISES. The premises shall be given and accepted by the Permittee "as is" and Permitter shall not be responsible for any latent defects. By signing this Permit, the Permittee agrees that it has had sufficient opportunity to examine and inspect the condition of the premises. Upon termination of this Permit, the Permittee will clean up all refuse in the permitted areas, reseed denuded areas, and leave it in a neat and presentable condition satisfactory to the Permitter. The DED Real Estate Department and the Navajo Environmental Protection Agency will be responsible for inspection of the areas and determining that the Permittee has complied with provisions of the Permit to the satisfaction of the Permitter, if applicable.

6. UNLAWFUL CONDUCT/ACTIVITIES. The Permittee further agrees not to use or allow any part of said property and/or premises to be used for any unlawful conduct/activities. Violation of this clause by the Permittee shall void the Permit.

7. LIABILITY FOR USE. **[Upon approval of the Permit, Permittee shall obtain insurance with coverage acceptable to the Navajo Nation and maintain such insurance until the Permit expires. Standard insurance requirements are attached as Exhibit B (Insurance) . All policies required under this Permit shall name the Navajo Nation and United States as additional named insureds. Certificates of Insurance shall be sent to the DED Real Estate Department.]** *OR* **[Permittee shall agree to fully indemnify the Navajo Nation and the United States and agree to the terms and conditions of the Indemnification Form, attached hereto as Exhibit B (Indemnification Form)]** It is further understood and agreed that the Permittee shall hold the Permitter harmless from any and all loss, claims, and liability of any kind arising out of the use, occupancy, or possession of said property and premises by the Permittee, including, without limitation, injury sustained by the Permittee or any other person, and damage to property on or about the premises during the term of this Permit.

8. **[Intentionally Omitted *OR:* IMPROVEMENTS. All improvements placed on the permitted premises shall be constructed in a good and workmanlike manner and in compliance with applicable laws and building codes. All parts of building visible to the public or from adjacent properties shall present a pleasant appearance as determined by Permitter and all service areas shall be screened from public view to the satisfaction of Permitter. Permittee shall, at all times during the term of this Permit, and at Permittee's sole cost and expense, maintain the premises and all improvements thereon and any alterations, additions, or appurtenances thereto, in good order and repair and in a safe, sanitary, neat and attractive condition, and shall otherwise comply with all laws, ordinances and regulations applicable to said premises.]**

9. OBLIGATIONS OF PERMITTEE. While the permitted premises are in trust or restricted status, all of the Permittee's obligations under this Permit and the obligations of his surety or sureties, are to the United States as well as to the Permitter.

10. REVOCABLE AT WILL. This Permit conveys no possessory interest and may be revoked at will upon written notice by the Permitter to the Permittee. If Permitter revokes or terminates the Permit before a pre-paid rental term has ended, the Permitter will refund a pro rata share of the rental for the period of time after the Permit is terminated.

11. EARLY TERMINATION BY PERMITTEE: A Permittee in good standing may terminate this Permit at will by giving written notice to Permitter of the termination date by certified mail. If Permittee terminates the Permit before a pre-paid rental term has ended, Permittee will forfeit the advance payment of rent.

12. AUTOMATIC TERMINATION UPON ISSUANCE OF LEASE. If Permittee enters a business site lease for the Permit premises, this Permit shall automatically terminate and be superseded by the lease.

13. TERMINATION BY EXPIRATION. The Permit shall terminate automatically when the Permit expires. Upon termination under Paragraph 10 or 11 above or by expiration, the Permittee shall have no rights including holdover on any portion of the premises unless Permitter gives express written consent. Except as otherwise provided in this Permit, any buildings and improvements, excluding removable personal property and trade fixtures, on the Permit premises shall remain on the premises after termination and shall thereupon become the property of Permitter. However, Permitter may require Permittee, at Permittee's expense, to remove improvements and restore the premises to the original state, within reason, upon termination of this Permit. Any removal of property by Permittee must be completed within ninety (90) days after termination, and the Permittee's presence on the property shall not be deemed a holdover or trespass, provided Permittee is diligent in removing the property. Upon the expiration of the ninety (90) day extension, the Permitter may grant another extension or re-enter the premises, and at such time the Permittee shall have no further permission to enter the premises or use any remaining improvements.

14. INTEREST OF MEMBER OF CONGRESS. No member of Congress shall be admitted to any share or part of this Permit or to any benefit that may arise therefrom. This provision shall not be constructed to extend to this Permit if made with a corporation or company for its general benefit.

15. ENVIRONMENT. Permittee shall comply with applicable Federal and Tribal laws, including the Navajo Nation Environmental Review, in accordance with the Navajo Nation Business Site Leasing Regulations of 2005, the Uniform Business Leasing Regulations of 2008, and the DED Business Site Leasing Management Plan now in force and effect, and any amendments which by this reference are made a part hereof. This shall include, but not be limited to, aesthetics, erosion control, and protection of timber or other vegetation.

16. PERFORMANCE SECURITY. If the term of this Permit is more than six (6) months, Permittee shall provide a cash deposit as performance security to the DED Real Estate Department. At the termination of the Permit, and upon completion of all compliance reviews and inspections to be performed on the premises, the Permitter shall return any cash security deposited to the Permittee which was not spent to address non-compliance. The security deposit for this Permit shall be **[equal to three (3) months rental, which is**

$_____ *OR* waived pursuant to the written justification approved by the Leasing Department, attached as Exhibit C *OR* zero ($0) because the term is six (6) months or less].

17. TRANSFER, SUBLEASING. The permit premises shall not be sub-permitted, assigned, or transferred by the Permittee, and such action shall be a material violation of the Permit.

18. EMPLOYMENT OF QUALIFIED NAVAJOS. In connection with all employment and contracting opportunities arising out of Permittee's activities under this Permit, Permittee shall give preference in employment and contracting to qualified Navajo individuals and certified contractors in compliance with the Navajo Preference in Employment Act, 15 N.N.C. §§ 601 et seq. ("NPEA"), and the Navajo Business Opportunity Act, 5 N.N.C. §§ 201 et seq. ("NBOA"). The terms and provisions of the NPEA and NBOA are specifically incorporated in, and become a part of this Permit. Violation of such laws by the Permittee shall constitute a breach of this Permit and provide grounds for suspension or termination of the Permit or any other remedy prescribed by the NPEA and NBOA.

19. AGREEMENT TO ABIDE BY NAVAJO AND FEDERAL LAWS. The Permittee and its employees and agents shall abide by all laws, regulations, and ordinances of the Navajo Nation, and all applicable laws, regulations, and ordinances of the United States now and hereafter in force and effect.

20. PERMIT REQUIREMENTS NOT EXCLUSIVE. Nothing in this Permit shall be construed to relieve Permittee of any obligations pursuant to any Federal or Navajo Nation law for the protection of the environment or public health, safety, or general welfare which now and hereafter in force and effect.

21. GOVERNING LAW AND CHOICE OF FORUM; CONSENT TO JURISDICTION. Except as may be prohibited by applicable federal law, the laws of the Navajo Nation shall govern the construction, performance and enforcement of this Permit. Any action or proceeding brought by Permittee against the Navajo Nation in connection with or arising out of the terms and conditions of this Permit shall be brought only in the Courts of the Navajo Nation, and no action or proceeding shall be brought by Permittee against the Navajo Nation in any court or administrative body of any state. Permittee consents to the legislative, executive, and judicial jurisdiction of the Navajo Nation in connection with all activities conducted by the Permittee within the Navajo Nation. Permittee agrees to be governed by the Navajo Nation Business Leasing Regulations of 2005, the Uniform Business Leasing Regulations of 2008, and the Navajo Nation Business Site Lease Management Plan, as amended.

22. NO WAIVER OF SOVEREIGN IMMUNITY. Nothing in this Permit shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.

23. VALIDITY. Any modification thereof or amendment to this Permit shall not be valid or binding upon either party hereto until approved and executed by the DED **[Leasing Department or Program]** Manager. A sub-permit, assignment, modification or amendment may not be entered into without the written approval of DED.

24. SUCCESSORS, ASSIGNS, ETC. The terms and conditions contained herein shall extend to and be binding upon Permittee's successors, heirs, assigns, executors, administrators, employees, and agents.

25. COUNTERPARTS AND ELECTRONIC SIGNATURES VALID. This Permit may be executed in counterparts, which together shall be one instrument. Electronic signatures shall be legal, binding, and enforceable.

26. NOTICES. All notices, requests, demands, or other communications hereunder shall be in writing, and shall be deemed to have been duly given if delivered in person, or within three (3) days after deposited in the United States mail, postage prepaid, certified, with return receipt requested, or otherwise actually delivered to:

Permitter:

Leasing Department Manager, DED
[insert appropriate Department or RBDO]

[insert appropriate address]

Real Estate Department Manager, DED
P.O. Box 664
Window Rock, Navajo Nation (Arizona) 86515
nnred@navajo-nsn.gov

for legal notices, demands, and requests:
Attorney General, Navajo Department of Justice
Attn: Economic/Community Development Unit
P.O. Box 2010
Window Rock, Navajo Nation (Arizona) 86515
NNDOJ.General@navajo-nsn.gov

Permittee:
[Insert Title, Address, and Email Address]

Any party may change the address at which it receives written notices by so notifying the other party hereto in writing.

[signatures on following page]

IN WITNESS WHEREOF, the parties hereto have executed this Permit to be effective on the date signed by the Permitter.

[NAME], PERMITTEE

_____

[*name*], [*title*] Date

THE NAVAJO NATION, PERMITTER

_____

[*name*], [*Leasing Department or RBDO*] Manager

Date: _____

EXHIBIT A

[Insert GPS Center Point Coordinates, or Legal Description and Survey, if available]

EXHIBIT B

Insurance Requirements

[OR replace with Indemnification Form, if applicable]

General Requirements

1. Permittee shall, at its expense, maintain insurance as set forth in this Exhibit.
2. Insurance shall be provided by insurance companies duly authorized and licensed, having a Best's Rating of A-VIII or better.
3. The insurance shall expressly identify the Navajo Nation and the United States as additional insured parties.
4. Permittee shall provide Navajo Nation Division of Economic Development, Real Estate Department with a Certificate of Insurance *[*upon execution of the Permit ***OR*** a different date if authorized and negotiated*]*.
5. Permitter in no way warrants that the minimum requirements are sufficient to protect Permittee from liabilities that might arise from this Permit by Permittee, its agents, representatives, employees, or contractors. Permittee is free to purchase additional insurance as may be determined necessary.
6. Permittee is responsible for paying any deductibles or self-insurance retentions, and such deductibles and self-insurance retentions shall be disclosed on the Certificates of Insurance. Permittees must include all subcontractors (if any) as additional insureds under its policies or ensure each subcontractor meets the same minimum limits and coverages as required of Permittee

Particular Requirements

LIABILITY INSURANCE

Unless (i) Permittee is a Navajo Nation Enterprise covered by Navajo Nation Risk Management Program, or (ii) otherwise agreed to in writing by Navajo Nation Risk Management Program, Permittee will provide and maintain, from the date the Permit is approved and continuing until the Permit is terminated or expired, the minimum insurance coverages listed below. Coverage will be provided with forms and insurers acceptable to the Permitter until all obligations under this Permit are satisfied. All insurers must be a Nationally Accredited Insurance Company with an AM Best rating of "A-VIII" or higher, or the equivalent, and authorized to do business in the State where the permit premises are located. All policies required under this Permit, except for the Worker's Compensation policy and any Professional Liability policy, shall (i) name the Permitter and the United States as additional named insureds, and (ii) provide that the Permittee's policy shall be primary, with Permitter's policies being non-contributory, in the event of a loss. These coverages are as follows:

A. Workers' compensation insurance to cover obligations imposed by federal and state statutes of the entity having jurisdiction over the Permittee's employees working on the permit premises, and Employers' Liability insurance with minimum limits of $1,000,000 per accident, Bodily Injury by Accident; $1,000,000 each employee, Bodily Injury by Disease; and $1,000,000 policy limit, Bodily Injury by Disease. In case of any contracted work on the permit premises, the Permittee will require the Contractor, and all subcontractors, to provide the same as above. Permittee's policy shall include a waiver of subrogation in favor of Permitter.

B. Commercial General Liability Insurance to cover:

(1) bodily injury, death, personal injury, and damage to property based upon or arising out of the ownership, use, occupancy or maintenance of the premises and all areas appurtenant thereto. Permittee's policy shall include a waiver of subrogation in favor of Permitter. The policy shall also contain a separation of insureds provision.

(2) Permittee shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a following form basis and it contains the required additional insured and waiver of subrogation wording.

- $1,000,000 each occurrence Bodily Injury and Property Damage,
- $1,000,000 each occurrence Personal and Advertising Injury,
- $1,000,000 each occurrence Products/Completed Operations,
- $2,000,000 Products/Completed Operations Aggregate, and
- $2,000,000 General Aggregate.

(3) If the Permittee will be manufacturing, distributing, selling, serving or furnishing alcoholic beverages, for the duration of this Permit, Permittee shall maintain the following minimum liquor liability insurance coverages and limits:

- $1,000,000 each occurrence, and
- $1,000,000 annual aggregate.

(4) Whether the permit premises is developed or undeveloped, the Permittee must obtain the appropriate insurance, which shall, include the Permitter and the United States as additional insureds. In the case of any contracted work on the permit premises, the Permittee shall require the contractor and all subcontractors to provide the same coverage as above._____

C. Commercial Automobile liability insurance to cover bodily injury and property damage for each occurrence with respect to Permittee's owned, hired, and non-owned vehicles assigned to or used in Permittee's business, with a minimum limit of $1,000,000 combined single limit per accident. Permittee's coverage shall include coverage for bodily injury or property damage arising out of the actual, alleged, or threatened discharge, dispersal, seepage, migration, release, or escape of pollutants arising out of the collision, upset, or overturn of an auto as a result of the maintenance or use of a covered auto. Permittee's policy shall provide a waiver of subrogation in favor of Permitter.

In the case of any contracted work on the permit premises, the Permittee shall require the contractor and all subcontractors to provide the same coverage as above.

An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements, provided that the coverage is written on a following form basis and it contains the required waiver of subrogation wording.

D. If the Permittee is engaged in a profession, the Permittee shall carry Professional Liability insurance with a minimum limit of $1,000,000 per claim and in the aggregate. The retro date on the policy shall be no later than the start date of the Permit. The retro date shall be disclosed on the certificate of insurance. The policy must be kept in force during the life of the contract and for 2 years (either as a policy force or extended reporting period) after contract termination.

E. Pollution Liability (including Errors and Omissions) coverage and limits for losses caused by pollution conditions that arise from the operations and completed operations of Permittee:

- $2,000,000 each occurrence, and
- $2,000,000 general aggregate.

Permittee's policy shall be written on an "occurrence" basis with no sunset clause or if written on a "claims-made" basis, it shall be maintained for a period of not less than 2 years with the retroactive date to be held constant with the effective date of this Permit. The Certificate of Insurance must provide clear evidence that Permittee's insurance policies contain the minimum limits of coverage and the special provisions prescribed in this clause. Permittee's policy shall provide a waiver of subrogation in favor of Permitter.

Permittee's policy shall include the following coverages:

a. Bodily injury, sickness, disease, mental anguish, or shock sustained by any person, including death and medical monitoring costs.
b. Property damage including physical injury to or destruction of tangible property, including the resulting loss of use thereof, cleanup costs, and the loss of use of tangible property that has not been physically injured or destroyed including diminution in value.
c. Environmental damage, including physical damage to soil, surface water, or groundwater, or plant or animal life, caused by pollution conditions and giving rise to clean-up costs.
d. Defense including costs, charges and expenses incurred in the investigation, adjustment, or defense of claims for such compensation damages.
e. Asbestos or lead – no exclusion.
f. Mold coverage.
g. Transportation cargo.
h. Non-Owned Disposal Site coverage.

Should Permittee's operations involve treatment, storage, or disposal of hazardous wastes, Permittee shall furnish an insurance certificate from the designated disposal facility establishing that the facility operator maintains current Pollution Legal Liability Insurance in the amount of $1,000,000 per occurrence / $2,000,000 general aggregate and will cover sudden and gradual pollution losses arising from the facility, associated with the operations of the Permittee

F. Unless a later date is provided in writing by the Navajo Nation Risk Management Program, an acceptable certificate of insurance shall be issued to the Navajo Nation by the Permittee on the date the Permit is approved as evidence that the required coverages are in full force and effect. The certificate shall identify this Permit and indicate the policies will not be canceled unless at least thirty (30) days prior written notice is given to the Permitter. Certificates of insurance shall be addressed as follows: Navajo Nation Division of Economic Development, Real Estate Department, P.O. Box 663, Window Rock, Arizona 86515.

G. Failure on the part of the Permittee to procure or maintain required insurance shall constitute a material breach of contract upon which the Permitter may immediately terminate this Permit.

H. Permitter reserves the right to request and receive certified copies of any or all of the above policies and/or endorsements.

I. Permittee and its insurers providing the required coverages shall waive all rights of recovery against the Navajo Nation and its agents, officials and employees, and the United States.

J. The insurance limits required under this Permit shall not limit the liability of the Permittee, nor relieve the Permittee of any obligation under this Permit.

K. The Permittee shall not do or commit to be done anything in or upon any portions of the permit premises or bring or keep anything there which would in any way conflict with the conditions of any insurance policy upon the permit premises or in any way increase the rate of insurance upon the permit premises or on property kept there.

L. Permitter will not be responsible for any omissions or inadequacies of insurance coverage and amounts in the event the insurance purchased by Permittee proves to be inadequate or otherwise insufficient for any reason whatsoever.

PROPERTY INSURANCE

A. Unless (i) Permittee is a Navajo Nation Enterprise covered by Navajo Nation Risk Management Program, or (ii) otherwise agreed to in writing by Navajo Nation Risk Management Program, Permittee shall carry "all risks" of loss OR risks of direct physical loss or damage OR causes of loss – special form, including

the perils of Equipment Breakdown/Boiler & Machinery, Flood and Earth movement, covering not less than full replacement cost value of all improvements on the permit premises. Said policy shall be obtained from a Nationally Accredited Insurance Company, with an AM Best rating of "A-VIII" or higher or equivalent, licensed to do business in the State in which the permit premises are located and shall be written jointly to protect Permittee, Permitter, and the United States, and shall provide for notification to the Permitter prior to any cancellation or non-renewal of the policy for any reason, including nonpayment of premiums.

A copy of the policy shall be sent to Permitter at the following address: Navajo Nation Division of Economic Development, Real Estate Department, P.O. Box 664, Window Rock, AZ, 86515.

B. Permittee shall maintain business income insurance with limits not less than an amount equal to one year's annual rent.

C. If there is a coinsurance provision, it shall be waived by an Agreed Amount endorsement. Permittee's policy shall name Permitter as Loss Payee as their interest may appear. Permittee's policy shall provide a waiver of subrogation in favor of Permitter. The covered property shall be identified on the certificate of insurance.

D. Permittee, at its cost, shall maintain insurance coverage for full replacement cost on all of Permittee's personal property, Permittee's alterations, Permittee's utility installations, and Permittee's trade fixtures in or about the permit premises. The proceeds from any such insurance shall be used by Permittee for the replacement of Permittee's personal property, alterations, utility installations, or trade fixtures only if Permitter repairs or rebuilds the permit premises.

E. In the event of damage to any improvement on the permit premises, Permittee shall rebuild, repair or otherwise reinstate the damaged improvement or building in a good and substantial manner according to the plan and elevation of the improvement or building so destroyed or damaged or in accordance with any modified plan approved in writing by the Permitter prior to commencement of repair or reconstruction. Permitter's approval shall be obtained from the appropriate DED Leasing Department Manager. Repair or reconstruction shall commence as soon as possible and, in any event, within one (1) year after the damage occurs and shall be pursued diligently. Insurance proceeds shall be deposited in an escrow account with an institution approved by Permitter. Permittee shall also deposit in said escrow account all additional funds required to reconstruct the damaged improvement. Escrow instructions shall include provisions that all funds so deposited shall be used to reconstruct the damaged improvements and that funds shall be disbursed during the progress of reconstruction on proper architect's, engineer's, or contractor's certificates. All money in escrow after reconstruction has been completed shall be paid to Permittee.

F. In the event of damage to the extent of seventy-five percent (75%) or more of the total value of all improvements on the permit premises during the last five (5) years of the term of this Permit, Permittee shall have the option to reconstruct said improvements. Permittee shall provide Permitter with a written notice of the exercise of Permittee's reconstruction option within thirty (30) days of the event of damage giving rise to Permittee's reconstruction option. Should Permittee exercise its option to reconstruct, Permittee shall commence reconstruction of the damaged improvements within ninety (90) days of Permittee's exercise of its reconstruction option and shall diligently pursue the reconstruction to completion. Should Permittee not exercise its option to reconstruct, this Permit shall terminate one hundred and twenty (120) days after the event of damage giving rise to Permittee's reconstruction option. The permit premises shall be cleared of debris at Permittee's expense prior to termination of the Permit. Permittee shall not be charged rent during the period of debris removal unless Permittee occupies the permit premises beyond the Permit termination date, after which the Permittee will be charged hold over rental as provided herein. In the event Permittee does not reconstruct, all insurance proceeds shall be paid to Permitter.

(insert if applicable)

EXHIBIT C

JUSTIFICATION TO WAIVE SECURITY

Tracking No._____
Permit Fee $150.00

REVOCABLE USE PERMIT
THE NAVAJO NATION AND [PERMITTEE NAME]

This Revocable Use Permit ("Permit") is entered into by and between the Navajo Nation, hereinafter called the Permitter, whose address is Division of Economic Development ("DED"), P.O. Box 663, Window Rock, Arizona 86515, and _____, hereinafter called Permittee, whose address is _____, under the provision of the Navajo Nation Business Site Leasing Regulations of 2005, hereinafter referred to as the "Navajo Regulations." This Permit shall be effective on the date it is signed by the DED **[Leasing Department or Program]** Manager ("Effective Date").

1. The Permitter hereby permits the Permittee to use a tract of tribal trust land that has been withdrawn for commercial purposes and is more particularly described and shown at Exhibit A, attached hereto and made a part hereof, for the purpose of **[short term business, events, fundraising, government operations, or political events, OR short term sale of goods or services OR continuing from an expired lease]**, specifically:_____.

2. TERM. The term of this Permit shall be for a period of _____ **[days, weeks, months, or years]**, beginning on the Effective Date, with one option to renew for _____ **[days, weeks, months, or year]**. To exercise an option, the Permittee must be in good standing, and must notify the Permitter ten (10) days before the Permit expires, otherwise, the Permitter may select another Permittee.

3. RENTAL. The Permittee shall pay to the Permitter $_____ per **[day, week, month, or year]** for the use of the premises described above for the term of the permit, unless otherwise agreed in writing. Payments shall be made to the Controller of the Navajo Nation. Rental shall be paid to the Controller without prior notice or demand.

4. UTILITY SERVICE LINE AGREEMENT. Permittee specifically is authorized to enter into appropriate service agreement with utility companies for the provision of utility services to the permitted area, including gas, water, sewer, electricity, telephone, television, internet, and other utilities, without further consent by Permitter. Fees and monthly utility charges by these utility companies are solely the responsibility of the Permittee.

5. DELIVERY OF PREMISES. The premises shall be given and accepted by the Permittee "as is" and Permitter shall not be responsible for any latent defects. By signing this Permit, the Permittee agrees that it has had sufficient opportunity to examine and inspect the condition of the premises. Upon termination of this Permit, the Permittee will clean up all refuse in the permitted areas, reseed denuded areas, and leave it in a neat and presentable condition satisfactory to the Permitter. The DED Real Estate Department and the Navajo Environmental Protection Agency will be responsible for inspection of the areas and determining that the Permittee has complied with provisions of the Permit to the satisfaction of the Permitter, if applicable.

6. UNLAWFUL CONDUCT/ACTIVITIES. The Permittee further agrees not to use or allow any part of said property and/or premises to be used for any unlawful conduct/activities. Violation of this clause by the Permittee shall void the Permit.

7. LIABILITY FOR USE. **[Upon approval of the Permit, Permittee shall obtain insurance with coverage acceptable to the Navajo Nation and maintain such insurance until the Permit expires. Standard insurance requirements are attached as Exhibit B (Insurance). All policies required under this Permit shall name the Navajo Nation and United States as additional named insureds. Certificates of Insurance shall be sent to the DED Real Estate Department.]** *OR* **[Permittee shall agree to fully indemnify the Navajo Nation and the United States and agree to the terms and conditions of the Indemnification Form, attached hereto as Exhibit B (Indemnification Form)]** It is further understood and agreed that the Permittee shall hold the Permitter harmless from any and all loss, claims, and liability of any kind arising out of the use, occupancy, or possession of said property and premises by the Permittee, including, without limitation, injury sustained by the Permittee or any other person, and damage to property on or about the premises during the term of this Permit.

8. **[Intentionally Omitted *OR:* IMPROVEMENTS. All improvements placed on the permitted premises shall be constructed in a good and workmanlike manner and in compliance with applicable laws and building codes. All parts of building visible to the public or from adjacent properties shall present a pleasant appearance as determined by Permitter and all service areas shall be screened from public view to the satisfaction of Permitter. Permittee shall, at all times during the term of this Permit, and at Permittee's sole cost and expense, maintain the premises and all improvements thereon and any alterations, additions, or appurtenances thereto, in good order and repair and in a safe, sanitary, neat and attractive condition, and shall otherwise comply with all laws, ordinances and regulations applicable to said premises.]**

9. OBLIGATIONS OF PERMITTEE. While the permitted premises are in trust or restricted status, all of the Permittee's obligations under this Permit and the obligations of his surety or sureties, are to the United States as well as to the Permitter.

10. REVOCABLE AT WILL. This Permit conveys no possessory interest and may be revoked at will upon written notice by the Permitter to the Permittee. If Permitter revokes or terminates the Permit before a pre-paid rental term has ended, the Permitter will refund a pro rata share of the rental for the period of time after the Permit is terminated.

11. EARLY TERMINATION BY PERMITTEE: A Permittee in good standing may terminate this Permit at will by giving written notice to Permitter of the termination date by certified mail. If Permittee terminates the Permit before a pre-paid rental term has ended, Permittee will forfeit the advance payment of rent.

12. AUTOMATIC TERMINATION UPON ISSUANCE OF LEASE. If Permittee enters a business site lease for the Permit premises, this Permit shall automatically terminate and be superseded by the lease.

13. TERMINATION BY EXPIRATION. The Permit shall terminate automatically when the Permit expires. Upon termination under Paragraph 10 or 11 above or by expiration, the Permittee shall have no rights including holdover on any portion of the premises unless Permitter gives express written consent. Except as otherwise provided in this Permit, any buildings and improvements, excluding removable personal property and trade fixtures, on the Permit premises shall remain on the premises after termination and shall thereupon become the property of Permitter. However, Permitter may require Permittee, at Permittee's expense, to remove improvements and restore the premises to the original state, within reason, upon termination of this Permit. Any removal of property by Permittee must be completed within ninety (90) days after termination, and the Permittee's presence on the property shall not be deemed a holdover or trespass, provided Permittee is diligent in removing the property. Upon the expiration of the ninety (90) day extension, the Permitter may grant another extension or re-enter the premises, and at such time the Permittee shall have no further permission to enter the premises or use any remaining improvements.

14. INTEREST OF MEMBER OF CONGRESS. No member of Congress shall be admitted to any share or part of this Permit or to any benefit that may arise therefrom. This provision shall not be constructed to extend to this Permit if made with a corporation or company for its general benefit.

15. ENVIRONMENT. Permittee shall comply with applicable Federal and Tribal laws, including the Navajo Nation Environmental Review, in accordance with the Navajo Nation Business Site Leasing Regulations of 2005, the Uniform Business Leasing Regulations of 2008, and the DED Business Site Leasing Management Plan now in force and effect, and any amendments which by this reference are made a part hereof. This shall include, but not be limited to, aesthetics, erosion control, and protection of timber or other vegetation.

16. PERFORMANCE SECURITY. If the term of this Permit is more than six (6) months, Permittee shall provide a cash deposit as performance security to the DED Real Estate Department. At the termination of the Permit, and upon completion of all compliance reviews and inspections to be performed on the premises, the Permitter shall return any cash security deposited to the Permittee which was not spent to address non-compliance. The security deposit for this Permit shall be **[equal to three (3) months rental, which is**

$_____ *OR* **waived pursuant to the written justification approved by the Leasing Department, attached as Exhibit C** *OR* **zero ($0) because the term is six (6) months or less].**

17. TRANSFER, SUBLEASING. The permit premises shall not be sub-permitted, assigned, or transferred by the Permittee, and such action shall be a material violation of the Permit.

18. EMPLOYMENT OF QUALIFIED NAVAJOS. In connection with all employment and contracting opportunities arising out of Permittee's activities under this Permit, Permittee shall give preference in employment and contracting to qualified Navajo individuals and certified contractors in compliance with the Navajo Preference in Employment Act, 15 N.N.C. §§ 601 et seq. ("NPEA"), and the Navajo Business Opportunity Act, 5 N.N.C. §§ 201 et seq. ("NBOA"). The terms and provisions of the NPEA and NBOA are specifically incorporated in, and become a part of this Permit. Violation of such laws by the Permittee shall constitute a breach of this Permit and provide grounds for suspension or termination of the Permit or any other remedy prescribed by the NPEA and NBOA.

19. AGREEMENT TO ABIDE BY NAVAJO AND FEDERAL LAWS. The Permittee and its employees and agents shall abide by all laws, regulations, and ordinances of the Navajo Nation, and all applicable laws, regulations, and ordinances of the United States now and hereafter in force and effect.

20. PERMIT REQUIREMENTS NOT EXCLUSIVE. Nothing in this Permit shall be construed to relieve Permittee of any obligations pursuant to any Federal or Navajo Nation law for the protection of the environment or public health, safety, or general welfare which now and hereafter in force and effect.

21. GOVERNING LAW AND CHOICE OF FORUM; CONSENT TO JURISDICTION. Except as may be prohibited by applicable federal law, the laws of the Navajo Nation shall govern the construction, performance and enforcement of this Permit. Any action or proceeding brought by Permittee against the Navajo Nation in connection with or arising out of the terms and conditions of this Permit shall be brought only in the Courts of the Navajo Nation, and no action or proceeding shall be brought by Permittee against the Navajo Nation in any court or administrative body of any state. Permittee consents to the legislative, executive, and judicial jurisdiction of the Navajo Nation in connection with all activities conducted by the Permittee within the Navajo Nation. Permittee agrees to be governed by the Navajo Nation Business Leasing Regulations of 2005, the Uniform Business Leasing Regulations of 2008, and the Navajo Nation Business Site Lease Management Plan, as amended.

22. NO WAIVER OF SOVEREIGN IMMUNITY. Nothing in this Permit shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.

23. VALIDITY. Any modification thereof or amendment to this Permit shall not be valid or binding upon either party hereto until approved and executed by the DED **[Leasing Department or Program]** Manager. A sub-permit, assignment, modification or amendment may not be entered into without the written approval of DED.

24. SUCCESSORS, ASSIGNS, ETC. The terms and conditions contained herein shall extend to and be binding upon Permittee's successors, heirs, assigns, executors, administrators, employees, and agents.

25. COUNTERPARTS AND ELECTRONIC SIGNATURES VALID. This Permit may be executed in counterparts, which together shall be one instrument. Electronic signatures shall be legal, binding, and enforceable.

26. NOTICES. All notices, requests, demands, or other communications hereunder shall be in writing, and shall be deemed to have been duly given if delivered in person, or within three (3) days after deposited in the United States mail, postage prepaid, certified, with return receipt requested, or otherwise actually delivered to:

Permitter:

Leasing Department Manager, DED
[insert appropriate Department or RBDO]

[insert appropriate address]

Real Estate Department Manager, DED
P.O. Box 664
Window Rock, Navajo Nation (Arizona) 86515
nnred@navajo-nsn.gov

for legal notices, demands, and requests:
Attorney General, Navajo Department of Justice
Attn: Economic/Community Development Unit
P.O. Box 2010
Window Rock, Navajo Nation (Arizona) 86515
NNDOJ.General@navajo-nsn.gov

Permittee:
[Insert Title, Address, and Email Address]

Any party may change the address at which it receives written notices by so notifying the other party hereto in writing.

[signatures on following page]

IN WITNESS WHEREOF, the parties hereto have executed this Permit to be effective on the date signed by the Permitter.

[NAME], PERMITTEE

_____

[*name*], [*title*] Date

THE NAVAJO NATION, PERMITTER

_____

[*name*], [*Leasing Department or RBDO*] Manager

Date: _____

EXHIBIT A

[Insert GPS Center Point Coordinates, or Legal Description and Survey, if available]

EXHIBIT B

Insurance Requirements

[OR replace with Indemnification Form, if applicable]

General Requirements

1. Permittee shall, at its expense, maintain insurance as set forth in this Exhibit.
2. Insurance shall be provided by insurance companies duly authorized and licensed, having a Best's Rating of A-VIII or better.
3. The insurance shall expressly identify the Navajo Nation and the United States as additional insured parties.
4. Permittee shall provide Navajo Nation Division of Economic Development, Real Estate Department with a Certificate of Insurance *[*upon execution of the Permit ***OR*** a different date if authorized and negotiated*]*.
5. Permitter in no way warrants that the minimum requirements are sufficient to protect Permittee from liabilities that might arise from this Permit by Permittee, its agents, representatives, employees, or contractors. Permittee is free to purchase additional insurance as may be determined necessary.
6. Permittee is responsible for paying any deductibles or self-insurance retentions, and such deductibles and self-insurance retentions shall be disclosed on the Certificates of Insurance. Permittees must include all subcontractors (if any) as additional insureds under its policies or ensure each subcontractor meets the same minimum limits and coverages as required of Permittee

Particular Requirements

LIABILITY INSURANCE

Unless (i) Permittee is a Navajo Nation Enterprise covered by Navajo Nation Risk Management Program, or (ii) otherwise agreed to in writing by Navajo Nation Risk Management Program, Permittee will provide and maintain, from the date the Permit is approved and continuing until the Permit is terminated or expired, the minimum insurance coverages listed below. Coverage will be provided with forms and insurers acceptable to the Permitter until all obligations under this Permit are satisfied. All insurers must be a Nationally Accredited Insurance Company with an AM Best rating of "A-VIII" or higher, or the equivalent, and authorized to do business in the State where the permit premises are located. All policies required under this Permit, except for the Worker's Compensation policy and any Professional Liability policy, shall (i) name the Permitter and the United States as additional named insureds, and (ii) provide that the Permittee's policy shall be primary, with Permitter's policies being non-contributory, in the event of a loss. These coverages are as follows:

A. Workers' compensation insurance to cover obligations imposed by federal and state statutes of the entity having jurisdiction over the Permittee's employees working on the permit premises, and Employers' Liability insurance with minimum limits of $1,000,000 per accident, Bodily Injury by Accident; $1,000,000 each employee, Bodily Injury by Disease; and $1,000,000 policy limit, Bodily Injury by Disease. In case of any contracted work on the permit premises, the Permittee will require the Contractor, and all subcontractors, to provide the same as above. Permittee's policy shall include a waiver of subrogation in favor of Permitter.

B. Commercial General Liability Insurance to cover:

(1) bodily injury, death, personal injury, and damage to property based upon or arising out of the ownership, use, occupancy or maintenance of the premises and all areas appurtenant thereto. Permittee's policy shall include a waiver of subrogation in favor of Permitter. The policy shall also contain a separation of insureds provision.

(2) Permittee shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a following form basis and it contains the required additional insured and waiver of subrogation wording.

- $1,000,000 each occurrence Bodily Injury and Property Damage,
- $1,000,000 each occurrence Personal and Advertising Injury,
- $1,000,000 each occurrence Products/Completed Operations,
- $2,000,000 Products/Completed Operations Aggregate, and
- $2,000,000 General Aggregate.

(3) If the Permittee will be manufacturing, distributing, selling, serving or furnishing alcoholic beverages, for the duration of this Permit, Permittee shall maintain the following minimum liquor liability insurance coverages and limits:

- $1,000,000 each occurrence, and
- $1,000,000 annual aggregate.

(4) Whether the permit premises is developed or undeveloped, the Permittee must obtain the appropriate insurance, which shall, include the Permitter and the United States as additional insureds. In the case of any contracted work on the permit premises, the Permittee shall require the contractor and all subcontractors to provide the same coverage as above._____

C. Commercial Automobile liability insurance to cover bodily injury and property damage for each occurrence with respect to Permittee's owned, hired, and non-owned vehicles assigned to or used in Permittee's business, with a minimum limit of $1,000,000 combined single limit per accident. Permittee's coverage shall include coverage for bodily injury or property damage arising out of the actual, alleged, or threatened discharge, dispersal, seepage, migration, release, or escape of pollutants arising out of the collision, upset, or overturn of an auto as a result of the maintenance or use of a covered auto. Permittee's policy shall provide a waiver of subrogation in favor of Permitter.

In the case of any contracted work on the permit premises, the Permittee shall require the contractor and all subcontractors to provide the same coverage as above.

An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements, provided that the coverage is written on a following form basis and it contains the required waiver of subrogation wording.

D. If the Permittee is engaged in a profession, the Permittee shall carry Professional Liability insurance with a minimum limit of $1,000,000 per claim and in the aggregate. The retro date on the policy shall be no later than the start date of the Permit. The retro date shall be disclosed on the certificate of insurance. The policy must be kept in force during the life of the contract and for 2 years (either as a policy force or extended reporting period) after contract termination.

E. Pollution Liability (including Errors and Omissions) coverage and limits for losses caused by pollution conditions that arise from the operations and completed operations of Permittee:

- $2,000,000 each occurrence, and
- $2,000,000 general aggregate.

Permittee's policy shall be written on an "occurrence" basis with no sunset clause or if written on a "claims-made" basis, it shall be maintained for a period of not less than 2 years with the retroactive date to be held constant with the effective date of this Permit. The Certificate of Insurance must provide clear evidence that Permittee's insurance policies contain the minimum limits of coverage and the special provisions prescribed in this clause. Permittee's policy shall provide a waiver of subrogation in favor of Permitter.

Permittee's policy shall include the following coverages:

a. Bodily injury, sickness, disease, mental anguish, or shock sustained by any person, including death and medical monitoring costs.
b. Property damage including physical injury to or destruction of tangible property, including the resulting loss of use thereof, cleanup costs, and the loss of use of tangible property that has not been physically injured or destroyed including diminution in value.
c. Environmental damage, including physical damage to soil, surface water, or groundwater, or plant or animal life, caused by pollution conditions and giving rise to clean-up costs.
d. Defense including costs, charges and expenses incurred in the investigation, adjustment, or defense of claims for such compensation damages.
e. Asbestos or lead – no exclusion.
f. Mold coverage.
g. Transportation cargo.
h. Non-Owned Disposal Site coverage.

Should Permittee's operations involve treatment, storage, or disposal of hazardous wastes, Permittee shall furnish an insurance certificate from the designated disposal facility establishing that the facility operator maintains current Pollution Legal Liability Insurance in the amount of $1,000,000 per occurrence / $2,000,000 general aggregate and will cover sudden and gradual pollution losses arising from the facility, associated with the operations of the Permittee

F. Unless a later date is provided in writing by the Navajo Nation Risk Management Program, an acceptable certificate of insurance shall be issued to the Navajo Nation by the Permittee on the date the Permit is approved as evidence that the required coverages are in full force and effect. The certificate shall identify this Permit and indicate the policies will not be canceled unless at least thirty (30) days prior written notice is given to the Permitter. Certificates of insurance shall be addressed as follows: Navajo Nation Division of Economic Development, Real Estate Department, P.O. Box 663, Window Rock, Arizona 86515.

G. Failure on the part of the Permittee to procure or maintain required insurance shall constitute a material breach of contract upon which the Permitter may immediately terminate this Permit.

H. Permitter reserves the right to request and receive certified copies of any or all of the above policies and/or endorsements.

I. Permittee and its insurers providing the required coverages shall waive all rights of recovery against the Navajo Nation and its agents, officials and employees, and the United States.

J. The insurance limits required under this Permit shall not limit the liability of the Permittee, nor relieve the Permittee of any obligation under this Permit.

K. The Permittee shall not do or commit to be done anything in or upon any portions of the permit premises or bring or keep anything there which would in any way conflict with the conditions of any insurance policy upon the permit premises or in any way increase the rate of insurance upon the permit premises or on property kept there.

L. Permitter will not be responsible for any omissions or inadequacies of insurance coverage and amounts in the event the insurance purchased by Permittee proves to be inadequate or otherwise insufficient for any reason whatsoever.

PROPERTY INSURANCE

A. Unless (i) Permittee is a Navajo Nation Enterprise covered by Navajo Nation Risk Management Program, or (ii) otherwise agreed to in writing by Navajo Nation Risk Management Program, Permittee shall carry "all risks" of loss OR risks of direct physical loss or damage OR causes of loss – special form, including

the perils of Equipment Breakdown/Boiler & Machinery, Flood and Earth movement, covering not less than full replacement cost value of all improvements on the permit premises. Said policy shall be obtained from a Nationally Accredited Insurance Company, with an AM Best rating of "A-VIII" or higher or equivalent, licensed to do business in the State in which the permit premises are located and shall be written jointly to protect Permittee, Permitter, and the United States, and shall provide for notification to the Permitter prior to any cancellation or non-renewal of the policy for any reason, including nonpayment of premiums.

A copy of the policy shall be sent to Permitter at the following address: Navajo Nation Division of Economic Development, Real Estate Department, P.O. Box 664, Window Rock, AZ, 86515.

B. Permittee shall maintain business income insurance with limits not less than an amount equal to one year's annual rent.

C. If there is a coinsurance provision, it shall be waived by an Agreed Amount endorsement. Permittee's policy shall name Permitter as Loss Payee as their interest may appear. Permittee's policy shall provide a waiver of subrogation in favor of Permitter. The covered property shall be identified on the certificate of insurance.

D. Permittee, at its cost, shall maintain insurance coverage for full replacement cost on all of Permittee's personal property, Permittee's alterations, Permittee's utility installations, and Permittee's trade fixtures in or about the permit premises. The proceeds from any such insurance shall be used by Permittee for the replacement of Permittee's personal property, alterations, utility installations, or trade fixtures only if Permitter repairs or rebuilds the permit premises.

E. In the event of damage to any improvement on the permit premises, Permittee shall rebuild, repair or otherwise reinstate the damaged improvement or building in a good and substantial manner according to the plan and elevation of the improvement or building so destroyed or damaged or in accordance with any modified plan approved in writing by the Permitter prior to commencement of repair or reconstruction. Permitter's approval shall be obtained from the appropriate DED Leasing Department Manager. Repair or reconstruction shall commence as soon as possible and, in any event, within one (1) year after the damage occurs and shall be pursued diligently. Insurance proceeds shall be deposited in an escrow account with an institution approved by Permitter. Permittee shall also deposit in said escrow account all additional funds required to reconstruct the damaged improvement. Escrow instructions shall include provisions that all funds so deposited shall be used to reconstruct the damaged improvements and that funds shall be disbursed during the progress of reconstruction on proper architect's, engineer's, or contractor's certificates. All money in escrow after reconstruction has been completed shall be paid to Permittee.

F. In the event of damage to the extent of seventy-five percent (75%) or more of the total value of all improvements on the permit premises during the last five (5) years of the term of this Permit, Permittee shall have the option to reconstruct said improvements. Permittee shall provide Permitter with a written notice of the exercise of Permittee's reconstruction option within thirty (30) days of the event of damage giving rise to Permittee's reconstruction option. Should Permittee exercise its option to reconstruct, Permittee shall commence reconstruction of the damaged improvements within ninety (90) days of Permittee's exercise of its reconstruction option and shall diligently pursue the reconstruction to completion. Should Permittee not exercise its option to reconstruct, this Permit shall terminate one hundred and twenty (120) days after the event of damage giving rise to Permittee's reconstruction option. The permit premises shall be cleared of debris at Permittee's expense prior to termination of the Permit. Permittee shall not be charged rent during the period of debris removal unless Permittee occupies the permit premises beyond the Permit termination date, after which the Permittee will be charged hold over rental as provided herein. In the event Permittee does not reconstruct, all insurance proceeds shall be paid to Permitter.

(insert if applicable)

EXHIBIT C

JUSTIFICATION TO WAIVE SECURITY

Tracking No. _____

Permit Fee: $150.00

CONDITIONAL USE PERMIT
THE NAVAJO NATION AND [PERMITTEE NAME]

This Conditional Use Permit ("Permit") is entered into by and between the Navajo Nation, hereinafter called the Permitter, whose address is Division of Economic Development, P.O. Box 663, Window Rock, Navajo Nation (AZ) 86515, and _____, hereinafter called Permittee, whose address is _____, under the provision of the Navajo Nation Business Site Leasing Regulations of 2005, hereinafter referred to as the "Navajo Regulations." This Permit shall be effective on the date it is signed by the DED [Leasing Department or Program] Manager ("Effective Date").

WHEREAS _____ is a current Holder of a business site lease in _____, Navajo Nation, [***New Mexico, Arizona, Utah***]; and

WHEREAS _____ is in [***e.g. need of additional space for the purpose of expansion of the business***] for purposes set forth in the business site lease between the Navajo Nation and _____; and

WHEREAS a _____ acre lot, more particularly described at Exhibit A ("Permit Site"), is located immediately _____ and is vacant and unused; and

WHEREAS this vacant lot is in need of security and maintenance for the develop of the land for business purposes and to prevent vandalism; and

WHEREAS the Permit Site is currently designated as for [***residential, grazing, etc.***] purposes under the _____ Chapter and has not been withdrawn for business purposes; and

WHEREAS the _____ Chapter pursuant to Resolution No. _____ _____ supports this Permit as in the best interest of the Nation to allow _____ _____ to [***e.g. expand its business***] onto this lot to increase the number of jobs for the _____ _____ residents and for other surrounding communities; and

WHEREAS the Permittee is diligently pursuing a land designation withdrawal for business purposes and in negotiations with Division of Economic Development ("DED") to enter into a business site lease for this lot, but requires a temporary permit in place until the business site lease is completed, approved, and executed by the Navajo Nation's President.

NOW, THEREFORE, the parties under this Permit agree to the following:

1. Permittee agrees:

   a. to use the Permit Site only for the purposes of _____ _____; and

   b. **[to maintain appropriate insurance at all times while occupying the Permit Site, as set forth in Exhibit B (Insurance)]** *OR* **[Permittee shall agree to fully indemnify the Navajo Nation and the United States and agree to the terms and conditions of the Indemnification Form, attached hereto as Exhibit B (Indemnification)]**; it is further

understood and agreed that the Permittee shall hold the Permitter harmless from any and all claims or liabilities arising out of the use, occupancy, or possession of said property and premises by the Permittee, including, without limitation, injury sustained by the Permittee or any other person, and damage to property on or about the premises during the term of this Permit; and

c. to provide security and routine maintenance on the Permit Site, and to be responsible for any and all costs associated with occupation of this lot, including but not limited to utilities.

2. RENTAL. The Permittee shall pay to the Permitter $_____ per **[day, week, month, or year (be specific in accordance with Navajo Nation Business Site Lease Administrative Plan 14.1(B)]** for the use of the premises described above for the term of the permit, unless otherwise agreed in writing. Payments shall be made to the Controller of the Navajo Nation. Rental shall be paid to the Controller without prior notice or demand.

3. The Term of this Permit shall be for _____ [*days, months, or years*] from the date this Permit is signed by the Navajo Nation, with one option to renew for or another _____ [*days, months, or year*], only if Permittee is not in default, and is diligently pursuing a business site lease. Notice of intent to exercise the option to renew must be given at least ten (10) working days prior to the expiration of the primary term.

4. If the term of this Permit is more than six (6) months, Permittee shall provide a cash deposit as performance security to the Division of Economic Development Real Estate Department. At the termination of the Permit, and upon completion of all compliance reviews and inspections to be performed on the premises, the Permitter shall return any cash security deposited to the Permittee which was not spent to address non-compliance. The security deposit for this Permit shall be **[equal to three (3) months rental, which is $_____** *OR* **waived pursuant to the written justification approved by the Leasing Department, attached as Exhibit C** *OR* **zero ($0) because the term is six (6) months or less]**.

5. This Permit conveys no possessory interest and may be revoked at will upon written notice by Permitter. If Permitter revokes or terminates the Permit before a pre-paid rental term has ended, the Permitter will refund a pro rata share of the rental for the period of time after the Permit is terminated.

6. A Lessee in good standing under this Permit may terminate this Permit at will by giving written notice to Permitter of the termination date by certified mail. If Permittee terminates the Permit before a pre-paid rental term has ended, Permittee will forfeit the advance payment of rent.

7. If Permittee enters a business site lease for the Permit premises, this Permit shall automatically terminate and be superseded by the lease

8. The Permit shall terminate automatically when the Permit expires. Upon termination by expiration or under Paragraph 5 or 6 above, the Permittee shall have no rights including holdover on any portion of the premises unless Permitter gives express written consent.

9. It is explicitly understood that the Permittee is the primary candidate for a business site lease on the Permit Site, however should negotiations fail or if the lease is not approved, the Nation may seek another tenant for the site.

10. This Permit constitutes a complete, final, and fully integrated document, and supersedes any previous agreements, whether written or oral, on this subject matter.

11. The parties agree that this Permit may be specifically enforced by the Navajo Nation through recourse to the Courts of the Navajo Nation, whose laws shall govern the course of dealing between the parties. Any disputes under this Agreement which cannot be informally resolved between the parties may be settled by way of lawsuit filed by the Navajo Nation in the [***Alamo/Tó'hajilee, Chinle, Crownpoint, Dilkon, Kayenta, Aneth, Ramah, Shiprock, Tuba City*** **or** ***Window Rock***] District Court of the Navajo Nation and may, at the discretion of the District Court, be settled by means of referral to the Peacemaker Court. The parties to such a dispute are to bear their own attorney's fees and costs.

12. Should any term of this Permit be found to be invalid under Navajo Nation law by a Court of the Navajo Nation, the remainder of the Permit will remain in full force and effect, and shall be construed as an entire document without the offending clause.

13. Nothing in this Permit shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.

14. Nothing in this Permit shall be construed to relieve Permittee of any obligations pursuant to any Federal or Navajo Nation law for the protection of the environment or the public health, safety, or general welfare which is currently enacted or which may be enacted at a later date.

15. COUNTERPART AND ELECTRONIC SIGNATURES VALID. This Permit may be executed in counterparts. Electronic signatures shall be legal and binding and of full force in effect.

16. All notices, demands, requests, changes in information or other communications to or upon either party provided for in this Permit, or given or made in connection with this Permit, shall be in writing and shall be addressed as follows:

    To or upon Permitter:

    Leasing Department Manager
    Division of Economic Development
    [insert appropriate Department or RBDO]
    [insert appropriate address]

    Real Estate Department Manager
    Division of Economic Development
    P.O. Box 664
    Window Rock, Navajo Nation (Arizona) 86515
    nnred@navajo-nsn.gov

    for legal notices, demands, and requests:
    Attorney General, Navajo Department of Justice
    Attn: Economic/Community Development Unit
    P.O. Box 2010
    Window Rock, Navajo Nation (Arizona) 86515

NNDOJ.General@navajo-nsn.gov

To or upon Permittee:
[Insert Title, Address, and Email Address]

Either party may change the address at which it receives written notices by so notifying the other party hereto in writing.

[signatures on the following page]

IN WITNESS WHEREOF, the parties hereto have executed this Permit to be effective on the date signed by the Pemitter.

[NAME], PERMITTEE

_____

[*name*], [*title*] Date

THE NAVAJO NATION, PERMITTER

_____

[*name*], [*Leasing Department or RBDO*] Manager

Date: _____

EXHIBIT A

Description of Permit Premises

[insert GPS center point coordinates OR legal description and survey if available]

EXHIBIT B

Insurance Requirements

[OR replace with Indemnification Form, if applicable]

General Requirements

1. Permittee shall, at its expense, maintain insurance as set forth in this Exhibit.
2. Insurance shall be provided by insurance companies duly authorized and licensed, having a Best's Rating of A-VIII or better.
3. The insurance shall expressly identify the Navajo Nation and the United States as additional insured parties.
4. Permittee shall provide Navajo Nation Division of Economic Development, Real Estate Department with a Certificate of Insurance *[*upon execution of the Permit ***OR*** a different date if authorized and negotiated*]*.
5. Permitter in no way warrants that the minimum requirements are sufficient to protect Permittee from liabilities that might arise from this Permit by Permittee, its agents, representatives, employees, or contractors. Permittee is free to purchase additional insurance as may be determined necessary.
6. Permittee is responsible for paying any deductibles or self-insurance retentions, and such deductibles and self-insurance retentions shall be disclosed on the Certificates of Insurance. Permittees must include all subcontractors (if any) as additional insureds under its policies or ensure each subcontractor meets the same minimum limits and coverages as required of Permittee

Particular Requirements

LIABILITY INSURANCE

Unless (i) Permittee is a Navajo Nation Enterprise covered by Navajo Nation Risk Management Program, or (ii) otherwise agreed to in writing by Navajo Nation Risk Management Program, Permittee will provide and maintain, from the date the Permit is approved and continuing until the Permit is terminated or expired, the minimum insurance coverages listed below. Coverage will be provided with forms and insurers acceptable to the Permitter until all obligations under this Permit are satisfied. All insurers must be a Nationally Accredited Insurance Company with an AM Best rating of "A-VIII" or higher, or the equivalent, and authorized to do business in the State where the permit premises are located. All policies required under this Permit, except for the Worker's Compensation policy and any Professional Liability policy, shall (i) name the Permitter and the United States as additional named insureds, and (ii) provide that the Permittee's policy shall be primary, with Permitter's policies being non-contributory, in the event of a loss. These coverages are as follows:

A. Workers' compensation insurance to cover obligations imposed by federal and state statutes of the entity having jurisdiction over the Permittee's employees working on the permit premises, and Employers' Liability insurance with minimum limits of $1,000,000 per accident, Bodily Injury by Accident; $1,000,000 each employee, Bodily Injury by Disease; and $1,000,000 policy limit, Bodily Injury by Disease. In case of any contracted work on the permit premises, the Permittee will require the Contractor, and all subcontractors, to provide the same as above. Permittee's policy shall include a waiver of subrogation in favor of Permitter.

B. Commercial General Liability Insurance to cover:

(1) bodily injury, death, personal injury, and damage to property based upon or arising out of the ownership, use, occupancy or maintenance of the premises and all areas appurtenant thereto. Permittee's policy shall include a waiver of subrogation in favor of Permitter. The policy shall also contain a separation of insureds provision.

(2) Permittee shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a following form basis and it contains the required additional insured and waiver of subrogation wording.

- $1,000,000 each occurrence Bodily Injury and Property Damage,
- $1,000,000 each occurrence Personal and Advertising Injury,
- $1,000,000 each occurrence Products/Completed Operations,
- $2,000,000 Products/Completed Operations Aggregate, and
- $2,000,000 General Aggregate.

(3) If the Permittee will be manufacturing, distributing, selling, serving or furnishing alcoholic beverages, for the duration of this Permit, Permittee shall maintain the following minimum liquor liability insurance coverages and limits:

- $1,000,000 each occurrence, and
- $1,000,000 annual aggregate.

(4) Whether the permit premises is developed or undeveloped, the Permittee must obtain the appropriate insurance, which shall, include the Permitter and the United States as additional insureds. In the case of any contracted work on the permit premises, the Permittee shall require the contractor and all subcontractors to provide the same coverage as above.

C. Commercial Automobile liability insurance to cover bodily injury and property damage for each occurrence with respect to Permittee's owned, hired, and non-owned vehicles assigned to or used in Permittee's business, with a minimum limit of $1,000,000 combined single limit per accident. Permittee's coverage shall include coverage for bodily injury or property damage arising out of the actual, alleged, or threatened discharge, dispersal, seepage, migration, release, or escape of pollutants arising out of the collision, upset, or overturn of an auto as a result of the maintenance or use of a covered auto. Permittee's policy shall provide a waiver of subrogation in favor of Permitter.

In the case of any contracted work on the permit premises, the Permittee shall require the contractor and all subcontractors to provide the same coverage as above.

An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements, provided that the coverage is written on a following form basis and it contains the required waiver of subrogation wording.

D. If the Permittee is engaged in a profession, the Permittee shall carry Professional Liability insurance with a minimum limit of $1,000,000 per claim and in the aggregate. The retro date on the policy shall be no later than the start date of the Permit. The retro date shall be disclosed on the certificate of insurance. The policy must be kept in force during the life of the contract and for 2 years (either as a policy force or extended reporting period) after contract termination.

E. Pollution Liability (including Errors and Omissions) coverage and limits for losses caused by pollution conditions that arise from the operations and completed operations of Permittee:

- $2,000,000 each occurrence, and
- $2,000,000 general aggregate.

Permittee's policy shall be written on an "occurrence" basis with no sunset clause or if written on a "claims-made" basis, it shall be maintained for a period of not less than 2 years with the retroactive date to be held constant with the effective date of this Permit. The Certificate of Insurance must provide clear evidence that Permittee's insurance policies contain the minimum limits of coverage and the special provisions prescribed in this clause. Permittee's policy shall provide a waiver of subrogation in favor of Permitter.

Permittee's policy shall include the following coverages:

a. Bodily injury, sickness, disease, mental anguish, or shock sustained by any person, including death and medical monitoring costs.
b. Property damage including physical injury to or destruction of tangible property, including the resulting loss of use thereof, cleanup costs, and the loss of use of tangible property that has not been physically injured or destroyed including diminution in value.
c. Environmental damage, including physical damage to soil, surface water, or groundwater, or plant or animal life, caused by pollution conditions and giving rise to clean-up costs.
d. Defense including costs, charges and expenses incurred in the investigation, adjustment, or defense of claims for such compensation damages.
e. Asbestos or lead – no exclusion.
f. Mold coverage.
g. Transportation cargo.
h. Non-Owned Disposal Site coverage.

Should Permittee's operations involve treatment, storage, or disposal of hazardous wastes, Permittee shall furnish an insurance certificate from the designated disposal facility establishing that the facility operator maintains current Pollution Legal Liability Insurance in the amount of $1,000,000 per occurrence / $2,000,000 general aggregate and will cover sudden and gradual pollution losses arising from the facility, associated with the operations of the Permittee

F. Unless a later date is provided in writing by the Navajo Nation Risk Management Program, an acceptable certificate of insurance shall be issued to the Navajo Nation by the Permittee on the date the Permit is approved as evidence that the required coverages are in full force and effect. The certificate shall identify this Permit and indicate the policies will not be canceled unless at least thirty (30) days prior written notice is given to the Permitter. Certificates of insurance shall be addressed as follows: Navajo Nation Division of Economic Development, Real Estate Department, P.O. Box 663, Window Rock, Arizona 86515.

G. Failure on the part of the Permittee to procure or maintain required insurance shall constitute a material breach of contract upon which the Permitter may immediately terminate this Permit.

H. Permitter reserves the right to request and receive certified copies of any or all of the above policies and/or endorsements.

I. Permittee and its insurers providing the required coverages shall waive all rights of recovery against the Navajo Nation and its agents, officials and employees, and the United States.

J. The insurance limits required under this Permit shall not limit the liability of the Permittee, nor relieve the Permittee of any obligation under this Permit.

K. The Permittee shall not do or commit to be done anything in or upon any portions of the permit premises or bring or keep anything there which would in any way conflict with the conditions of any insurance policy upon the permit premises or in any way increase the rate of insurance upon the permit premises or on property kept there.

L. Permitter will not be responsible for any omissions or inadequacies of insurance coverage and amounts in the event the insurance purchased by Permittee proves to be inadequate or otherwise insufficient for any reason whatsoever.

PROPERTY INSURANCE.

A. Unless (i) Permittee is a Navajo Nation Enterprise covered by Navajo Nation Risk Management Program, or (ii) otherwise agreed to in writing by Navajo Nation Risk Management Program, Permittee shall carry "all risks" of loss OR risks of direct physical loss or damage OR causes of loss – special form, including the perils of Equipment Breakdown/Boiler & Machinery, Flood and Earth movement, covering not less than full replacement cost value of all improvements on the permit premises. Said policy shall be obtained from a Nationally Accredited Insurance Company, with an AM Best rating of "A-VIII" or higher or equivalent, licensed to do business in the State in which the permit premises are located and shall be written jointly to protect Permittee, Permitter, and the United States, and shall provide for notification to the Permitter prior to any cancellation or non-renewal of the policy for any reason, including nonpayment of premiums.

A copy of the policy shall be sent to Permitter at the following address: Navajo Nation Division of Economic Development, Real Estate Department, P.O. Box 664, Window Rock, AZ, 86515.

B. Permittee shall maintain business income insurance with limits not less than an amount equal to one year's annual rent.

C. If there is a coinsurance provision, it shall be waived by an Agreed Amount endorsement. Permittee's policy shall name Permitter as Loss Payee as their interest may appear. Permittee's policy shall provide a waiver of subrogation in favor of Permitter. The covered property shall be identified on the certificate of insurance.

D. Permittee, at its cost, shall maintain insurance coverage for full replacement cost on all of Permittee's personal property, Permittee's alterations, Permittee's utility installations, and Permittee's trade fixtures in or about the permit premises. The proceeds from any such insurance shall be used by Permittee for the replacement of Permittee's personal property, alterations, utility installations, or trade fixtures only if Permitter repairs or rebuilds the permit premises.

E. In the event of damage to any improvement on the permit premises, Permittee shall rebuild, repair or otherwise reinstate the damaged improvement or building in a good and substantial manner according to the plan and elevation of the improvement or building so destroyed or damaged or in accordance with any modified plan approved in writing by the Permitter prior to commencement of repair or reconstruction. Permitter's approval shall be obtained from the appropriate DED Leasing Department Manager. Repair or reconstruction shall commence as soon as possible and, in any event, within one (1) year after the damage occurs and shall be pursued diligently. Insurance proceeds shall be deposited in an escrow account with an institution approved by Permitter. Permittee shall also deposit in said escrow

account all additional funds required to reconstruct the damaged improvement. Escrow instructions shall include provisions that all funds so deposited shall be used to reconstruct the damaged improvements and that funds shall be disbursed during the progress of reconstruction on proper architect's, engineer's, or contractor's certificates. All money in escrow after reconstruction has been completed shall be paid to Permittee.

F. In the event of damage to the extent of seventy-five percent (75%) or more of the total value of all improvements on the permit premises during the last five (5) years of the term of this Permit, Permittee shall have the option to reconstruct said improvements. Permittee shall provide Permitter with a written notice of the exercise of Permittee's reconstruction option within thirty (30) days of the event of damage giving rise to Permittee's reconstruction option. Should Permittee exercise its option to reconstruct, Permittee shall commence reconstruction of the damaged improvements within ninety (90) days of Permittee's exercise of its reconstruction option and shall diligently pursue the reconstruction to completion. Should Permittee not exercise its option to reconstruct, this Permit shall terminate one hundred and twenty (120) days after the event of damage giving rise to Permittee's reconstruction option. The permit premises shall be cleared of debris at Permittee's expense prior to termination of the Permit. Permittee shall not be charged rent during the period of debris removal unless Permittee occupies the permit premises beyond the Permit termination date, after which the Permittee will be charged hold over rental as provided herein. In the event Permittee does not reconstruct, all insurance proceeds shall be paid to Permitter.

EXHIBIT C

JUSTIFICATION TO WAIVE SECURITY
(insert if applicable)

Tracking No. _____

Agreement Fee: $150.00

EMERGENCY OPERATING AGREEMENT
NAVAJO NATION DIVISION OF ECONOMIC DEVELOPMENT AND [OPERATOR NAME]

This EMERGENCY OPERATING AGREEMENT ("Agreement") is made and entered into by and between the NAVAJO NATION DIVISION OF ECONOMIC DEVELOPMENT, hereinafter referred to as "DED," whose address is P.O. Box 663, Window Rock, Navajo Nation (AZ) 86515, and, _____, hereinafter referred to as "Operator," whose address is _____, under the provisions of the Navajo Nation Business Site Leasing Regulations of 2005, hereinafter referred to as the "Navajo Regulations." This Permit shall be effective on the date it is signed by the DED [Leasing Department or Program] Manager ("Effective Date").

Recitals

WHEREAS _____ **[Business Site is not currently being used and existing structures are subject to vandalism *or* Operator's Lease or Permit for the Business Site has expired, the process to obtain a new lease is delayed for reasons beyond the control of Lessee, and Lessee is diligently pursuing a new Lease]**;

WHEREAS _____ Business Site is within the jurisdiction of the Navajo Nation;

WHEREAS _____ Business Site includes approximately _____ acres, more particularly described and shown at Exhibit A;

WHEREAS the property is available as a business site lease, and it needs to be occupied for security and maintenance of the business so that the Navajo Nation continues to benefit from the business opportunities.

WHEREAS Navajo Nation desires to engage the services of the Operator to manage and operate this site, on a temporary and emergency basis, until a Business Site Lease can be issued, which may be incumbent upon the operator being able to exercise the development efforts and/or related interest of the Navajo Nation. Operator desires to provide such services on the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. EMPLOYMENT OF OPERATOR: Operator shall act as the exclusive operator to manage, operate, and maintain Business Site until a business site lease from the Navajo Nation for the premises is approved and executed.

2. TERM: The use of this Agreement will be limited to a term of _____ [*days, months, or years*] following the date this Agreement is signed by DED; however, it may be renewed for an additional term of one (1) year. Operator must give the DED notice at least ten (10) days before expiration of the Agreement, so long as the Operator is diligently working on obtaining a business site lease.

3. RENTAL: Rental shall be **[be specific, in accordance with the Navajo Nation Business Site Lease Administrative Plan *OR* based on the rental rate of the Operator's expired or terminated Lease, Permit, or EOA, which is $_____ per year, payable monthly in**

advance to the Controller of the Navajo Nation]. Rent shall not be construed to be the annual rental for a future Business Site Lease or Permit.

4. MAINTENANCE, REPAIRS, AND OPERATIONS: Operator shall not be responsible for, and shall have no liability for any past due or unpaid Lease payments accrued by a former third party operator prior to the execution of this Agreement. Operator shall be responsible for all maintenance, repair and operations on the building and premises and shall maintain in a pleasant appearance as determined by the Nation.

5. EMPLOYEES AND CONTRACTING: In connection with all employment and contracting opportunities arising out of Operator's activities under this Agreement, Operator shall give preference in employment and contracting to qualified Navajo individuals and certified contractors in compliance with the Navajo Preference in Employment Act, 15 N.N.C. §§ 601 et seq. ("NPEA"), and the Navajo Business Opportunity Act, 5 N.N.C. §§ 201 et seq. ("NBOA"). The terms and provisions of the NPEA and NBOA are specifically incorporated in, and become a part of this Agreement. Violation of such laws by the Operator shall constitute a breach of this Agreement and provide grounds for suspension or termination of the Agreement or any other remedy prescribed by the NPEA and NBOA.

6. INSURANCE. **[Upon approval of the Agreement, Operator shall obtain insurance with coverage acceptable to the Navajo Nation and maintain such insurance until the Agreement expires. Standard insurance requirements are attached as Exhibit B (Insurance) . All policies required under this Agreement shall name the Navajo Nation and United States as additional named insureds. Certificates of Insurance shall be sent to the Division of Economic Development.]** *OR* **[Operator shall agree to fully indemnify the Navajo Nation and the United States and agree to the terms and conditions of the Indemnification Form, attached hereto as Exhibit B (Indemnification].** It is further understood and agreed that the Operator shall hold the Navajo Nation harmless from any and all claims or liabilities arising out of the use, occupancy, or possession of said property and premises by the Operator, including, without limitation, injury sustained by the Operator or any other person, and damage to property on or about the premises during the term of this Agreement..

7. REVOCABLE AT WILL: This Permit conveys no possessory interest and may be revoked at will upon written notice by Permitter. If Permitter revokes or terminates the Permit before a pre-paid rental term has ended, the Permitter will refund a pro rata share of the rental for the period of time after the Permit is terminated.

8. A Permittee in good standing may terminate this Permit at will by giving written notice to Permitter of the termination date by certified mail. If Permittee terminates the Permit before a pre-paid rental term has ended, Permittee will forfeit the advance payment of rent.

9. If Permittee enters a business site lease for the Permit premises, this Permit shall automatically terminate and be superseded by the lease.

10. The Permit shall terminate automatically when the Permit expires. Upon termination by expiration or under Paragraph 5 or 6 above, the Permittee shall have no rights including holdover on any portion of the premises unless Permitter gives express written consent

11. CONDEMNATION: This Agreement shall terminate in the event of a total condemnation of Business Site. If a partial condemnation of the property reduces the compensation of Operator by more than ten per cent (10%), Operator may terminate this Agreement.

12. LICENSING OF OPERATOR: Operator shall at all times during the term of this Agreement maintain such licenses and permits as are required for any of the various services to be performed by Operator.

13. OPERATOR AS INDEPENDENT CONTRACTOR: Operator is an independent contractor and not an employee of the Navajo Nation for any purpose.

14. COVENANTS AND CONDITIONS: All of the terms and conditions of this Agreement are expressly intended to be construed as covenants as well as conditions.

15. NOTICE: All notices, requests, demands, or other communications hereunder shall be in writing, and shall be deemed to have been duly given if delivered in person, or within three (3) days after deposited in the United States mail, postage prepaid, certified, with return receipt requested, or otherwise actually delivered to:

    DED / NAVAJO NATION:

    Leasing Department Manager
    Division of Economic Development
    [insert appropriate Department or RBDO]
    [insert address]

    Real Estate Department Manager
    Division of Economic Development
    P.O. Box 664
    Window Rock, Navajo Nation (Arizona) 86515
    nnred@navajo-nsn.gov

    for legal notices, demands, and requests:
    Attorney General, Navajo Department of Justice
    Attn: Economic/Community Development Unit
    P.O. Box 2010
    Window Rock, Navajo Nation (Arizona) 86515
    NNDOJ.General@navajo-nsn.gov

    Operator:
    [Insert Title, Address, and Email Address]

    Either party may change the address at which it receives written notices by so notifying the other party hereto in writing.

16. PARTIES BOUND; ASSIGNMENT: This Agreement shall be binding on and inure to the benefit of the successors and assigns to the parties hereto, and their respective successors and

assigns; provided, however, that this Agreement may not be assigned by Operator without prior written consent of the Navajo Nation.

Anything in the foregoing to the contrary notwithstanding, Operator may, without the consent of the Navajo Nation, delegate the performance of (but not responsibility for) any duties and obligations of Operator to any independent contractor or entity.

17. CONSENT TO JURISDICTION: Except as may be prohibited by applicable federal law, the laws of the Navajo Nation shall govern the construction, performance, and enforcement of this Agreement. Any action or proceeding brought by Operator against the Navajo Nation in connection with or arising out of the terms and conditions of this Agreement shall be brought only in the Courts of the Navajo Nation, and no action or proceeding shall be brought by Operator against the Navajo Nation in any court or administrative body of any state. Operator consents to the legislative, executive and judicial jurisdiction of the Navajo Nation in connection with all activities conducted by the Operator within the Navajo Nation. Operator agrees to be governed by the Navajo Nation Business Leasing Regulations of 2005 and the Navajo Nation Business Site Lease Management Plan, as amended.

18. SOVEREIGN IMMUNITY: Nothing herein shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.

19. EFFECT OF PARTIAL INVALIDITY: Should any section or any part of any section of this Agreement be rendered void, invalid or unenforceable for any reason by the appropriate Navajo Nation Court, such a determination shall not render void, invalid or unenforceable any other section or any part of any section in this Agreement.

20. INTEGRATION: The drafting, execution and delivery of this Agreement by the parties have been induced by no representations, statements, warranties or agreements other than those expressed in this Agreement. This Agreement embodies the entire understanding of the parties, and there are no further or other agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof unless expressly referred to in this Agreement.

21. COUNTERPART AND ELECTRONIC SIGNATURES VALID. This Permit may be executed in counterparts. Electronic signatures shall be legal and binding and of full force in effect

22. MODIFICATION: This Agreement may not be modified unless such modification is in writing and signed by both parties in this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date signed by the DED.

OPERATOR:

_____ DATE: _____

[*name*], [*title*]
[*name of business*]

DIVISION OF ECONOMIC DEVELOPMENT:

_____ DATE: _____

[*name*], Department Manager

_____

[*name*], Division Director DATE: _____

EXHIBIT A

Description of Agreement Premises

[insert GPS center point coordinates OR legal description and survey if available]

EXHIBIT B

Insurance Requirements

[OR replace with Indemnification Form, if applicable]

General Requirements

1. Operator shall, at its expense, maintain insurance as set forth in this Exhibit.
2. Insurance shall be provided by insurance companies duly authorized and licensed, having a Best's Rating of A-VIII or better.
3. The insurance shall expressly identify the Navajo Nation and the United States as additional insured parties.
4. Operator shall provide Navajo Nation Division of Economic Development, Real Estate Department with a Certificate of Insurance *[*upon execution of the Agreement ***OR*** a different date if authorized and negotiated*]*.
5. DED in no way warrants that the minimum requirements are sufficient to protect Operator from liabilities that might arise from this Agreement by Operator, its agents, representatives, employees, or contractors. Operator is free to purchase additional insurance as may be determined necessary.
6. Operator is responsible for paying any deductibles or self-insurance retentions, and such deductibles and self-insurance retentions shall be disclosed on the Certificates of Insurance. Operators must include all subcontractors (if any) as additional insureds under its policies or ensure each subcontractor meets the same minimum limits and coverages as required of Operator

Particular Requirements

LIABILITY INSURANCE

Unless (i) Operator is a Navajo Nation Enterprise covered by Navajo Nation Risk Management Program, or (ii) otherwise agreed to in writing by Navajo Nation Risk Management Program, Operator will provide and maintain, from the date the Agreement is approved and continuing until the Agreement is terminated or expired, the minimum insurance coverages listed below. Coverage will be provided with forms and insurers acceptable to the DED until all obligations under this Agreement are satisfied. All insurers must be a Nationally Accredited Insurance Company with an AM Best rating of "A-VIII" or higher, or the equivalent, and authorized to do business in the State where the Agreement premises are located. All policies required under this Agreement, except for the Worker's Compensation policy and any Professional Liability policy, shall (i) name the DED and the United States as additional named insureds, and (ii) provide that the Operator's policy shall be primary, with DED's policies being non-contributory, in the event of a loss. These coverages are as follows:

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B. Commercial General Liability Insurance to cover:

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- $1,000,000 each occurrence Personal and Advertising Injury,
- $1,000,000 each occurrence Products/Completed Operations,
- $2,000,000 Products/Completed Operations Aggregate, and
- $2,000,000 General Aggregate.

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(4) Whether the Agreement premises is developed or undeveloped, the Operator must obtain the appropriate insurance, which shall, include the DED and the United States as additional insureds. In the case of any contracted work on the Agreement premises, the Operator shall require the contractor and all subcontractors to provide the same coverage as above. _____

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- $2,000,000 each occurrence, and
- $2,000,000 general aggregate.

Operator's policy shall be written on an "occurrence" basis with no sunset clause or if written on a "claims-made" basis, it shall be maintained for a period of not less than 2 years with the retroactive date to be held constant with the effective date of this Agreement. The Certificate of Insurance must provide clear evidence that Operator's insurance policies contain the minimum limits of coverage and the special provisions prescribed in this clause. Operator's policy shall provide a waiver of subrogation in favor of the Navajo Nation.

Operator's policy shall include the following coverages:

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b. Property damage including physical injury to or destruction of tangible property, including the resulting loss of use thereof, cleanup costs, and the loss of use of tangible property that has not been physically injured or destroyed including diminution in value.
c. Environmental damage, including physical damage to soil, surface water, or groundwater, or plant or animal life, caused by pollution conditions and giving rise to clean-up costs.
d. Defense including costs, charges and expenses incurred in the investigation, adjustment, or defense of claims for such compensation damages.
e. Asbestos or lead – no exclusion.
f. Mold coverage.
g. Transportation cargo.
h. Non-Owned Disposal Site coverage.

Should Operator's operations involve treatment, storage, or disposal of hazardous wastes, Operator shall furnish an insurance certificate from the designated disposal facility establishing that the facility operator maintains current Pollution Legal Liability Insurance in the amount of $1,000,000 per occurrence / $2,000,000 general aggregate and will cover sudden and gradual pollution losses arising from the facility, associated with the operations of the Operator

F. Unless a later date is provided in writing by the Navajo Nation Risk Management Program, an acceptable certificate of insurance shall be issued to the Navajo Nation by the Operator on the date the Agreement is approved as evidence that the required coverages are in full force and effect. The certificate shall identify this Agreement and indicate the policies will not be canceled unless at least thirty (30) days prior written notice is given to the DED. Certificates of insurance shall be addressed as follows: Navajo Nation Division of Economic Development, Real Estate Department, P.O. Box 663, Window Rock, Arizona 86515.

G. Failure on the part of the Operator to procure or maintain required insurance shall constitute a material breach of contract upon which the DED may immediately terminate this Agreement.

H. The Navajo Nation reserves the right to request and receive certified copies of any or all of the above policies and/or endorsements.

I. Operator and its insurers providing the required coverages shall waive all rights of recovery against the Navajo Nation and its agents, officials and employees, and the United States.

J. The insurance limits required under this Agreement shall not limit the liability of the Operator, nor relieve the Operator of any obligation under this Agreement.

K. The Operator shall not do or commit to be done anything in or upon any portions of the Agreement premises or bring or keep anything there which would in any way conflict with the conditions of any insurance policy upon the Agreement premises or in any way increase the rate of insurance upon the Agreement premises or on property kept there.

L. The Navajo Nation will not be responsible for any omissions or inadequacies of insurance coverage and amounts in the event the insurance purchased by Operator proves to be inadequate or otherwise insufficient for any reason whatsoever.

PROPERTY INSURANCE.

A. Unless (i) Operator is a Navajo Nation Enterprise covered by Navajo Nation Risk Management Program, or (ii) otherwise agreed to in writing by Navajo Nation Risk Management Program, Operator shall carry "all risks" of loss OR risks of direct physical loss or damage OR causes of loss – special form, including the perils of Equipment Breakdown/Boiler & Machinery, Flood and Earth movement, covering not less than full replacement cost value of all improvements on the Agreement premises. Said policy shall be obtained from a Nationally Accredited Insurance Company, with an AM Best rating of "A-VIII" or higher or equivalent, licensed to do business in the State in which the Agreement premises are located and shall be written jointly to protect Operator, the Navajo Nation, and the United States, and shall provide for notification to the DED prior to any cancellation or non-renewal of the policy for any reason, including nonpayment of premiums.

A copy of the policy shall be sent to DED at the following address: Navajo Nation Division of Economic Development, Real Estate Department, P.O. Box 664, Window Rock, AZ, 86515.

B. Operator shall maintain business income insurance with limits not less than an amount equal to one year's annual rent.

C. If there is a coinsurance provision, it shall be waived by an Agreed Amount endorsement. Operator's policy shall name the Navajo Nation as Loss Payee as their interest may appear. Operator's policy shall provide a waiver of subrogation in favor of the Navajo Nation. The covered property shall be identified on the certificate of insurance.

D. Operator, at its cost, shall maintain insurance coverage for full replacement cost on all of Operator's personal property, Operator's alterations, Operator's utility installations, and Operator's trade fixtures in or about the Agreement premises. The proceeds from any such insurance shall be used by Operator for the replacement of Operator's personal property, alterations, utility installations, or trade fixtures only if the Navajo Nation repairs or rebuilds the Agreement premises.

E. In the event of damage to any improvement on the Agreement premises, Operator shall rebuild, repair or otherwise reinstate the damaged improvement or building in a good and substantial manner according to the plan and elevation of the improvement or building so destroyed or damaged or in accordance with any modified plan approved in writing by the DED prior to commencement of repair or reconstruction. DED's approval shall be obtained from the appropriate DED Leasing Department Manager.

Repair or reconstruction shall commence as soon as possible and, in any event, within one (1) year after the damage occurs and shall be pursued diligently. Insurance proceeds shall be deposited in an escrow account with an institution approved by DED. Operator shall also deposit in said escrow account all additional funds required to reconstruct the damaged improvement. Escrow instructions shall include provisions that all funds so deposited shall be used to reconstruct the damaged improvements and that funds shall be disbursed during the progress of reconstruction on proper architect's, engineer's, or contractor's certificates. All money in escrow after reconstruction has been completed shall be paid to Operator.

F. In the event of damage to the extent of seventy-five percent (75%) or more of the total value of all improvements on the Agreement premises during the last five (5) years of the term of this Agreement, Operator shall have the option to reconstruct said improvements. Operator shall provide DED with a written notice of the exercise of Operator's reconstruction option within thirty (30) days of the event of damage giving rise to Operator's reconstruction option. Should Operator exercise its option to reconstruct, Operator shall commence reconstruction of the damaged improvements within ninety (90) days of Operator's exercise of its reconstruction option and shall diligently pursue the reconstruction to completion. Should Operator not exercise its option to reconstruct, this Agreement shall terminate one hundred and twenty (120) days after the event of damage giving rise to Operator's reconstruction option. The Agreement premises shall be cleared of debris at Operator's expense prior to termination of the Agreement. Operator shall not be charged rent during the period of debris removal unless Operator occupies the Agreement premises beyond the Agreement termination date, after which the Operator will be charged hold over rental as provided herein. In the event Operator does not reconstruct, all insurance proceeds shall be paid to the Navajo Nation.

Tracking No. _____
Permit Fee: $150.00

SUB-PERMIT
UNDER BUSINESS SITE LEASE No. _____

This Sub-Permit is entered into by and between _____ hereinafter called Sub-Permitter, whose address is _____, and _____, hereinafter called Sub-Permittee, whose address is _____, under the provisions of the Navajo Nation Business Site Leasing Regulations of 2005, and the Navajo Nation Business Site Leasing Management Plan, as amended by **[insert RDC Resolution No.]**. This Sub-Permit shall be effective on the date it is approved by the Navajo Nation Division of Economic Development ("DED") **[Leasing Department or Program Manager]** ("Effective Date").

RECITALS

A. Sub-Permitter and the Navajo Nation entered into Lease No. _____, effective on **[*insert effective date*]** [as modified by **(list all modifications and assignments, if applicable)]** (the "Base Lease").

B. Pursuant to Section B of the Base Lease, Sub-Permitter is authorized to enter into sub-permits for a sub-permittee to use part of the Base Lease premises concurrent with the active Base Lease for a short term business, including **[sale of goods or services), events, fundraising, government operations, or political events]**.

C. Sub-Permitter, by executing this Sublease, acknowledges and agrees that the Sub-Permitter must continue operating a separate business on the Base Lease premises, and the Sub-Permit will in no way relieve Sub-Permitter from carrying out its duties under the Base Lease.

D. Sublessor and Sublessee further acknowledge that within seven (7) days of executing this Sublease, a copy of the Sublease must be provided to the DED Leasing Department with a copy to the DED Real Estate Department.

E. **[Add recitals as needed for background or context.]**

AGREEMENT

1. The Sub-Permitter hereby permits the Sub-Permittee to use a tract of tribal trust land being more particularly shown on Exhibit A, attached hereto and made a part of hereof, for the purpose of short term business, including **[sale of goods or services), events, fundraising, government operations, or political events]**, specifically _____.

2. TERM. The term of this Sub-Permit shall be for a period of _____ **[days, weeks, months, or years]**, beginning on the Effective Date. **[The Sub-Permittee has one option to renew for _____ [days, weeks, months, or year]. To exercise the option, the Sub-Permitter must be in good standing under the Base Lease, and the Sub-Permitter and Sub-Permittee must be in good standing under this Sub-Permit, and notify the DED Leasing Department and Real Estate Department at least ten (10) days before the Sub-Permit expires]**.

3. RENTAL. The Sub-Permittee shall pay to the Sub-Permitter $_____ **[add detail as needed]** for the use of the premises described above for the term of the permit, unless otherwise agreed in writing.

   [Insert if applicable.] The Sublessee shall pay $_____ **[daily, weekly, monthly, or yearly]** rent to the Navajo Nation. The rent shall be due on the first day of each month. If rental is unpaid ten (10) days after the due date, the Sublessee shall be subject to a late charge of 10% of the monthly amount due. Should the Sublessee not pay rent within thirty (30) days after the due date, the Sublessee shall be subject to a continuing late charge of 10% of the monthly amount due until the Sublessee has paid the full amount due. If the Sublessee has not paid the full amount due after (90) days, the Sublease shall be subject to cancellation by the Navajo Nation. Rental shall be paid to the Controller without prior notice or demand.

4. **[Optional: UTILITY SERVICE LINE AGREEMENT. Sub-Permittee specifically is authorized to enter into appropriate service agreement with utility companies for the provision of utility services to the permitted area, including gas, water, sewer, electricity, telephone, television and other utilities, with the consent of Sub-Permitter. Fees and monthly utility charges by these utility companies is solely the responsibility of the Sub-Permittee.]**

5. **[Optional: DELIVERY OF PREMISES. The premises shall be given and accepted by the Sub-Permittee "as is" and Sub-Permitter shall not be responsible for any latent defects. Upon signing the agreement, the Sub-Permittee agrees that it has had sufficient opportunity to examine and inspect the condition of the premises. Upon termination of this permit, the Sub-Permittee will clean up all refuse in the permitted areas, reseed denuded areas, and leave it in a neat and presentable condition satisfactory to the Sub-Permitter.]**

6. UNLAWFUL CONDUCT/ACTIVITIES. The Sub-Permittee further agrees not to use or allow any part of said property and/or premises to be used for any unlawful conduct/activities. Violation of this clause by the Sub-Permittee shall void the Sub-Permit.

7. LIABILITY FOR USE. **[Upon approval of the Sub-Permit, Sub-Permitter or Sub-Permittee shall obtain insurance with coverage acceptable to the Navajo Nation and maintain such insurance until the Sub-Permit expires. Standard insurance requirements are attached as Exhibit B (Insurance). All policies required under this Sub-Permit shall name the Sub-Permittee, Sub-Permitter, Navajo Nation and United States as named insureds. Certificates of Insurance referencing this Sub-Permit shall be sent to the DED Real Estate Department.]** *OR* **[Permittee shall agree to fully indemnify the Navajo Nation and the United States and agree to the terms and conditions of the Indemnification Form, attached hereto as Exhibit B (Indemnification).]** It is further understood and agreed that the Sub-Permittee shall hold the Navajo Nation harmless from any and all loss, claims, and liability of any kind arising out of the use, occupancy, or possession of said property and premises by the Sub-Permittee, including, without limitation, injury sustained by the Sub-Permittee or any other person, and damage to property on or about the premises of the Base Lease during the term of this Sub-Permit.

8. IMPROVEMENTS. All improvements placed on the Sub-permit premises shall be constructed in a good and workmanlike manner and in compliance with applicable laws and building codes. All parts of building visible to the public or from adjacent properties shall present a pleasant appearance as determined by Sub-Permitter and Base Lease Lessor, and all service areas shall be screened from public view of the satisfaction of Sub-Permitter and Base Lease Lessor. Sub-Permittee shall, at all times during the term of this Sub-Permit and at Sub-Permittee's sole cost and expense, maintain the Sub-permit premises and all improvements thereon and any alterations,

additions, or appurtenances thereto, in good order and repair and in a safe, sanitary, neat and attractive condition, and shall otherwise comply with all laws, ordinances and regulations applicable to said premises.

9. OBLIGATIONS OF PERMITTEE. While the Sub-Permitted premises are in trust or restricted status, all of the Sub-Permittee's obligations under this Permit and the obligations of his surety or sureties, are to the Navajo Nation and the United States, as well as to the Sub-Permitter.

10. REVOCABLE AT WILL. This Sub-Permit conveys no possessory interest and Lessor's approval may be revoked at will upon written notice by the DED Leasing Department. If Permitter revokes or terminates the Permit before a pre-paid rental term has ended, the Permitter will refund a pro rata share of the rental for the period of time after the Permit is terminated.

11. TERMINATION. This Sub-Permit may be terminated by the Sub-Permittee or Sub-Permitter by giving a **[___ (#) days']** notice in writing to the other party by certified mail. The Sub-Permit shall terminate automatically when the Sub-Permit expires or is terminated, and the Sub-Permittee shall have no rights including holdover on any portion of the Sub-Permit premises unless Sub-Permitter gives express written consent, approved by Base Lease Lessor.

12. INTEREST OF MEMBER OF CONGRESS. No member of Congress shall be admitted to any share or part of this Sub-Permit or to any benefit that may arise there from. This provision shall not be constructed to extend to this Sub-Permit if made with a corporation or company for its general benefit.

13. ENVIRONMENT. Sub-Permittee shall take all necessary measures to assure compliance with applicable Federal and Tribal laws including the Navajo Nation Environmental Review, in accordance with the Navajo Nation Business Site Leasing Regulations of 2005, the Uniform Business Leasing Regulations of 2008, and the DED Business Site Leasing Management Plan now in force and effect, and any amendments thereto which by this reference are made a part hereof. This shall include, but shall not be limited to, aesthetics, erosion controls and protection of timber or other vegetation.

14. **[Optional: SECURITY. Sub-Permittee shall provide a security deposit to the Sub-Permitter as follows: _____.]**

15. TRANSFER, SUBLEASING. The Sub-Permit premises shall not be further sub-permitted, assigned, or transferred by the Sub-Permittee, and such action shall be a material violation of the Sub-Permit.

16. EMPLOYMENT OF QUALILFIED NAVAJOS. In connection with all employment and contracting opportunities arising out of Sub-Permittee's activities under this Sub-Permit, Sub-Permittee shall give preference in employment and contracting to qualified Navajo individuals and certified contractors in compliance with the Navajo Preference in Employment Act, 15 N.N.C. §§ ("NPEA"), and the Navajo Business Opportunity Act, 5 N.N.C. §§ 201 et seq. ("NBOA"). The terms and provisions of the NPEA and NBOA are specifically incorporated in, and become a part of this Sub-Permit. Violation of such laws by the Sub-Permittee shall constitute a breach of this Sub-Permit and provide grounds for suspension or termination of the Sub-Permit or any other remedy prescribed by the NPEA and NBOA.

17. AGREEMENT TO ABIDE BY NAVAJO AND FEDERAL LAWS. The Sub-Permittee and its employees and agents agree to abide by all laws, regulations, and ordinances of the Navajo Nation,

and all applicable laws, regulations and ordinances of the United Sates now in force and effect or which may hereafter be in force and effect.

18. PERMIT REQUIREMENTS NOT EXCLUSIVE. Nothing in this Sub-Permit shall be construed to relieve Sub-Permittee of any obligations pursuant to any Federal or Navajo Nation law for the protection of the environment or the public health, safety, or general welfare which is currently enacted or which may be enacted at a later date.

19. GOVERNING LAW AND CHOICE OF FORUM; CONSENT TO JURISDICTION. Except as may be prohibited by applicable federal law, the laws of the Navajo Nation shall govern the construction, performance and enforcement of the Sub-Permit. Any action or proceeding brought by Sub-Permittee or Sub-Permitter or the Navajo Nation in connection with or arising out of the terms and conditions of this Sub-Permit shall be brought only in the Courts of the Navajo Nation, and no action or proceeding shall be brought by any party against the Navajo Nation in any court or administrative body of any state. Sub-Permittee and Sub-Permitter consent to the legislative, executive, and judicial jurisdiction of the Navajo Nation in connection with all activities conducted within the Navajo Nation. Sub-Permittee and Sub-Permitter agree to be governed by the Navajo Nation Business Leasing Regulations of 2005 and the Navajo Nation Business Site Leasing Management Plan, as amended.

20. NO WAIVER OF SOVEREIGN IMMUNITY. Nothing in this Sub-Permit shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.

21. VALIDITY. Any modification thereof or amendment to this Sub-Permit shall not be valid or binding upon either party hereto, until approved by the Lessor. A sub-sub-permit, assignment, modification or amendment may not be entered into without the written approval of the DED **[Leasing Department** *or* **Program Manager]**.

22. SUCCESSORS, ASSIGNS, ETC. The terms and conditions contained herein shall extend to and be binding upon the successors, heirs, assigns, executors, administrators, employees and agents.

23. NOTICES. All notices, requests, demands, or other communications hereunder shall be in writing, and shall be deemed to have been duly given if delivered in person, or within three (3) days after deposited in the United States mail, postage prepaid, certified, with return receipt requested, or otherwise actually delivered to:

    Sub-Permitter:
    [Insert Name, Title, Address, and Email Address]

    Sub-Permittee
    [Insert Name, Title, Address, and Email Address]

    Navajo Nation, Division of Economic Development
    Leasing Department Manager
    [insert appropriate Department or RBDO]
    [insert appropriate address]

    Navajo Nation, Division of Economic Development
    Real Estate Department Manager
    P.O. Box 664

Window Rock, Navajo Nation (Arizona) 86515
nnred@navajo-nsn.gov

for legal notices, demands, and requests to the Navajo Nation:
Attorney General, Navajo Department of Justice
Attn: Economic/Community Development Unit
P.O. Box 2010
Window Rock, Navajo Nation (Arizona) 86515
NNDOJ.General@navajo-nsn.gov

A party may change the address at which it receives written notices by so notifying the other parties hereto in writing.

[signatures on following page]

IN WITNESS WHEREOF, the parties hereto have executed this Sub-Permit to be effective on the date approved by the DED **[Leasing Department or Program]** Manager.

[NAME], Sub-Permittee

_____

Signature of Sub-Permittee Date

[NAME], Sub-Permitter

_____

Signature of Sub-Permitter Date

APPROVAL BY LESSOR, NAVAJO NATION
DIVISION OF ECONOMIC DEVELOPMENT
pursuant to Business Site Lease Administration Plan Section 16.1(E)

By: _____
[*Name*], [*Leasing Department or RBDO*] Manager

DATE: _____

EXHIBIT A

[insert GPS center point coordinates OR legal description and survey, if available]

EXHIBIT B

Insurance Requirements

[OR replace with Indemnification Form, if applicable]

General Requirements

For purpose of this Exhibit B, the terms Permittee and Permitter shall refer to Sub-Permittee and Sub-Permitter respectively.

1. Permittee shall, at its expense, maintain insurance as set forth in this Exhibit.
2. Insurance shall be provided by insurance companies duly authorized and licensed, having a Best's Rating of A-VIII or better.
3. The insurance shall expressly identify the Navajo Nation and the United States as additional insured parties.
4. Permittee shall provide Navajo Nation Division of Economic Development, Real Estate Department with a Certificate of Insurance *[*upon execution of the Permit ***OR*** a different date if authorized and negotiated*]*.
5. Permitter in no way warrants that the minimum requirements are sufficient to protect Permittee from liabilities that might arise from this Permit by Permittee, its agents, representatives, employees, or contractors. Permittee is free to purchase additional insurance as may be determined necessary.
6. Permittee is responsible for paying any deductibles or self-insurance retentions, and such deductibles and self-insurance retentions shall be disclosed on the Certificates of Insurance. Permittees must include all subcontractors (if any) as additional insureds under its policies or ensure each subcontractor meets the same minimum limits and coverages as required of Permittee

Particular Requirements

LIABILITY INSURANCE

Unless (i) Permittee is a Navajo Nation Enterprise covered by Navajo Nation Risk Management Program, or (ii) otherwise agreed to in writing by Navajo Nation Risk Management Program, Permittee will provide and maintain, from the date the Permit is approved and continuing until the Permit is terminated or expired, the minimum insurance coverages listed below. Coverage will be provided with forms and insurers acceptable to the Permitter until all obligations under this Permit are satisfied. All insurers must be a Nationally Accredited Insurance Company with an AM Best rating of "A-VIII" or higher, or the equivalent, and authorized to do business in the State where the permit premises are located. All policies required under this Permit, except for the Worker's Compensation policy and any Professional Liability policy, shall (i) name the Permitter and the United States as additional named insureds, and (ii) provide that the Permittee's policy shall be primary, with Permitter's policies being non-contributory, in the event of a loss. These coverages are as follows:

A. Workers' compensation insurance to cover obligations imposed by federal and state statutes of the entity having jurisdiction over the Permittee's employees working on the permit premises, and Employers' Liability insurance with minimum limits of $1,000,000 per accident, Bodily Injury by Accident; $1,000,000 each employee, Bodily Injury by Disease; and $1,000,000 policy limit, Bodily Injury by Disease. In case of any contracted work on the permit premises, the Permittee will require the Contractor, and all subcontractors, to provide the same as above. Permittee's policy shall include a waiver of subrogation in favor of Permitter.

B. Commercial General Liability Insurance to cover:

(1) bodily injury, death, personal injury, and damage to property based upon or arising out of the ownership, use, occupancy or maintenance of the premises and all areas appurtenant thereto. Permittee's policy shall include a waiver of subrogation in favor of Permitter. The policy shall also contain a separation of insureds provision.

(2) Permittee shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a following form basis and it contains the required additional insured and waiver of subrogation wording.

- $1,000,000 each occurrence Bodily Injury and Property Damage,
- $1,000,000 each occurrence Personal and Advertising Injury,
- $1,000,000 each occurrence Products/Completed Operations,
- $2,000,000 Products/Completed Operations Aggregate, and
- $2,000,000 General Aggregate.

(3) If the Permittee will be manufacturing, distributing, selling, serving or furnishing alcoholic beverages, for the duration of this Permit, Permittee shall maintain the following minimum liquor liability insurance coverages and limits:

- $1,000,000 each occurrence, and
- $1,000,000 annual aggregate.

(4) Whether the permit premises is developed or undeveloped, the Permittee must obtain the appropriate insurance, which shall, include the Permitter and the United States as additional insureds. In the case of any contracted work on the permit premises, the Permittee shall require the contractor and all subcontractors to provide the same coverage as above. _____

C. Commercial Automobile liability insurance to cover bodily injury and property damage for each occurrence with respect to Permittee's owned, hired, and non-owned vehicles assigned to or used in Permittee's business, with a minimum limit of $1,000,000 combined single limit per accident. Permittee's coverage shall include coverage for bodily injury or property damage arising out of the actual, alleged, or threatened discharge, dispersal, seepage, migration, release, or escape of pollutants arising out of the collision, upset, or overturn of an auto as a result of the maintenance or use of a covered auto. Permittee's policy shall provide a waiver of subrogation in favor of Permitter.

In the case of any contracted work on the permit premises, the Permittee shall require the contractor and all subcontractors to provide the same coverage as above.

An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements, provided that the coverage is written on a following form basis and it contains the required waiver of subrogation wording.

D. If the Permittee is engaged in a profession, the Permittee shall carry Professional Liability insurance with a minimum limit of $1,000,000 per claim and in the aggregate. The retro date on the policy shall be no later than the start date of the Permit. The retro date shall be disclosed on the certificate of insurance. The policy must be kept in force during the life of the contract and for 2 years (either as a policy force or extended reporting period) after contract termination.

E. Pollution Liability (including Errors and Omissions) coverage and limits for losses caused by pollution conditions that arise from the operations and completed operations of Permittee:

- $2,000,000 each occurrence, and
- $2,000,000 general aggregate.

Permittee's policy shall be written on an "occurrence" basis with no sunset clause or if written on a "claims-made" basis, it shall be maintained for a period of not less than 2 years with the retroactive date to be held constant with the effective date of this Permit. The Certificate of Insurance must provide clear evidence that Permittee's insurance policies contain the minimum limits of coverage and the special provisions prescribed in this clause. Permittee's policy shall provide a waiver of subrogation in favor of Permitter.

Permittee's policy shall include the following coverages:

a. Bodily injury, sickness, disease, mental anguish, or shock sustained by any person, including death and medical monitoring costs.
b. Property damage including physical injury to or destruction of tangible property, including the resulting loss of use thereof, cleanup costs, and the loss of use of tangible property that has not been physically injured or destroyed including diminution in value.
c. Environmental damage, including physical damage to soil, surface water, or groundwater, or plant or animal life, caused by pollution conditions and giving rise to clean-up costs.
d. Defense including costs, charges and expenses incurred in the investigation, adjustment, or defense of claims for such compensation damages.
e. Asbestos or lead – no exclusion.
f. Mold coverage.
g. Transportation cargo.
h. Non-Owned Disposal Site coverage.

Should Permittee's operations involve treatment, storage, or disposal of hazardous wastes, Permittee shall furnish an insurance certificate from the designated disposal facility establishing that the facility operator maintains current Pollution Legal Liability Insurance in the amount of $1,000,000 per occurrence / $2,000,000 general aggregate and will cover sudden and gradual pollution losses arising from the facility, associated with the operations of the Permittee

F. Unless a later date is provided in writing by the Navajo Nation Risk Management Program, an acceptable certificate of insurance shall be issued to the Navajo Nation by the Permittee on the date the Permit is approved as evidence that the required coverages are in full force and effect. The certificate shall identify this Permit and indicate the policies will not be canceled unless at least thirty (30) days prior written notice is given to the Permitter. Certificates of insurance shall be addressed as follows: Navajo Nation Division of Economic Development, Real Estate Department, P.O. Box 663, Window Rock, Navajo Nation (Arizona) 86515.

G. Failure on the part of the Permittee to procure or maintain required insurance shall constitute a material breach of contract upon which the Permitter may immediately terminate this Permit.

H. Permitter reserves the right to request and receive certified copies of any or all of the above policies and/or endorsements.

I. Permittee and its insurers providing the required coverages shall waive all rights of recovery against the Navajo Nation and its agents, officials and employees, and the United States.

J. The insurance limits required under this Permit shall not limit the liability of the Permittee, nor relieve the Permittee of any obligation under this Permit.

K. The Permittee shall not do or commit to be done anything in or upon any portions of the permit premises or bring or keep anything there which would in any way conflict with the conditions of any insurance policy upon the permit premises or in any way increase the rate of insurance upon the permit premises or on property kept there.

L. Permitter will not be responsible for any omissions or inadequacies of insurance coverage and amounts in the event the insurance purchased by Permittee proves to be inadequate or otherwise insufficient for any reason whatsoever.

PROPERTY INSURANCE.

A. Unless (i) Permittee is a Navajo Nation Enterprise covered by Navajo Nation Risk Management Program, or (ii) otherwise agreed to in writing by Navajo Nation Risk Management Program, Permittee shall carry "all risks" of loss OR risks of direct physical loss or damage OR causes of loss – special form, including the perils of Equipment Breakdown/Boiler & Machinery, Flood and Earth movement, covering not less than full replacement cost value of all improvements on the permit premises. Said policy shall be obtained from a Nationally Accredited Insurance Company, with an AM Best rating of "A-VIII" or higher or equivalent, licensed to do business in the State in which the permit premises are located and shall be written jointly to protect Permittee, Permitter, and the United States, and shall provide for notification to the Permitter prior to any cancellation or non-renewal of the policy for any reason, including nonpayment of premiums.

A copy of the policy shall be sent to Permitter at the following address: Navajo Nation Division of Economic Development, Real Estate Department, P.O. Box 664, Window Rock, Navajo Nation (AZ), 86515.

B. Permittee shall maintain business income insurance with limits not less than an amount equal to one year's annual rent.

C. If there is a coinsurance provision, it shall be waived by an Agreed Amount endorsement. Permittee's policy shall name Permitter as Loss Payee as their interest may appear. Permittee's policy shall provide a waiver of subrogation in favor of Permitter. The covered property shall be identified on the certificate of insurance.

D. Permittee, at its cost, shall maintain insurance coverage for full replacement cost on all of Permittee's personal property, Permittee's alterations, Permittee's utility installations, and Permittee's trade fixtures in or about the permit premises. The proceeds from any such insurance shall be used by Permittee for the replacement of Permittee's personal property, alterations, utility installations, or trade fixtures only if Permitter repairs or rebuilds the permit premises.

E. In the event of damage to any improvement on the permit premises, Permittee shall rebuild, repair or otherwise reinstate the damaged improvement or building in a good and substantial manner according to the plan and elevation of the improvement or building so destroyed or damaged or in accordance with any modified plan approved in writing by the Permitter prior to commencement of repair or reconstruction. Permitter's approval shall be obtained from the appropriate DED Leasing Department Manager. Repair or reconstruction shall commence as soon as possible and, in any event, within one (1) year after the damage occurs and shall be pursued diligently. Insurance proceeds shall be deposited in an escrow account with an institution approved by Permitter. Permittee shall also deposit in said escrow account all additional funds required to reconstruct the damaged improvement. Escrow instructions shall include provisions that all funds so deposited shall be used to reconstruct the damaged improvements and that funds shall be disbursed during the progress of reconstruction on proper architect's, engineer's, or contractor's certificates. All money in escrow after reconstruction has been completed shall be paid to Permittee.

F. In the event of damage to the extent of seventy-five percent (75%) or more of the total value of all improvements on the permit premises during the last five (5) years of the term of this Permit, Permittee shall have the option to reconstruct said improvements. Permittee shall provide Permitter with a written notice of the exercise of Permittee's reconstruction option within thirty (30) days of the event of damage giving rise to Permittee's reconstruction option. Should Permittee exercise its option to reconstruct, Permittee shall commence reconstruction of the damaged improvements within ninety (90) days of Permittee's exercise of its reconstruction option and shall diligently pursue the reconstruction to completion. Should Permittee not exercise its option to reconstruct, this Permit shall terminate one hundred and twenty (120) days after the event of damage giving rise to Permittee's reconstruction option. The permit premises shall be cleared of debris at Permittee's expense prior to termination of the Permit. Permittee shall not be charged rent during the period of debris removal unless Permittee occupies the permit premises beyond the Permit termination date, after which the Permittee will be charged hold over rental as provided herein. In the event Permittee does not reconstruct, all insurance proceeds shall be paid to Permitter.

**[*EMERGENCY OPERATING AGREEMENT*
CONDITIONAL USE PERMIT
OR *REVOCABLE USE PERMIT*]**
INSURANCE PROVISION

I, _____, [*Operator* **or** *Permittee*], for **[Emergency Operating Agreement or Permit]** No. _____ have been advised by [*name*], [*title*], Division of Economic Development **[Leasing Department or RBDO]** that pursuant to the Navajo Nation Business Site Lease Administrative Management Plan, Section [*13.3(A)(2) (FOR REVOCABLE USE PERMITS) 14.3(B) (FOR CONDITIONAL USE PERMITS)* **or** *15.3(B) (FOR EMERGENCY OPERATING AGREEMENTS)*], I will be subject to the following if I do not provide appropriate insurance coverage: I will be self-insured and (1) Subject to liability and lawsuit by an injured party for compensatory, consequential, incidental, and/or other damages; (2) Subject to loss of personal property: money, car, house, etc.; and (3) I must indemnify the Navajo Nation and the United States from any and all claims pursuant to the attached Indemnification Form.

DIVISION OF ECONOMIC DEVELOPMENT:

_____ DATE: _____
[name], [Leasing Department or RBDO]

[OPERATOR or PERMITTEE]:

_____ _____
[name], [Operator or Permittee] DATE:
[name of business]

REVIEWED AND APPROVED BY

NAVAJO NATION RISK MANAGEMENT PROGRAM

_____ DATE: _____
[name], [title]

INDEMNIFICATION, DEFEND, AND HOLD HARMLESS FORM

Pursuant to the Navajo Nation Business Site Lease Administrative Management Plan, **[Section 13.3(A)(2), 14.3(B), or 15.3(B)]** I, _____, **[Permittee OR Operator]**, shall indemnify, protect, defend and hold harmless the Navajo Nation and the United States from and against any and all claims, loss of rents, damages, costs, liens, judgments, penalties, permits, attorney's or consultant's fees, expenses and/or liabilities arising out of, involving, or dealing with, the occupancy of the premises by **[Permittee OR Operator]**, the conduct of the **[Permittee's OR Operator's]** business, any act, omission, neglect or misconduct of **[Permittee OR Operator]**, its agents, contractors, employees or invitees, and out of any Default or Breach by **[Permittee OR Operator]** in the performance in a timely manner of any obligation on the **[Permittee's OR Operator's]** part to be performed under this **[Revocable Use Permit, Conditional Use Permit, OR Emergency Operating Agreement]**. The foregoing shall include, but not be limited to, the defense or pursuit of any claim or any action or proceeding involved therein, and whether or not litigated and/or reduced to judgment, and whether well-founded or not. In case any action or proceeding be brought against the Navajo Nation by reason of any of the foregoing matters, or **[Permittee OR Operator]**, upon notice from Navajo Nation, shall defend the same at **[Permittee's OR Operator's]** expense by counsel reasonably satisfactory to the Navajo Nation, and the Navajo Nation shall cooperate with **[Permittee OR Operator]** in such defense. **[Permittee OR Operator]** shall have the right to control such defense and to settle or compromise the claim in cooperation with Navajo Nation as long as such defense, settlement or compromise does not unduly prejudice the Navajo Nation.

[PERMITTEE OR OPERATOR]:

_____ _____

Name, **[Permittee or Operator]** Date

Sample Business Plan Outline

Cover Sheet: name and business, names, owners, phone, date.
Table of Contents:

I. **Statement of Purpose** – brief statement of the objectives of the business plan, including the amount, type, terms and proposed uses of any financing requested.

II. **Executive Summary:** overview summarizing key points and major findings in the business plan sections that follow.

III. **Description of Business:**
   a. Business Concept – type of business (agricultural, construction, manufacturing, retail or service), current status (startup, expansion, or buyout), form of ownership (sole proprietorship, partnership, corporation, joint venture, or cooperative).
   b. Product/Service Description – major products or services, including proposed new products / services.
   c. Key Production Factors – raw materials, utilities, transportation and labor availability; Environmental and safety considerations; technical and equipment requirements.
   d. Location and Physical Facilities – regional, local and site-specific location factors; Description of existing or proposed facilities. Layout plans of the building and facilities.
   e. Include a Map of the Location – access road.
   f. Status of Current Operation (for business expansions and buyouts) – existing products, historic and current financial indicators (sales and profits), employment statistics.
   g. Tribal and Other Local Benefits – expected revenues, employment and other beneficial Impacts on the economy.
   h. Relationship to Tribal Economic Development Strategy – applies primarily to tribally sponsored and reservation-based projects.

IV. **Market analysis**
   a. Market Description – key market determinants (price, quality, service, method of delivery); local, regional, or national market area; private and/or public market sectors.
   b. General Market Trend – overall economic conditions in the defined market area; industry and business-specific market trends.
   c. Competition – relative strengths and weaknesses of major competitors; basis for competing successfully (e.g., better price, quality of service).
   d. Market Projections – realistically projected market share and sales volume (based upon the on–going market considerations).

V. **Organization and management:**
   a. Legal form of organization (refer to the attached business structures for the following)
      - Sole Proprietor
      - Partnership
      - Limited Partnership
      - Limited Liability Company
      - S Corporation
      - C Corporation

b. Management plan – key management position descriptions and reporting relationships; names of key management personnel and brief descriptions of qualifications; organizational chart depicting reporting relationships; number of personnel needed.
c. Training plan – applies primarily to start-ups and expansions.

VI. Financial analysis

a. Capital Requirement – funds needed for business startup (renovation, equipment purchase, inventory purchases, etc.), expansion or buyout; working capital required for ongoing operations.
b. Structure of Financing – equity and debt financing secured or requested to meet capital requirements.
c. Financial Forecast – forecasted for the next three years
   - Income Statement
   - Cash Flow Forecast
   - Balance Sheet
d. Explanatory Notes to Financial Forecast – statements regarding the research data and key assumptions on which the financial forecasts are based.
e. Key Financial Ratios and Measures of Performance – debt/equity and debt coverage ratios; rate of return on equity and assets; accounts receivable and inventory turnover rates.
f. Break-Even Analysis
g. Historic Financial Statements – for existing businesses.
h. Balance Sheets and Statements of Operations (Income and Expenses) – for the next year.

VII. Supporting documents:

Detailed product descriptions, technical specifications, photographs and promotional materials; tentative business buy/sell agreement; cost quotations from building contractors, equipment dealers, insurance agents and other suppliers; inventories of existing business equipment and property, appraisals of business equipment and property; letters of intent to hire, contracts in hand or in progress; franchise or marketing agreements; management agreements resumes of key personnel; organizational documents (partnership, joint venture of cooperative agreement, or articles of incorporation and by-laws); contract and lease agreements; loans payable; loan amortization schedules, current personal financial statements and credit profile(s) of owner(s); federal income tax return(s) of owner(s) and business for the past three years.

LEASEHOLD CREDIT RULES

The following is how the Division of Economic Development implements leasehold credits regarding business site leases on the Navajo Nation:

1. The Navajo Nation encourages private investment on the Navajo Nation for economic development purposes. The Division of Economic Development acknowledges private investment of a Lessee through leasehold credits. The Division negotiates with the Lessee the amount of the improvements needed for the Lessee to begin their business on the Navajo Nation by amortizing the improvements amount over the monthly rental amount and by the number of months of a calendar year.

2. Elements for leasehold credits include amount of investment by the Lessee; amount of rental negotiated per month and the months of a calendar year determined the number of year's leasehold credits is imposed.

3. The following is the equation to determine leasehold credits:

$$\frac{\textbf{Dollar Amount of the Improvements/Amount of Monthly Rental Negotiated}}{\textbf{12 Months (months in calendar year)}} = \textbf{Number of Years of Leasehold Credits}$$

For the XXX, Incorporated:

$$\frac{\textbf{\$150,000 Improvements/\$1,500 Monthly Rental Negotiated}}{\textbf{12 Months}} = \textbf{8.3 Years}$$

Thus, for eight years and three months, the Lessee, XXX, will receive leasehold credits for the amount of their investment of $150,000 improvements to the Navajo Nation's asset, the XXX Industrial Building and site at the YYYY Industrial Park'.

THE NAVAJO NATION
BUSINESS SITE LEASE APPLICATION

Confidential Information *(In Compliance with the Navajo Nation Privacy and Access to Information Act, Title 2, Chapter 1)*

PRINT OR TYPE

APPLICANT INFORMATION (Each Applicant/Principal must Submit Completed/Signed Application):

Full Name: _____
Mailing Address: _____
Business Phone: _____
Other Phone: _____
Email1: _____
Email2: _____
EIN or Social Security Number (Attach Current W-9): _____

ARE YOU A LEGALLY RECOGNIZED ENTITY (LRE) (i.e. CORPORATION, LLC, PARTNERSHIP, ETC.)? ☐ Yes ☐ No

TYPE OF LRE: ☐ CORPORATION ☐ LLC ☐ PARTNERSHIP ☐ OTHER, EXPLAIN: _____

Legal Name: _____
Jurisdiction where organized/formed: _____
Date of Incorporation/Formation: _____
Address: _____
Name/Address of Principals: _____

IS YOUR LRE REGISTERED WITH THE NAVAJO NATION BUSINESS REGULATORY DEPARTMENT?
☐YES ☐ NO *(ALL BUSINESSES ORGANIZATIONS MUST REGISTER AS A FOREIGN OR DOMESTIC ENTITY TO CONDUCT BUSINESS ON THE NAVAJO NATION.) (IF YES, PLEASE PROVIDE A CERTIFICATE OF GOOD STANDING.)*

IS YOUR LRE REGISTERED WITH THE OFFICE OF NAVAJO TAX COMMISSION?
☐YES ☐ NO *(ALL BUSINESSES MUST FILE A FORM 100 TO REGISTER, EVEN IF THE BUSINESS IS EXEMPT FROM TAXES UNDER THE NAVAJO NATION TAX CODE.)*

BUSINESS INFORMATION:

Name of Business/Doing Business As (DBA): _____
Business Description: _____
Source of Financing: _____

Are you in compliance with the Navajo Business Procurement Act, Title 15, Chapter 15 with these Navajo Nation programs and enterprises?:
Navajo Nation Accounts Receivable? ☐ Yes ☐ No
Office of Nation Tax Commission? ☐ Yes ☐ No

REASON FOR APPLYING (check only one box)

LEASE TRANSACTIONS: ☐ NEW LEASE ☐ SUBLEASE ☐ LEASE RENEWAL, FOR EXPIRING LEASE ☐ OPTION TO RENEW ☐ LEASE ASSIGNMENT ☐ LEASE MODIFICATION ☐ NOVATION ☐ MUTUAL TERMINATION ☐ COLLATERAL ASSIGNMENT ☐ OTHER

NON-LEASE TRANSACTIONS (NO POSSESSORY INTEREST): ☐ REVOCABLE USE PERMIT ☐ CONDITIONAL USE PERMIT ☐ EMERGENCY OPERATING AGREEMENT ☐ SUB-PERMIT

DO YOU HAVE A CURRENT/EXPIRED LEASE OR PERMIT? ☐ Yes ☐ No
IF SO, CURRENT/EXPIRED LEASE/PERMIT NUMBER? _____
CURRENT/EXPIRED LEASE/PERMIT EXPIRATION DATE: _____

TITLE OWNERSHIP TYPE?: ☐ SOLE OWNERSHIP (AS INDIVIDUAL) ☐ BUSINESS LRE OWNERSHIP ☐ TRUST LRE OWNERSHIP

FOR MULTIPLE LESSEES/TENANTS, HOW WILL TITLE BE HELD? ☐ JOINT TENANCY WITH RIGHT OF SURVIVORSHIP ☐ TENANCY IN COMMON ☐ COMMUNITY PROPERTY ☐ OTHER, EXPLAIN: _____

BUSINESS SITE INFORMATION:

Estimated Total Acreage: _____

Years Term Requested (no more than 25 years for leases with up to two options to renew; 1 to 2 years for permits and EOAs, with one option to renew)?: _____

Has the Site been withdrawn in compliance with the Navajo Nation General Leasing Act of 2013, Title 16, Chapter 23: ☐ Yes ☐ No

Does the Site have a Legal Land Survey, if so Please Attach Survey: ☐ Yes ☐ No

Does the Site have an Archaeological Survey, if so Attach Survey: ☐ Yes ☐ No

Does the Site have an Biological Survey, if so Please Attach Survey: ☐ Yes ☐ No

Will Hazardous Substances be stored or generated on the Site?: ☐ Yes ☐ No If So, Please Explain (Attach Safety Data Sheets, if Applicable): _____

What improvements do you propose to develop on the Site?: _____

FOR FEDERAL AND NAVAJO NATION OFFICIALS AND EMPLOYEES ONLY – ETHICS CLEARANCE

Are you, or is any owner of the LRE, an elected official or employee of the Navajo Nation or Federal Government?

☐**YES** ☐ **NO** (*ALL ELECTED OFFICIALS OR EMPLOYEES MUST PROVIDE AN ETHICS CLEARANCE).*

TIME IS OF THE ESSENCE (FOR LEASES)

The responsibilities of the Applicant shall be completed in six (6) months from the date this Application is received by the Leasing Department. At the end of six (6) months, if the Applicant has not made any significant effort in the completion of their responsibility on any of the above documents this Application is void, at the discretion of DED. If the Application is void, the application and all the documents may be returned to the Applicant.

I AGREE: ☐ YES ☐ NO

TIME IS OF THE ESSENCE (FOR PERMITS)

The responsibilities of the Applicant shall be completed in three (3) months from the date this Application is received by the Leasing Department. At the end of three (3) months, if the Applicant has not made any significant effort in the completion of their responsibility on any of the above documents this Application is void, at the discretion of DED. If the Application is void, the application and all the documents may be returned to the Applicant.

I AGREE: ☐ YES ☐ NO

I represent the information contained in this application is true and complete to the best of my knowledge. I hereby authorize verification, or reverification of any information contained in this application to be made at any time by the Division of Economic Development from any source named in this application. This application will be incorporated by reference as a part of any agreement and any false statement will be grounds for termination of application.

[SIGNATURES ON FOLLOWING PAGE]

_____

APPLICANT

_____

TITLE

_____

COMPANY NAME

_____

DATE

RECEIPT

_____

STAFF NAME

_____

TITLE

_____

PROGRAM/DEPARTMENT

_____

DATE

SAMPLE

MANAGEMENT AGREEMENT

This agreement is made and entered into this _____ day of _____, 19__, by and between _____, Address: _____, hereafter called the "Employer" and _____, Address: _____, hereafter called "Manager".

WITNESSETH:

1. Employer hereby retain and employs the services of Manager and the Manager hereby accepts employment by the Employer as Manager of the business known as _____, Lease No. _____.

2. Manager agrees to provide his full time and attention to the employment herein provided for and to exercise and use his best efforts and judgment to promote the business of the Employer in all its aspects.

3. The Manager shall have authority to obligate the Employer's business only in the general course of business for supplies and goods to be used in resale or operations, but shall not have authority to obligate the business other than in the normal course of buying and selling in the operations of a retail establishment of like nature.

4. The term of this Agreement shall be for _____ years and ending on _____; provided, however, that the term of this employment contract shall be renewed and extended unless either the Manager or the Employer gives notice to the other of an intention to terminate this contract and at lease thirty (30) days prior to any annual renewal date.

5. The Manager shall be paid as compensation for his service herein called for the sum of _____ dollars per annum, payable in installations of _____ per month. The Manager shall be entitled to receive, in the sole discretion of the Employer, bonuses or increases in compensation when and as offered by the Employer.

6. The Manager agrees that he will in no manner extend credit in any of the operations of the _____ without written authorization of the Employer, nor will he pledge any of the assets or property of the businesses now or hereinafter in operation, as _____ for either business or personal purposes.

7. In the absence of the Employer from the immediate premises of the _____, the Manager shall exercise authority and control over the operations of the business, subject to all aforementioned limitations of his authority.

IN WITNESS WHEREOF Parties hereto have executed this Agreement as of the date and year first above written.

_____
Employer

_____
Manager

Approved by:

NAVAJO NATION, LESSOR

By: _____
President, Navajo Nation

Date: _____

LEASING DEPARTMENT FILE MANAGEMENT

5.0 File Management

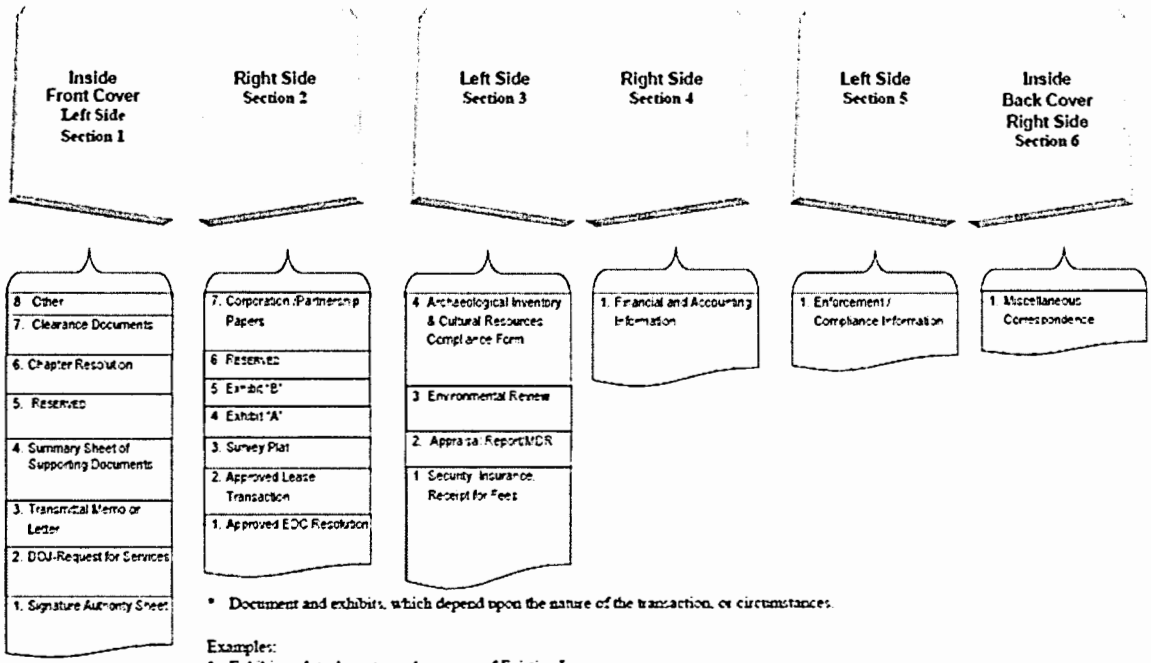
5.1 Lease Files shall be maintained by appropriate DED Departments in accordance with the Nation Privacy Act. Files will be kept for five (5) years after expiration of the business site Lease. Thereafter, all files shall be digitized, archived by the DED.

5.2 Files shall be maintained in the following sequence in a two-divider folder:

1. Approved Lease documents and supporting documents including:
   a. Signature Authority Sheet;
   b. DOJ-Request for Services;
   c. Transmittal Memo or Letter;
   d. Summary Sheet of Supporting Documents;
   e. Chapter Resolution, if applicable;
   f. Clearance Documents;
   g. Other (Land Withdrawals, etc.);
   h. Approved DED Approving Committee Resolution;
   i. Approved Lease Transaction;
   j. Survey Plat;
   k. Exhibit A;
   l. Exhibit B;
   m. Corporation/ Partnership Paper, if applicable;
   n. Security, Insurance, Receipt for Fees;
   o. Appraisal Report/MDR form;
   p. Environmental Review;
   q. Financial and Accounting Information;
   r. Enforcement/Compliance Information;
   s. Miscellaneous Correspondence.

5.3 Lease Folder Management

1. Outline:



* Document and exhibits, which depend upon the nature of the transaction, or circumstances.

Examples:
1. Exhibit or Attachment may be a copy of Existing Lease.
2. Exhibit "A" may be a Proposed Lease or Copy of Existing Lease.
3. Exhibit "B" may be a Proposed Sublease.

1-T

SAMPLE

Refer to Your Organizational Documents for Information on How to Properly Provide Evidence of Authority to Enter into and Sign Lease

USE YOUR LETTER HEAD

EVIDENCE OF AUTHORITY OF OFFICERS TO EXECUTE PAPERS

(To be sworn by secretary or president of a corporation and sealed with its seal)

I, solemnly swear that _____ and _____ were/was on the _____ day of _____, 20 ____, the duly elected, qualified, and acting president, and secretary, respectively, of _____ _____ a corporation organized under the laws of _____ on which day they executed _____ for and in behalf of said corporation, covering certain Trust or Restricted Indian lands on the _____Reservation, in the State of _____; that they were fully empowered to execute said instrument and all papers in connection therewith, and that their action in executing the same binds the said corporation to full performance of all obligations thereunder.

_____

_____
(Title)

This _____ day of _____ 20_____

[Insert appropriate acknowledgment by notary public, e.g.:

Subscribed and sworn to before me this _____ day of _____, 2021.

(Signed) _____

NOTARY PUBLIC, STATE OF NEW MEXICO_
(Title)]

RENTAL EXAMPLES

Example 1: Lease Rate Adjustment

D. RENTAL.

1. The Lessee, in consideration of the foregoing, covenants and agrees to pay in lawful money of the United States of America to the Real Estate Department, Division of Economic Development or Navajo Nation Shopping Center, Inc., whichever applicable, for the use and benefit of the Lessor the following: (Be specific as to the rental terms of the Lease)

Years 1-5	$5,000	per year
Years 6-10	$5,000	per year
Years 11-15	$5,500	per year
Years 16-20	$6,000	per year
Years 21-25	$6,500	per year

Any exercise of an Option to Renew, the rental shall be subject to renegotiation, in accordance with the Navajo Nation Business Site Lease Management Plan.

2. Lessee must make monthly rental payments in advance equal to at least one-twelfth of the aforementioned minimum annual rental. [For Navajo Nation Shopping Centers or businesses which gross $1,000.000 or more annually may elect to pay monthly rental in an amount based on the percentage rental rate on the month's gross receipts; however, no payment shall be less than one-twelfth of the minimum rental. Monthly payments based on the percentage rental rate on gross receipts shall be paid not later than the tenth (10th) day after the end of the month for which rental is due.] All rental shall be deposited with the Controller of the Navajo Nation or Navajo Nation Shopping Center, Inc., whichever applicable. When the annual accounting required by Section 1.3, Part II, of this Lease is completed, the Lessee shall pay any balance due on any rental or percentage rental, if applicable, or if there is an overpayment, the overpayment shall be credited toward future rents.

3. Rental shall be paid on the 1st of each month, if rental is unpaid ten (10) days after the due date, the Lessee shall be subject to a late charge. Should the Lessee not

pay rent within thirty (30) days after the due date, the Lessee shall be subject to a late charge of 10% of the monthly amount due, however such amount shall be prorated for each day the rent is not paid until the thirtieth day after the due date, the amount above shall be paid in full. If the Lessee does not pay the full amount within sixty (60) days the Lessee shall be subject to an additional late charge of 10% of the monthly amount due. If the Lessee does not pay the full amount within ninety (90) days, the Lessee shall be subject to an additional late charge of 10% of the amount due, and the lease shall be subject to termination.

4. In the event a sublease, assignment, amendment or transfer of this Lease, or any right to or interest in this Lease, or any improvements are made to the leased premises, the rent and other terms of this Lease shall be subject to renegotiation. In addition, if the Lessee exercises any options to renew, the Lessor reserves the right to renegotiate the rent, for any change in economic conditions and other terms of the Lease.

5. Lessor reserves the right to inspect the books and records of Lessee and any Sublessee or Assignee to verify the accuracy of the rentals paid.

Example 2: Lease Rate Adjustment w/ a Development Period

D. RENTAL.

1. The Lessee, in consideration of the foregoing, covenants and agrees to pay in lawful money of the United States of America to the Real Estate Department, Division of Economic Development or Navajo Nation Shopping Center, Inc., whichever applicable, for the use and benefit of the Lessor the following: (Be specific as to the rental terms of the Lease)

Years 1-3	$1.00	per year	Development Period
Years 4-8	$5,000	per year	
Years 9-14	$5,500	per year	
Years 15-19	$6,000	per year	
Years 20-25	$6,500	per year	

Any exercise of an Option to Renew, the rental shall be subject to renegotiation, in accordance with the Navajo Nation Business Site Lease Management Plan.

2. Lessee must make monthly rental payments in advance equal to at least one-twelfth of the aforementioned minimum annual rental. [For Navajo Nation Shopping Centers or businesses which gross $1,000.000 or more annually may elect to pay monthly rental in an amount based on the percentage rental rate on the month's gross receipts; however, no payment shall be less than one-twelfth of the minimum rental. Monthly payments based on the percentage rental rate on gross receipts shall be paid not later than the tenth (10th) day after the end of the month for which rental is due.] All rental shall be deposited with the Controller of the Navajo Nation or Navajo Nation Shopping Center, Inc., whichever applicable. When the annual accounting required by Section 1.3, Part II, of this Lease is completed, the Lessee shall pay any balance due on any rental or percentage rental, if applicable, or if there is an overpayment, the overpayment shall be credited toward future rents.

3. Rental shall be paid on the 1st of each month, if rental is unpaid ten (10) days after the due date, the Lessee shall be subject to a late charge. Should the Lessee not pay rent within thirty (30) days after the due date, the Lessee shall be subject to a late charge of 10% of the monthly amount due, however such amount shall be prorated for each day the rent is not paid until the thirtieth day after the due date, the amount above shall be paid in full. If the Lessee does not pay the full amount within sixty (60) days the Lessee shall be subject to an additional late charge of 10% of the monthly amount due. If the Lessee does not pay the full amount within ninety (90) days, the Lessee shall be subject to an additional late charge of 10% of the amount due, and the lease shall be subject to termination.

4. In the event a sublease, assignment, amendment or transfer of this Lease, or any right to or interest in this Lease, or any improvements are made to the leased premises, the rent and other terms of this Lease shall be subject to renegotiation. In addition, if the Lessee exercises any options to renew, the Lessor reserves the right to renegotiate the rent, for any change in economic conditions and other terms of the Lease.

5. Lessor reserves the right to inspect the books and records of Lessee and any Sublessee or Assignee to verify the accuracy of the rentals paid.

Example 3: Lease Rate Adjustments w/ a Development Period and Rental Postponement

D. RENTAL.

1. The Lessee, in consideration of the foregoing, covenants and agrees to pay in lawful money of the United States of America to the Real Estate Department,

Division of Economic Development or Navajo Nation Shopping Center, Inc., whichever applicable, for the use and benefit of the Lessor the following: (Be specific as to the rental terms of the Lease)

Year 1	$0.00 per year	Rental Postponement
Year 2-4	$1.00 per year	Development Period
Year 5-9	$5,000 per year	
Year 10-14	$5,500 per year	
Year 15-19	$6,000 per year	
Year 20-24	$6,500 per year	
Year 25	$7,000 per year	

Any exercise of an Option to Renew, the rental shall be subject to renegotiation, in accordance with the Navajo Nation Business Site Lease Management Plan.

2. Lessee must make monthly rental payments in advance equal to at least one-twelfth of the aforementioned minimum annual rental. [For Navajo Nation Shopping Centers or businesses which gross $1,000.000 or more annually may elect to pay monthly rental in an amount based on the percentage rental rate on the month's gross receipts; however, no payment shall be less than one-twelfth of the minimum rental. Monthly payments based on the percentage rental rate on gross receipts shall be paid not later than the tenth (10th) day after the end of the month for which rental is due.] All rental shall be deposited with the Controller of the Navajo Nation or Navajo Nation Shopping Center, Inc., whichever applicable. When the annual accounting required by Section 1.3, Part II, of this Lease is completed, the Lessee shall pay any balance due on any rental or percentage rental, if applicable, or if there is an overpayment, the overpayment shall be credited toward future rents.

3. Rental shall be paid on the 1st of each month, if rental is unpaid ten (10) days after the due date, the Lessee shall be subject to a late charge. Should the Lessee not pay rent within thirty (30) days after the due date, the Lessee shall be subject to a late charge of 10% of the monthly amount due, however such amount shall be prorated for each day the rent is not paid until the thirtieth day after the due date, the amount above shall be paid in full. If the Lessee does not pay the full amount within sixty (60) days the Lessee shall be subject to an additional late charge of 10% of the monthly amount due. If the Lessee does not pay the full amount

within ninety (90) days, the Lessee shall be subject to an additional late charge of 10% of the amount due, and the lease shall be subject to termination.

4. In the event a sublease, assignment, amendment or transfer of this Lease, or any right to or interest in this Lease, or any improvements are made to the leased premises, the rent and other terms of this Lease shall be subject to renegotiation. In addition, if the Lessee exercises any options to renew, the Lessor reserves the right to renegotiate the rent, for any change in economic conditions and other terms of the Lease.

5. Lessor reserves the right to inspect the books and records of Lessee and any Sublessee or Assignee to verify the accuracy of the rentals paid.

Example 4: Consumer Price Index

D. RENTAL.

1. The Lessee, in consideration of the foregoing, covenants and agrees to pay in lawful money of the United States of America to the Real Estate Department, Division of Economic Development or Navajo Nation Shopping Center, Inc., whichever applicable, for the use and benefit of the Lessor the following: (Be specific as to the rental terms of the Lease)

Years 1-5 $5,000.00 per year

Years 6-25 Rental shall be subject to Section (D)(4)

Any exercise of an Option to Renew, the rental shall be subject to renegotiation, in accordance with the Navajo Nation Business Site Lease Management Plan.

2. Lessee must make monthly rental payments in advance equal to at least one-twelfth of the aforementioned minimum annual rental. [For Navajo Nation Shopping Centers or businesses which gross $1,000.000 or more annually may elect to pay monthly rental in an amount based on the percentage rental rate on the month's gross receipts; however, no payment shall be less than one-twelfth of the minimum rental. Monthly payments based on the percentage rental rate on gross receipts shall be paid not later than the tenth (10th) day after the end of the month for which rental is due.] All rental shall be deposited with the Controller of the Navajo Nation or Navajo Nation Shopping Center, Inc., whichever applicable. When the annual accounting required by Section 1.3, Part II, of this Lease is completed, the Lessee shall pay any balance due on any rental or

percentage rental, if applicable, or if there is an overpayment, the overpayment shall be credited toward future rents.

3. Rental shall be paid on the 1st of each month, if rental is unpaid ten (10) days after the due date, the Lessee shall be subject to a late charge. Should the Lessee not pay rent within thirty (30) days after the due date, the Lessee shall be subject to a late charge of 10% of the monthly amount due, however such amount shall be prorated for each day the rent is not paid until the thirtieth day after the due date, the amount above shall be paid in full. If the Lessee does not pay the full amount within sixty (60) days the Lessee shall be subject to an additional late charge of 10% of the monthly amount due. If the Lessee does not pay the full amount within ninety (90) days, the Lessee shall be subject to an additional late charge of 10% of the amount due, and the lease shall be subject to termination.

4. Upon the sixth anniversary of the Commencement Date of this Lease and upon every subsequent fifth anniversary of this Lease as long as the Lease is in effect (including all renewal terms) the Rent shall be adjusted (an "Adjustment") by multiplying the Rent in effect at the time of the Adjustment by a fraction the numerator of which shall be the CPI as hereinafter defined, for the month fifteen months prior to the upcoming Adjustment Date and the denominator of which shall be the CPI for the month fifteen months prior to the upcoming Commencement Date or prior Adjustment Date (which was 5 years prior).
   (1) In the event that the CPI is discontinued or there is a major change in the manner of computation of such Index, the parties shall substitute another Index or method of adjustment which shall achieve an equivalent result satisfactory to both parties.
   (2) The Real Estate Department, Division of Economic Development shall notify the Lessee of the adjustment within ninety (90) days from the date of the adjustment.
   (3) Any dispute regarding the above, may be appealed by the Lessee to the Department Manager of the Real Estate Department and then to the Executive Director of the Division of Economic Development.

5. In the event a sublease, assignment, amendment or transfer of this Lease, or any right to or interest in this Lease, or any improvements are made to the leased premises, the rent and other terms of this Lease shall be subject to renegotiation. In addition, if the Lessee exercises any options to renew, the Lessor reserves the right to renegotiate the rent, for any change in economic conditions and other terms of the Lease.

6. Lessor reserves the right to inspect the books and records of Lessee and any Sublessee or Assignee to verify the accuracy of the rentals paid.

Example 5: Consumer Price Index w/ a Development Period

D. RENTAL.

1. The Lessee, in consideration of the foregoing, covenants and agrees to pay in lawful money of the United States of America to the Real Estate Department, Division of Economic Development or Navajo Nation Shopping Center, Inc., whichever applicable, for the use and benefit of the Lessor the following: (Be specific as to the rental terms of the Lease)

1-3	Years	$1.00	per year	Development Period
4-8	Years	$5,000	per year	
9-25	Rental shall be subject to Section (D)(4)			

Any exercise of an Option to Renew, the rental shall be subject to renegotiation, in accordance with the Navajo Nation Business Site Lease Management Plan.

2. Lessee must make monthly rental payments in advance equal to at least one-twelfth of the aforementioned minimum annual rental. [For Navajo Nation Shopping Centers or businesses which gross $1,000.000 or more annually may elect to pay monthly rental in an amount based on the percentage rental rate on the month's gross receipts; however, no payment shall be less than one-twelfth of the minimum rental. Monthly payments based on the percentage rental rate on gross receipts shall be paid not later than the tenth (10th) day after the end of the month for which rental is due.] All rental shall be deposited with the Controller of the Navajo Nation or Navajo Nation Shopping Center, Inc., whichever applicable. When the annual accounting required by Section 1.3, Part II, of this Lease is completed, the Lessee shall pay any balance due on any rental or percentage rental, if applicable, or if there is an overpayment, the overpayment shall be credited toward future rents.

3. Rental shall be paid on the 1st of each month, if rental is unpaid ten (10) days after the due date, the Lessee shall be subject to a late charge. Should the Lessee not pay rent within thirty (30) days after the due date, the Lessee shall be subject to a late charge of 10% of the monthly amount due, however such amount shall be prorated for each day the rent is not paid until the thirtieth day after the due date, the amount above shall be paid in full. If the Lessee does not pay the full amount within sixty (60) days the Lessee shall be subject to an additional late charge of 10% of the monthly amount due. If the Lessee does not pay the full amount within ninety (90) days, the Lessee shall be subject to an additional late charge of 10% of the amount due, and the lease shall be subject to termination.

4. Upon the ninth anniversary of the Commencement Date of this Lease and upon every subsequent fifth anniversary of this Lease as long as the Lease is in effect (including all renewal terms) the Rent shall be adjusted (an "Adjustment") by multiplying the Rent in effect at the time of the Adjustment by a fraction the numerator of which shall be the CPI as hereinafter defined, for the month fifteen months prior to the upcoming Adjustment Date and the denominator of which shall be the CPI for the month fifteen months prior to the upcoming Commencement Date or prior Adjustment Date (which was 5 years prior).
   (1) In the event that the CPI is discontinued or there is a major change in the manner of computation of such Index, the parties shall substitute another Index or method of adjustment which shall achieve an equivalent result satisfactory to both parties.
   (2) The Real Estate Department, Division of Economic Development shall notify the Lessee of the adjustment within ninety (90) days from the date of the adjustment.
   (3) Any dispute regarding the above, may be appealed by the Lessee to the Department Manager of the Real Estate Department and then to the Executive Director of the Division of Economic Development.

5. In the event a sublease, assignment, amendment or transfer of this Lease, or any right to or interest in this Lease, or any improvements are made to the leased premises, the rent and other terms of this Lease shall be subject to renegotiation. In addition, if the Lessee exercises any options to renew, the Lessor reserves the right to renegotiate the rent, for any change in economic conditions and other terms of the Lease.

6. Lessor reserves the right to inspect the books and records of Lessee and any Sublessee or Assignee to verify the accuracy of the rentals paid.

Example 6: Sample Language for Reduction of Rental based on Navajo Employment, using Lease Rate Adjustments

D. RENTAL.

1. The Lessee, in consideration of the foregoing, covenants and agrees to pay in lawful money of the United States of America to the Real Estate Department, Division of Economic Development or Navajo Nation Shopping Center, Inc., whichever applicable, for the use and benefit of the Lessor the following: (Be specific as to the rental terms of the Lease)

a.	Years 1-5	$5,000	per year
	Years 6-10	$5,000	per year
	Years 11-15	$5,500	per year
	Years 16-20	$6,000	per year
	Years 21-25	$6,500	per year

Any exercise of an Option to Renew, the rental shall be subject to renegotiation, in accordance with the Navajo Nation Business Site Lease Management Plan.

b. Rental shall be adjusted to reflect percentage of Navajo employment, based on the following formula:

(1) If Percentage of Navajo employment is 25%, then the applicable rental shall be $4,000.00
(2) If the Percentage of Navajo employment is 50%, then the applicable rental shall be $2,000.00
(3) If the Percentage of Navajo employment is 100%, then the applicable rental shall be $500.00
(4) Rental adjustments shall be effective the month following the acceptance of such demonstration by the Lessee to the Real Estate Department, Division of Economic Development that a qualifying Navajo employment is reached.

2. Lessee must make monthly rental payments in advance equal to at least one-twelfth of the aforementioned minimum annual rental. [For Navajo Nation Shopping Centers or businesses which gross $1,000.000 or more annually may elect to pay monthly rental in an amount based on the percentage rental rate on the month's gross receipts; however, no payment shall be less than one-twelfth of the minimum rental. Monthly payments based on the percentage rental rate on

gross receipts shall be paid not later than the tenth (10th) day after the end of the month for which rental is due.] All rental shall be deposited with the Controller of the Navajo Nation or Navajo Nation Shopping Center, Inc., whichever applicable. When the annual accounting required by Section 1.3, Part II, of this Lease is completed, the Lessee shall pay any balance due on any rental or percentage rental, if applicable, or if there is an overpayment, the overpayment shall be credited toward future rents.

3. Rental shall be paid on the 1st of each month, if rental is unpaid ten (10) days after the due date, the Lessee shall be subject to a late charge. Should the Lessee not pay rent within thirty (30) days after the due date, the Lessee shall be subject to a late charge of 10% of the monthly amount due, however such amount shall be prorated for each day the rent is not paid until the thirtieth day after the due date, the amount above shall be paid in full. If the Lessee does not pay the full amount within sixty (60) days the Lessee shall be subject to an additional late charge of 10% of the monthly amount due. If the Lessee does not pay the full amount within ninety (90) days, the Lessee shall be subject to an additional late charge of 10% of the amount due, and the lease shall be subject to termination.

4. In the event a sublease, assignment, amendment or transfer of this Lease, or any right to or interest in this Lease, or any improvements are made to the leased premises, the rent and other terms of this Lease shall be subject to renegotiation. In addition, if the Lessee exercises any options to renew, the Lessor reserves the right to renegotiate the rent, for any change in economic conditions and other terms of the Lease.

5. Lessor reserves the right to inspect the books and records of Lessee and any Sublessee or Assignee to verify the accuracy of the rentals paid.

Example and Explanation for Leasehold Credits: Lease Rate Adjustment

D. RENTAL ...

Years 1-5	$5,000 per year
Years 6-10	$5,000 per year
Years 11-15	$5,500 per year
Years 16-20	$6,000 per year
Years 21-25	$6,500 per year

Breakdown of Applying the Leasehold Credit:

1-5	$5,000 =	$25,000	
6-11	$5,500 =	$27,500	
12-16	$6,000 =	$30,000	
17-21	$6,500 =	$32,500	Year 18 - 100,000
22-25	$7,000 =	$35,000	

Leasehold Improvement Credit Amount = $100,000.00

Sample Language:

H. IMPROVEMENTS

1. The Lessee, in consideration for the granting of this Lease, covenants and agrees that Lessee will construct infrastructure for a _____ at a cost of and having a reasonable value of $_____ or more.

2. All buildings and improvements, excluding removable personal property and trade fixtures, on the leased property shall remain on said property after termination of this Lease and shall thereupon become the property of Lessor. However, Lessor may require Lessee, at Lessee's expense, to remove improvements and restore the premises to the original state, excluding normal wear and tear, upon termination of this Lease. Any removal of property by Lessee must be completed within ninety (90) days after termination of this Lease, such presence on the property shall not be deemed a holdover or trespass, provided Lessee is acting in a diligent manner to remove such property. Upon the expiration of the ninety (90) day extension, the Lessor has the right to grant another extension or re-enter the premises, at such time the Lessee shall have no right or interest to the premises or any remaining improvements.

3. The term "removable personal property" as used in this Section shall not include property which normally would be attached or affixed to the buildings, improvements or land in such a way that it would become a part of the realty, regardless of whether such property is in fact so placed in or on or affixed to the buildings, improvements or land in such a way as to legally retain the characteristics of personal property. Lessee shall remove all removable personal property and trade fixtures prior to termination of this Lease. Should Lessee fail to remove said personal property and trade fixtures prior to termination of this Lease, said property shall thereupon become property of Lessor, and may be disposed of in any manner by Lessor.

4. Lessee shall conduct all necessary _____ improvements to provide _____ to the business described herein. [Division of Economic Development] shall be allowed access to such improvements, described in this Section, as long as there is not unreasonable interference with the operations of Lessee. For the purposes of this lease, "Infrastructure" is limited to_____, which shall be deducted from the rental obligations, for the following improvements:

Total amount to be deducted from the rental obligation is $_____.

5. Lessor shall allow Lessee to deduct the cost of the above-mentioned infrastructure improvements from its rental obligations subject to the provisions of this subsection.

   a. Lessee shall submit to Lessor all backup demonstrating the actual costs of constructing the infrastructure improvements. For the purpose of this subsection, "backup" includes bids, invoices, cancelled checks and receipts for payments made on invoices.

   b. Should the improvements not be completed or the actual costs reasonably proven the Lessee shall be required to pay the rental owed as is it was never deducted.

6. At the expiration or termination of the lease, the Lessor has the first right of refusal to purchase any permanent improvements to the premises at fair market value.

ANNUAL LEASE COMPLIANCE REPORT

INSPECTOR: _____ INSPECTION DATE: _____

LEASE NO.: _____ DATE APPROVED: _____ TERM: _____

LESSEE: _____ ADDRESS: _____

DBA: _____ LOCATION: _____

CONTACT PERSON: _____ TITLE: _____

PHONE NO.: _____ TOTAL EMPLOYEES: _____

NAVAJOS: _____

NON-NAVAJOS: _____

. . . . . .

I. Authorized Activities: _____

II. Agreed upon Improvements (renovations, repairs, etc.) _____

III. Improvements Completion Date/Development Period: _____

IV. If no evidence of improvements, explain: _____

V. DOLLAR INVESTMENT ON IMPROVEMENTS: _____

a. Total dollar cost financed by: (Loan, Mortgages, own resources, etc.,) _____

i. _____ $_____

ii. _____ $_____

VI. Procurement (rent) Compliance: _____

VII. SKETCH OF ALL FACILITIES WITHIN LEASE PREMISES:

VIII. Sanitation: _____

IX. Underground Storage Tank: _____

X. Bonding: _____

XI. Insurance: _____

COMMENTS:

0-26

THE NAVAJO NATION

DED Real Estate Department
Business Site Leases
Site Status Report

Business Name: _____ **Lease Number:** _____

Current Address: _____ Telephone No. _____

Lessee(s): _____

_____

A. Lease Status:

1. ☐ Active- Operating

2. ☐ Active Non-Operating
   a) ☐ Developed ☐ Undeveloped
   b) Bill @ Holdover Rate? ☐ No ☐ Yes
3. ☐ Expired Operating
   a) Expiration Date: _____
4. ☐ Expired Non-Operating
   a) Expiration Date: _____
5. ☐ Expired- Reverted to Local Chapter
6. ☐ Cancelled
   a) Cancellation Date: _____
7. ☐ Terminated
   a.) Termination Date: _____
8. ☐ Settlement
   a) Promissory Note: ☐ No ☐ Yes
9. ☐ Abandoned
   a) Business Closed? ☐ No ☐ Yes
   b) Date Business Closed: _____
10. ☐ Permit Only
    a) Begin Date: _____
    b) Ending Date: _____
11. ☐ Lessee Deceased
    a) Probate in process? : ☐ No ☐ Yes
    Relinquished to: _____

B. Action Requesting:

1. ☐ Stop Billing
   a) As of Date: _____
2. ☐ Continue Billing
   a) Until Date: _____

Comments: _____

_____

_____

Site Status Reviewed by: _____ Date: _____

Department: _____

PROPERTY INVENTORY FORM

Date of Inspection:	Business Site Lease No.
Lessee/s Name & Address:	Business Name & Address:
Physical Location:	Business Type:

Current Status of Business Site: Active ☐ Expired ☐ Terminated ☐ Abandoned ☐

Building _____
Construction Type: (frame, brick, metal, etc.) _____
Dimensions: _____ Condition: _____
Building _____
Construction Type: (frame, brick, metal, etc.) _____
Dimensions: _____ Condition: _____
Building _____
Construction Type: (frame, brick, metal, etc.) _____
Dimensions: _____ Condition: _____

Foundation Type: _____ Condition: _____

Utilities:
☐ Waterline/Wells: ☐ Gas/Propane: ☐ Electrical: ☐ Wastewater/Septic: ☐ Communication
Others: _____

Underground storage tanks: ☐ Yes ☐ No Fuel Dispenser:
Qty/Capacity: _____ Qty: _____

Propane Sales: Yes ☐ No ☐ Tank Capacity: _____

Equipment (Condition Code: New "N" Excellent "E" Good "G" Poor "P" Salvage "S" Scrap "X"

Item No.	Description	Mfr.	Model No.	Size	Color	Condition

Report By:

_____ _____ _____
Print Name & Title Signature Date

ENVIRONMENTAL SUMMARY

Date:

Lessee/DBA:
Location (Lat./Long.):
Requesting Party:
EXCEPTIONS (do not need to fill out form):

Summary of Compliance Determinations (if non-NEPA environmental review process):

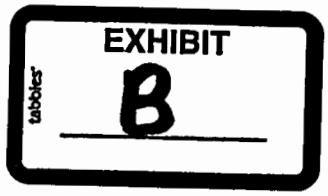
1 Historic Preservation:
2 Fish and Wildlife:
3 Navajo Environmental Protection Agency:

Summary of Compliance with Environmental Laws:

1 National Historic Preservation:
2 Floodplain Management:
3 Wet lands Protection:
4 Endangered Species Act:
5 Air Quality:
6 Sole Source Aquifer:
7 Abandoned Mine Lands:
8 Navajo Nation's Solid Waste Act:

I certify that the Environmental Review Process and the Compliance Determination Process in good faith has been complied with.

_____
Environmental Specialist
Real Estate Department



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~~14.1 REQUIREMENT~~
~~14.2 APPLICANT~~
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~~**16.0 APPENDIX – FORMS**~~

1.0 Executive Summary

This Navajo Administrative Plan ~~("Admin Plan")~~ and the Navajo Management Plan ~~("Management Plan")~~ together make up the Navajo Nation Business Site ~~Lease~~Leasing Administrative and Management Plan ~~(~~", referred to as the Plan"~~)~~ ~~provide~~. The Plan provides the Division of Economic Development ~~("DED")~~ with consistent policy, direction, and guidance in its management of business ~~site leases ("Lease") and other related business activities~~sites, separate from any political influence, and ~~documents under its~~the Office of the Controller guidance in accounting of Business Site Leases under DED's jurisdiction ~~on the reservation consisting of 17.0 plus million acres of Trust Lands, or approximately 27,000 square miles~~.

1.1 Legal Framework:

A. 25 U.S.C. § 415~~, as amended~~(e).
B. Navajo Nation Business Site Lease Act of 2000, 12 N.N.C. § 2301 et seq.

~~B.~~C. *Navajo Nation Business Leasing Regulations of 2005 ~~("Tribal"~~, adopted by Resolution EDCJA-02-07 and referred to as Navajo* **Regulations** *~~"), as amended~~.*

~~C.~~D. *Economic Development Committee Uniform Business Leasing Regulations of 2008 ~~("~~, adopted by EDCAU-39-09 and referred to as* **Uniform Regulations** *~~"), as amended~~.*

E. *Division of Economic Development Master Plan of Operation, amended by Resolution RDCO-055-19.*

1.2 Amendment of Plan~~Amendment of Plan:~~

The Plan may be amended ~~from time to time~~periodically upon written recommendation from DED and approval ~~from~~by the ~~Economic~~Resources and Development Committee of the Navajo Nation Council ~~("EDC").~~.

1.3 ~~DED~~Annual Reporting

The Approving Committee shall provide an ~~initial~~annual report to ~~EDC six (6) months from the date of execution of the EDC resolution granting delegation of approval authority to DED and annually thereafter~~RDC.

~~**1.1 Administrative Framework:**~~

~~DED is established for the purpose of creating an environment that is conducive to promoting and developing businesses in the commercial, tourism, industrial and other sectors of the Navajo Nation economy, thereby creating employment and business opportunities.~~

~~1. Objectives:~~

~~a. Promote and create employment for Navajos and business opportunities in the commercial, industrial, tourism and other private sector of the Navajo economy for individuals residing on or near the Navajo Nation; and~~

~~b. Recommend the enactment, amendment, or rescission of laws and promulgation and/or reduction of regulations to enhance economic development on the Navajo Nation ("Nation") and to create a positive business environment; and~~

~~c. Maintain a decentralized network of business development offices in the primary growth centers of the Nation in order to provide individuals and organizations with technical assistance in developing business plans, feasibility studies, financing (loan and grant packaging), planning, business site lease processing, business preference certification, and industrial park management; and~~

~~d. Develop and manage a comprehensive financing program to expand or develop new economic enterprises for the Nation.~~

~~1.3~~1.4 Severability

~~:~~If a court of competent jurisdiction determines a provision in the Plan is invalid, void, or unenforceable, it shall be stricken and the remainder of the Plan shall remain in full force and effect.

~~1.4~~1.5 Organization for Business Leasing Transactions (See Chart Below)

~~DED is organized with seven (7) departments, each with specific duties and responsibilities.~~

~~2. Administration~~

~~3.~~ All Leasing Transactions are administered by the DED through the Project Development Department ~~("PDD")~~

~~4. Business Regulatory Department ("BRD")~~

~~5. Tourism Department ("Tourism")~~

~~6. Real Estate Department ("RED")~~

~~7. Support Services Department~~

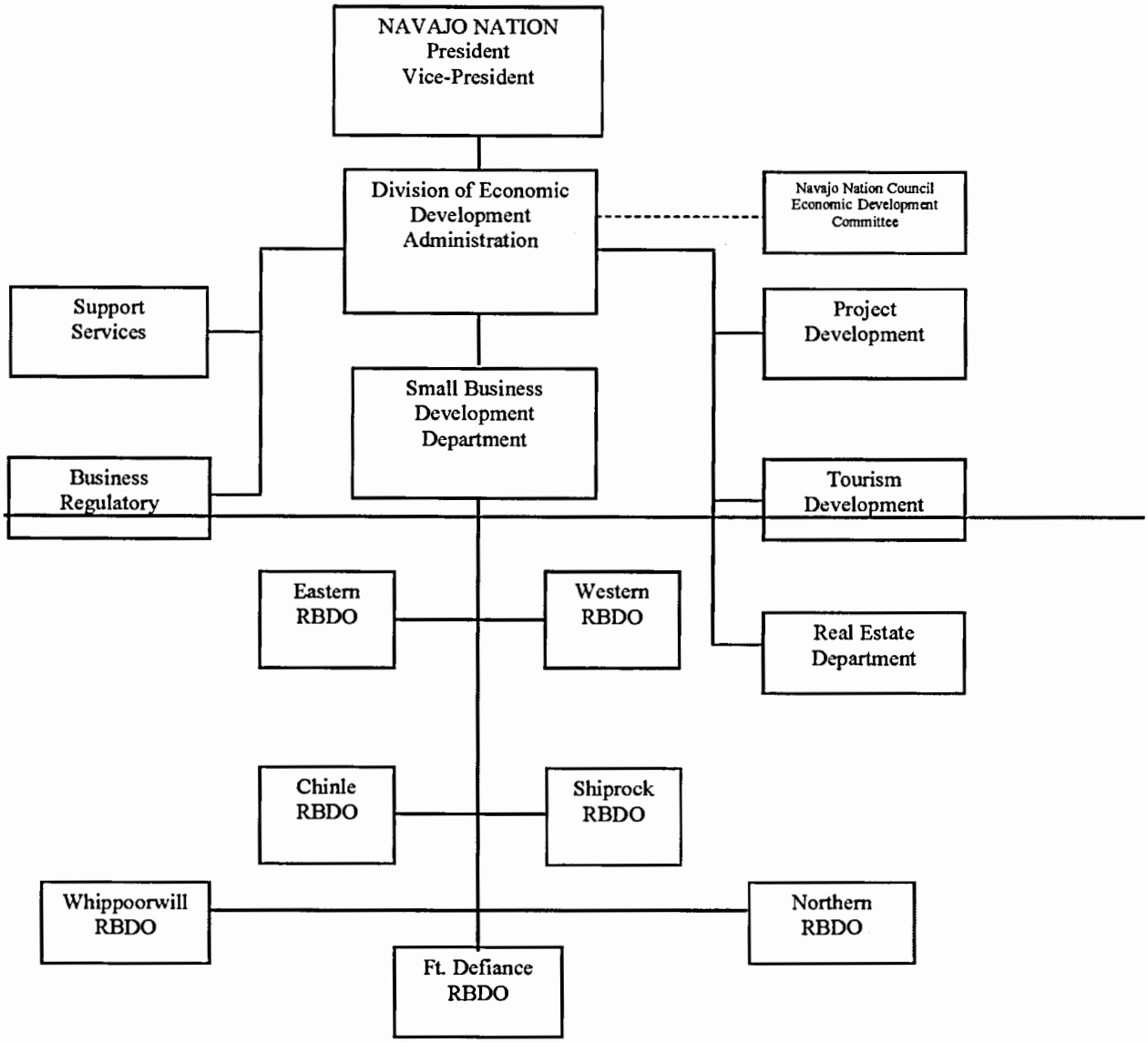
A. , Small Business Development Department ~~("SBDD")~~, Tourism Department, and Real Estate Department in accordance with the DED Master Plan of Operation.

B. All business site lease accounting is overseen by Office of the Controller, Accounts Receivable Section.

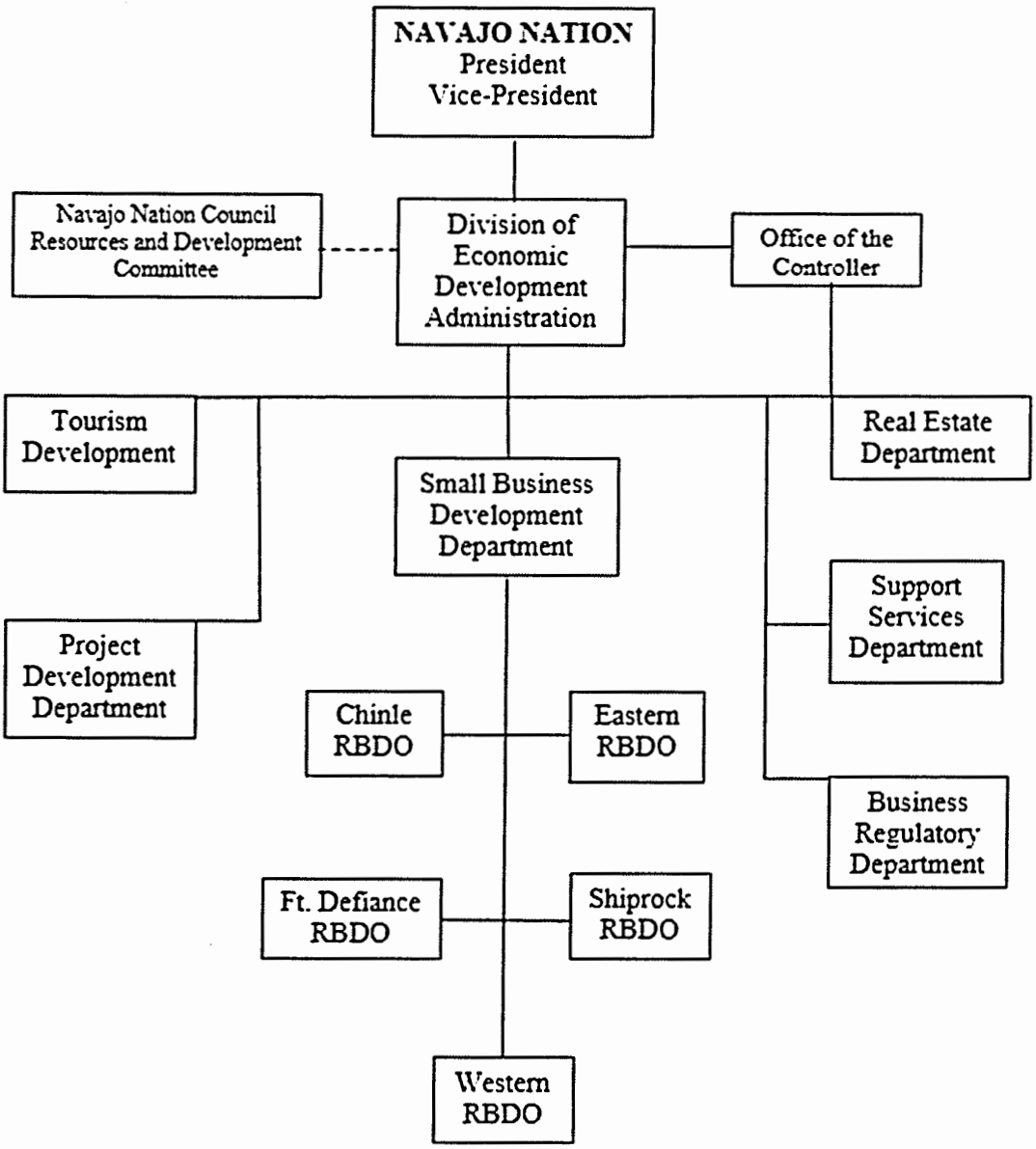
C. The Business Regulatory Department (BRD) shall verify registration and compliance of a Legally Recognized Entity (LRE) in accordance with applicable law, including the Navajo Nation Corporation Code, Navajo Nation Limited Liability Act, Navajo Nation Uniform Partnership Act, and Navajo Nation Limited Partnership Act.

ORGANIZATIONAL CHART
DIVISION OF ECONOMIC DEVELOPMENT

ORGANIZATIONAL CHART
DIVISION OF ECONOMIC DEVELOPMENT



[insert RDC Reso # here]



~~1.5~~1.6 Services

Leasing Departments within DED ~~offersoffer the following~~ technical services ~~through seven (7) departments. There will be an open line of communication between clients and DED personnel.~~as it relates to business site leasing:

~~8. Literature:~~

A. ~~DED will have brochures available~~ Provide printed or digital material at its respective ~~departments. The brochures will give a general outline of all required~~ offices outlining documents required to obtain a Lease.

B. Conduct trainings and ~~tasks needed~~workshops regarding the process for leasing transactions.

~~A.~~C. Provide consultation necessary to secure a business site lease~~and other applicable information~~.

~~9. Technical Assistance Services:~~

~~DED will conduct training/workshops throughout the Nation. Services will include but not limited to: Obtaining business loans and financing; processing Leases; obtaining business preference certifications to individuals, small businesses, chapters and other organizations; and business retention activities. Other services include: promotion of business, economic development activities to chapters, communities, business associations, and other organizations.~~

~~**1.2 Management Summary:**~~

~~1. Organizational Structure~~

~~DED has seven (7) departments each with specific duties and responsibilities. All business site lease documents will be packaged by the PDD, SBDD, Tourism ("appropriate DED department") as identified in the DED Master Plan of Operation ensuring compliance with all applicable laws before any business site lease transaction is forwarded from the appropriate DED department for approval.~~

~~2. Professional Development~~

~~Staff will attend workshops/seminars on an annual basis to enhance their knowledge on business, real estate, finance, or other courses related to the objectives of the Plan.~~

D. Advertise available commercial land for leasing.

E. Other services, as needed.

~~1.6~~1.7 Approving ~~Entity: EDC~~Committee: RDC Delegation to DED

A. ~~DED~~The Approving Committee ~~shall be~~ (Committee) is established ~~and~~to exercise the authorities of the ~~EDC~~RDC as provided in the Uniform Regulations.

B. The ~~DED Approving~~ Committee shall not consist of current public officials.

~~B.~~C. Committee members (Members) shall consist of the following:

1. Chief Financial Officer, or designee~~:~~, a non-voting ex-officio member and chair of the committee;

~~a. single~~One (1) designated ~~PDD staff; and~~

~~b. single designated SBDD staff.~~

~~3. The designated PDD and SBDD individual shall be selected for a term of three (3) years.~~

2. ~~The~~Project Development Department ~~Manager for PDD and SBDD shall make the selection of the applicable designated staff;~~(PDD) staff, a voting member, with one (1) alternate, and

~~a. If a determination is not made within five (5) days from the approval of delegation from EDC, expiration, removal, resignation or vacancy of the designated staff the Executive Director shall make the selection;~~

3. ~~The same~~Two (2) designated Small Business Development Department (SBDD) staff as voting members, with one (1) alternate.

D. Members.

~~3.~~1. The Department Managers for PDD, and SBDD shall designate staff Members and one alternate Member from PDD and SBDD each. The designated staff may be re-appointed by the Department Manager.

2. ~~If the designated PDD or SBDD individual~~ A term for a member is three (3) years. No member shall serve more than two (2) consecutive terms. A partial term shall not be calculated in a Member's term limit.

~~4.~~3. If a member is presenting a leasing transaction before the ~~DED Approving~~ Committee, the ~~appropriate Department Manager~~alternate shall ~~appoint an interim staff~~serve for consideration of that transaction.

~~4. If the Chief Financial Officer's position is not filled, the Executive Director of DED shall select a DED staff member to serve until the position is filled.~~

~~C.~~E. Removal~~:~~, Resignation, and other Vacancy.

~~a.~~ Any of the ~~three members~~four (4) Members may be removed by Division Director for good cause, ~~which can only be done with the approval of the EDC.~~

1. ~~Good Cause may include~~including lack of attendance or violation of any Navajo Nation policy, rules, or regulations.

2. ~~If~~ A Member may resign from the ~~Chief Financial Officer is removed.~~Committee at any time.
3. If a vacancy occurs due to the ~~Executive~~death, illness, resignation, or removal of a PDD or SBDD Committee member, the relevant Department Manager will select a replacement for the remainder of the term within five (5) days of the vacancy. If a determination is not made within five (5) days, the Division Director ~~of DED~~shall make the selection.

~~2.~~4. If a vacancy occurs due to the death, illness, resignation, or removal of the CFO Member/Chair, the Division Director shall select a replacement from the DED staff~~, subject to the three (3) year term limit~~ for the remainder of the term. In the interim, the Committee Members may vote on an individual Member to serve as an interim Chair.

~~5. Resignation or Vacancy:~~

~~a. At any time, a member may resign as a member of the DED Approving Committee or if a vacancy arises from death, illness or any other occurrence the above procedures in this Section1.9 (3) and (4) shall apply.~~

~~D.~~F. Meetings~~:~~.

~~b. The DED Approving~~Generally, the Committee ~~shall~~will meet twice a month on the first and third Monday of each month~~;~~

1. ~~A meeting shall be conducted no less than twice a month~~.
2. Each meeting shall be deemed public ~~record~~, and an Official Resolution ~~shall~~will be adopted by the ~~DED Approving~~ Committee ~~for~~as a public record of each approved leasing transaction, if applicable.
3. Special meetings may be held, as needed, in accordance with the Committee's rules of order.

~~E.~~G. The ~~DED Approving~~ Committee shall adopt rules of order ~~for~~to govern its meeting procedures for review and approval of leasing transactions.

~~**2.0 Pre-Business Site Lease**~~

~~**2.1 General Information:**~~

~~Prospective applicants for a business site lease should contact the appropriate DED department. An applicant can be an individual (sole proprietorship) or any legally recognized business entity or organization. A group of Individuals, Partnership, Limited Partnerships (LP), Limited Liability Partnership (LLP), Corporation or Limited Liability Company (LLC), professional association, professional corporations, organized or chartered under federal, state or Navajo Nation law. All legally recognized business entity or organization must register with the BRD and be in good standing under the laws of the Navajo Nation.~~

2.0 Definitions ~~for purposes of the Plan:~~and Fee Schedule

2.1 Definitions*~~Approving Entity~~*: ~~means~~

A. Administrative Plan: This Business Site Lease Administrative Plan.

B. Appraisal: An assessment to determine ***the*** *~~DED~~ fair market value of property or a business that meets the requirements in Management Plan Section 6.4.*

C. ***Approving Committee*** *~~who has been~~: The entity* ***delegated the authority by the*** *~~EDC~~RDC* ***to approve*** *~~Business Site~~ business site leasing transactions under the Uniform Regulations.*

D. Approving Entity: The DED, which has delegated authority to perform the duties and responsibilities of the Lessor on behalf of the Navajo Nation, and to approve or disapprove ***Leasing Transactions*** *~~under the~~. This Administrative* ***Plan*** *gives the Leasing Department Manager or Program Manager, as applicable, delegated authority to approve permits, emergency operating agreements, and sub-permits, and gives the Approving Committee delegated authority to approve all other Leasing Transactions.*

E. ***Assignment:*** *~~means an~~An* ***agreement between a Lessee and an Assignee whereby the Assignee acquires*** *~~all of the~~* ***Lessee's rights and****/or* ***assumes*** *~~all the Lessees~~Lessee's* ***obligations under a*** *~~business site lease~~Lease.*

F. BRD: The DED Business Regulatory Department, which maintains a record of LREs authorized to do business on the Navajo Nation and issues Certificates of Good Standing, among other things.

G. Business Plan: A formal written document which describes the business, products and/or services, the market to be served, location of the business, management and organization, organizational chart, financial plans, and demonstrated financial viability.

~~F.~~H. ***Business Site Lease*** *~~("Lease"): means any Lease~~: Any lease* ***for business purpose issued upon*** *~~the~~* ***Navajo Nation*** *~~Trust Land~~trust land* ***under the authority of*** *the Navajo Regulations, Uniform Regulations,* ***this Plan,*** ***and*** *the DED Master Plan of Operation.*

1. ~~*Business Site Leasing Transactions* means a new Lease, renewal of Lease; modification, novation, assignment; collateral assignment of~~

~~Lease; revocable use permit; conditional use permit; or emergency operating agreement.~~

~~2. *Consumer Price Index*: means a program produces monthly data on changes in the prices paid by urban consumers for a representative basket of goods and services.~~

I. Cancellation: In accordance with the Management Plan, a Lease in default may be unilaterally canceled by RED, or mutually canceled through compromise and settlement.

J. DED: The Navajo Nation Division of Economic Development, within which BRD, PDD, RED, SBDD, and the Tourism Department are located.

~~G.~~*K.* ***Development Period:*** ~~*means the*~~*The* ***time period from when a Lease is executed to when improvements*** ~~*are expected to*~~ *will* ***be substantially completed.***

L. Emergency Operating Agreement or EOA: A written Agreement between the Navajo Nation and the Operator for emergency use of Navajo Nation trust land for a specified purpose.

~~H.~~*M. ER or* ***Environmental Reviewer:*** ~~*means the*~~*An* ***employee of*** ~~*the DED that has the authority*~~ *RED, exercising the authorities and duties* ***set forth in the*** ~~*Tribal*~~*Navajo* ***Regulations*** *§ 811.*

N. ERP or Environmental Review Process: The process set forth in Management Plan Section 5.0.

O. ES or Environmental Summary: A document prepared by the ER when environmental compliance determinations relating to a proposed lease are sufficient, or when a leasing decision is exempt and an ERP is not required.

P. Executing Official: The Navajo Nation President for Leases, andDepartment Manager, for Permits, Sub-Permits, and EOAs, as applicable.

Q. Expiration: The end of a Lease agreement according to its terms. Obligations of a party may extend beyond the Lease expiration, for example, when a lessee must remove storage tanks and remediate the premises.

R. Holdover: When a Lessee remains in possession of rental premises after the expiration, cancellation, or termination of a Lease without written authorization.

S. For Profit: Any LRE other than a Non-Profit.

T. Lease: Has the same meaning as Business Site Lease.

U. Lease Data: Relevant data on existing leases such as business purpose, location, annual rents, terms, etc., which is stored in an automated records management system for business site lease transactions on Navajo trust land.

V. ***Lease Package:*** ~~*means all*~~*All* ***required documents*** ~~*necessary; to*~~ *for review and approval of a Leasing Transaction.*

W. Leasehold Interest: The Lessee's transferrable interest under the Lease itself.

~~I.~~*X. Leasing Decision: In the context of the Environmental Review Process (ERP), the following types of lease transactions that will* ***be*** ~~*granted a Lease, Permit, or Agreement.*~~*acted on by the Approving Entity: lease issuance, lease amendment or modification, subleasing, lease assignment or transfer, and tenant leases.*

Y. *Leasing Department: The DED department supporting and processing a Leasing Transaction with the Applicant; the Leasing Department may be PDD, SBDD, RBDOs, or Tourism Department; Leasing Department is not BRD or RED.*

Z. *Leasing Transaction: A Lease, modification, termination, novation, assignment, sublease, collateral assignment, revocable use permit, conditional use permit, sub-permit, or emergency operating agreement.*

AA. *LRE or Legally Recognized Entity: Any nonprofit or for-profit corporation, limited liability company, partnership, or other type of business organization.*

BB. *Management Plan: The DED Business Site Lease Management Plan.*

CC. *MDR or Market Data Research: A process to obtain fair annual lease value set forth in Management Plan Section 6.2.*

~~J.~~*DD.* ***Modification:*** ~~*means a*~~*An amendment or* ***change in the terms and conditions of the Lease.***

EE. *Navajo Nation Lease Database: The current database of Lease Data utilized and constantly updated by RED.*

FF. *Navajo Regulations: Navajo Nation Business Leasing Regulations of 2005, adopted by Resolution EDCJA-02-07.*

GG. *Non-Profit: an entity organized for a purpose other than making a profit and exempt from federal taxation under Internal Revenue Code Section 501(c)(3) or otherwise defined by Navajo Nation law.*

~~K.~~*HH.* ***Nominal Rent*** ~~*means insignificant*~~*: Minimum* ***rent*** *less than market value for rental of property by lessee. See Management Plan Section 6.3.*

~~3. *Non-Profit* means one that has committed legally not to distribute any net earnings (profit) to individuals with control over it, such as members, officers, directors, or trustees, except for services rendered and goods provided.~~

~~*L.*~~*II.* ***Novation*** ~~*means a*~~*: A* ***modification of the*** *BIA* ***Lease that permits the lessee to voluntarily consent to the leasing jurisdiction of the*** ~~*Tribal*~~*Navajo* ***Regulations.***

JJ. *OOC: The Navajo Nation Office of the Controller.*

KK. *PDD: The DED Project Development Department, which has a purpose to plan, develop, retain and expand small to large-scale commercial and industrial projects to improve the Navajo economy.*

LL. *Permit: A written agreement between the Navajo Nation and the Applicant for a Revocable or Conditional Use Permit to use Navajo Nation trust land for a specified purpose.*

MM. *Plan: Together, the Administrative Plan and Management Plan.*

~~*M.*~~*NN.* ***Primary Term:*** ~~*means the*~~*The* ***initial term of the Lease, Permit*** ~~*or Agreement*~~*, or EOA, as distinguished from a renewal term.*

OO. ~~*Security: means a Certificate of Deposit ("CD"), Letter of Credit ("LOC"), cash*~~*Procurement Clearances: Clearances required before granting an individual* ***or*** ~~*Bond*~~*LRE a business opportunity, as set forth in the Navajo Nation Business and Procurement Act.*

PP. *RBDO: A Regional Business Development Office, established within SBDD and furthering its purpose by* ***providing*** ~~*security*~~*technical assistance to prospective*

and current Lessees, negotiating Leasing Transactions with Lessees, and supporting Lessees through Lease approval and execution.

QQ. RDC: The Navajo Nation Council Resources and Development Committee. References to EDC in legacy Business Site Lease legal authorities are now construed to refer to RDC.

RR. RED: The DED Real Estate Department, which is responsible ***for*** ~~*the payment*~~*compliance and enforcement of Leasing Transactions under DED's management authority, and oversees the Environmental Review Process, and is the recordkeeping entity for all Navajo Nation Business Site Leases.*

SS. SBDD: The DED Small Business Development Department, which has a purpose to maintain a network of RBDOs to serve as a direct link to local communities and to assist and promote Navajo individuals, chapters, and organizations with business and economic development matters.

~~*N.*~~*TT. Security: includes, but is not limited to, cash, bond, or a letter* ***of*** ~~*the rental and may include*~~*credit in an amount that reasonably assures* ***performance of*** ~~*duty*~~*the Lessee's obligation under its Lease.*

UU. Sole Proprietor: An individual who owns an unincorporated business by himself or herself

~~*O.*~~*VV.* ***Sublease:*** ~~*means*~~ ***a written agreement by which the Lessee grants a person a right of possession no greater than that held by the Lessee under a Lease.***

~~**2.2 Advertisement**~~

~~DED may advertise available commercial land for leasing.~~

WW. Sub-Permit: a written Agreement between the Navajo Nation and the Lessee, or between the Lessee and a third-party, for limited short-term use of Lease premises on Navajo Nation trust land for a specified purpose.

XX. Surety: one who guarantees the performance of another. An issuer of a letter of credit is not a surety required to consent to a leasing transaction unless the letter of credit expressly states otherwise.

YY. Survey: A survey plat map and legal description of the lease premises that meets the requirements in Section 4.0 of the Management Plan.

ZZ. Tenant Agreement: is a contract between a Lessee-landlord and a tenant for commercial purposes. Tenant Agreements generally occur when the Lessee's business purpose is to manage a commercial office, industrial facilities, or retail buildings for third party business tenants.

AAA. Termination: In accordance with the Administrative Plan, a Lease not in default may be terminated by written agreement of the Lessee and the Lessor, processed as a Leasing Transaction by the Leasing Department.

BBB. Uniform Regulations: Economic Development Committee Uniform Business Leasing Regulations of 2008, adopted by EDCAU-39-09 to ensure certain uniformity in business site leasing among various entities with delegated leasing authority.

~~2.1~~2.2 Administrative Fees

A. Administrative Fee(s) shall be due upon ~~approval~~execution of any leasing ~~or administrative~~ transaction ~~and~~agreement before ~~any distribution of~~ the

~~document.~~fully executed agreement is distributed. All payments are non-refundable and shall be made by money order or cashier's check, payable to "The Navajo Nation" and deposited with RED.

~~FEE SCHEDULE:~~

~~1. New Lease : $150.00~~

~~2. Option of Renew $100.00~~

~~3. Renewal of Lease $100.00~~

~~4. Modification Agreement: $100.00~~

~~5. Assignment Agreement: $100.00~~

~~6. Collateral Agreement: $100.00~~

~~7. Revocable/Conditional Use Permits: $100.00~~

~~8. Emergency Operating Agreement: $75.00~~

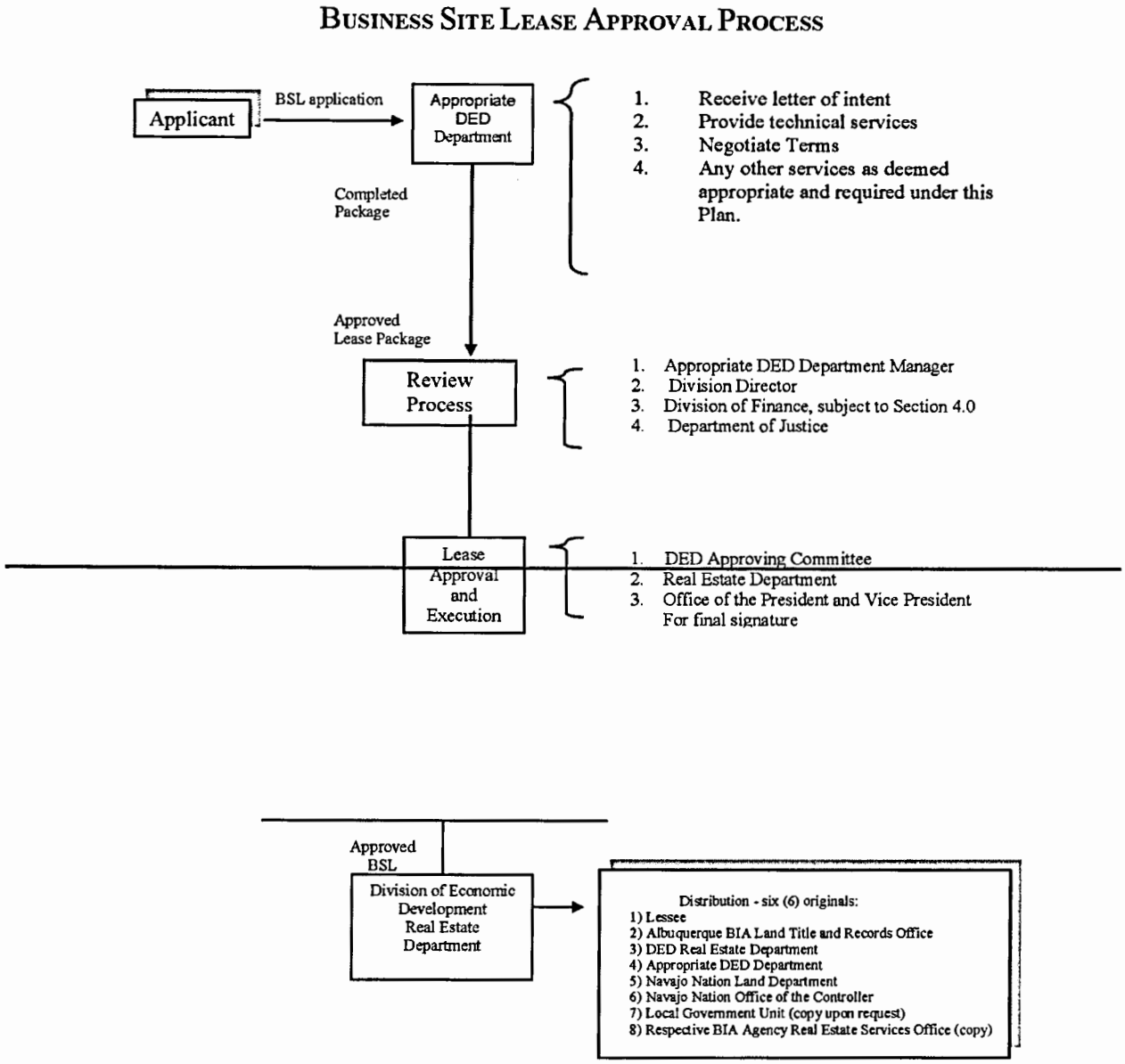
~~9. Other Administrative Transactions: $100.00~~

B. Fee schedule:

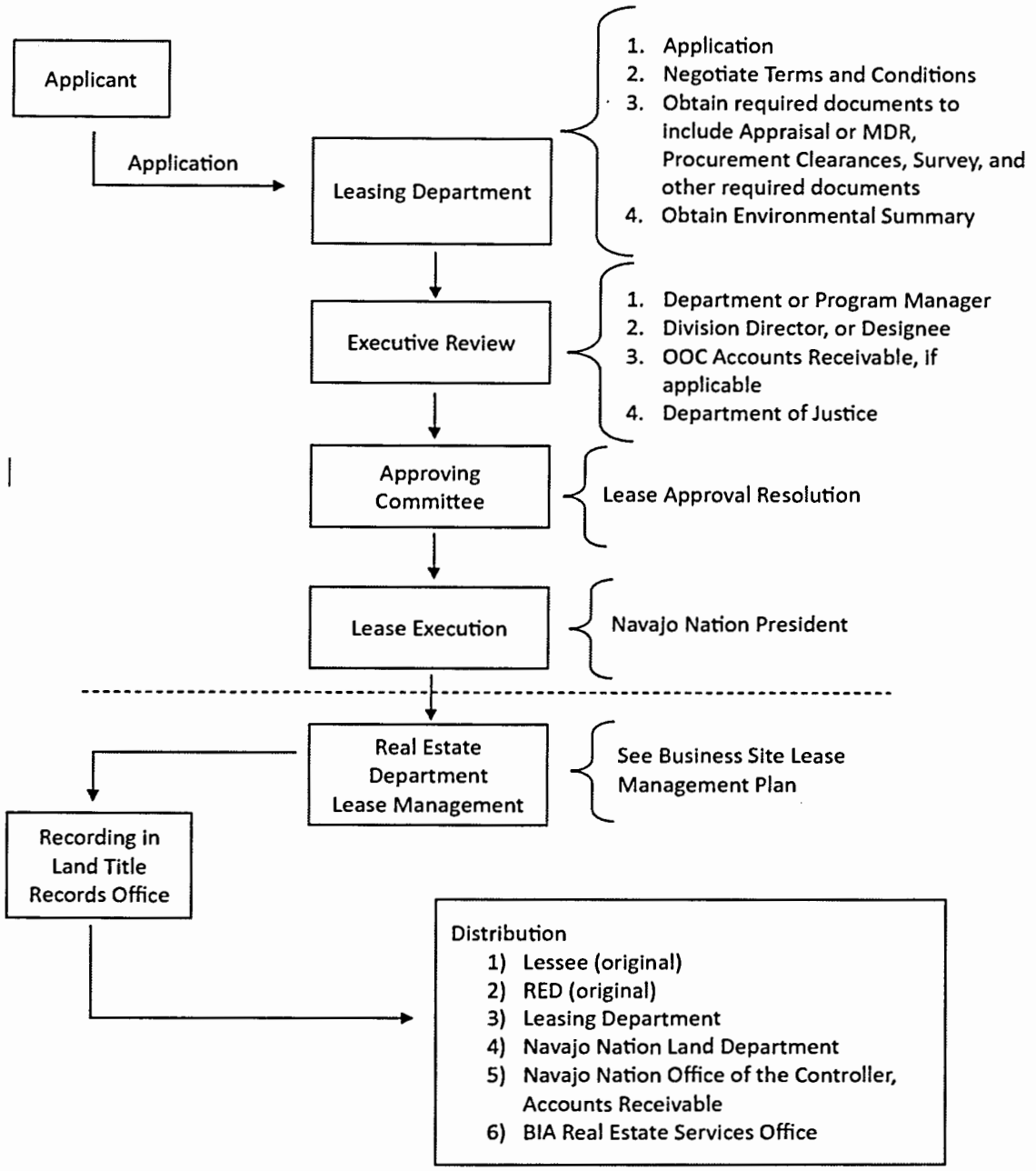
#	Leasing Transaction	Amount
1.	New Lease	$200.00
2.	Renewal	$150.00
3.	Modification	$150.00
4.	Assignment	$150.00
5.	Collateral Assignment	$150.00
6.	Novation	$150.00
7.	Sublease	$150.00
8.	Revocable Use Permit	$150.00
9.	Conditional Use Permit	$150.00
10.	Emergency Operating Agreement	$150.00
11.	Sub-Permit	$150.00
12.	Option to Renew	$150.00

C. The Administrative Fee may be waived if the Lessee provides written justification, approved in writing by the Leasing Department.

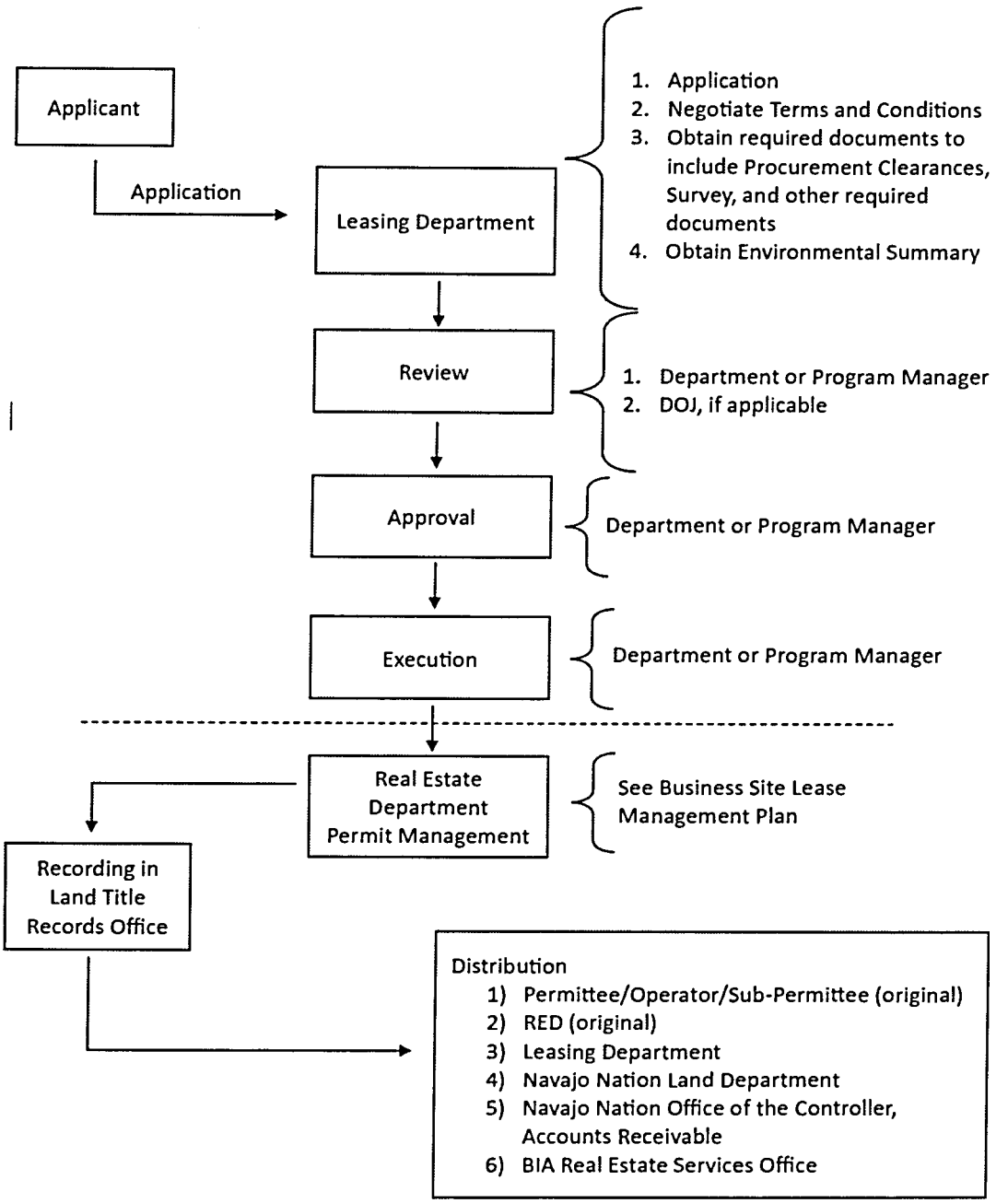
3.0 Navajo Nation Lease ~~Approval~~Process Flow ~~Chart~~Charts



3.1 Business Site Lease Process



3.2 Permit, EOA, and Sub-Permit Process



4.0 New Lease

~~3.1~~4.1 Applicant ~~New Lease~~Responsibilities

~~2.3~~ Applicant shall submit~~:~~

~~1. Letter of Intent~~

~~2. Business plan.~~

~~3. Chapter resolution/Land Users Consent required when land is initially being withdrawn for commercial purposes. A Chapter resolution is not required for existing business sites.~~

A. ~~If an Applicant is a legally recognized entity ("LRE") must comply with~~ the following~~: (absolute pre-requisite)~~ documents.

~~a. LRE must register with the BRD and comply with the requirements of the Navajo Corporation Code;~~

1. ~~LRE~~Application.
2. Business Plan.
3. Land withdrawal designation from the Navajo Land Department, if applicable; a land withdrawal designation is not required for existing business sites.
4. If an Applicant is an LRE, it must submit ~~a current~~:

a. Current Certificate of Good Standing ~~to the appropriate DED Department. The certificate shall be dated within 12 months prior to administrative review of the~~ from BRD; and

~~a.~~b. Evidence of authority of Lease signatory to act and sign on behalf of the LRE.

~~1.~~5. ~~Provide a certified legal~~Certified survey and legal description of the proposed business site~~, unless an existing legal survey and legal description dated post 1986.~~.

~~2.~~6. Secure Ethics Clearance, if applicable – Federal employees, ~~Tribal~~Navajo elected ~~officials~~official and ~~Tribal~~Navajo employees must comply with this requirement.

~~2.4 Division of Economic Development~~

B. A Chapter resolution is not required for existing business sites.

C. If the Applicant has not completed these responsibilities or made significant effort in six (6) months of initiating the Application, the Application may be void, at the discretion of Leasing Department.

4.2 Leasing Department Responsibilities

A. Interview, orient, counsel, and assist Applicant.

B. Review all documents for accuracy and compliance with applicable laws and regulations.

~~1. Upon receipt of the Letter of Intent, the appropriate DED department shall notify RED, for purposes of the archeological clearance and submit documents list in Section 2.0 of the Management Plan.~~

~~2. Interview, orientate, counsel and assist Applicant.~~

C. Obtain Procurement Clearances, if applicable.

Obtain an Environmental ~~Review ("ER") and a certified~~ Summary (ES) from RED. The Leasing Department may submit the environmental Compliance Determinations to the Environmental ~~Summary ("ES"), proceed to 3.0~~Reviewer to expedite the Environmental Review Process set forth in Section 5.3(D) of the Management Plan.

~~3. Obtain a procurement clearance from :~~

~~a. Accounts Receivable, Office of the Controller (outstanding rental);~~

~~b. Navajo Tax Commission (outstanding taxes);~~

~~c. Credit Services, Office of the Controller (loan default);~~

~~d. Support Services, Division of Economic Development (BIDF default); and~~

~~e. Navajo Nation Shopping Center, Inc. (outstanding rental) (collectively known as "respective tribal departments").~~

D. Obtain an Appraisal or Market Data Research ("MDR").

~~C.~~E. Prepare and negotiate terms and conditions of the Lease~~:~~.

4.3 Terms and Conditions of the Lease, General Provisions:

~~D.~~A. Term

1. The Primary Term shall not exceed 25 years.
2. There may be options to renew for up to two (2) additional terms~~,~~ ~~each~~. Each additional term may not exceed 25 years~~;~~.
3. ~~Term~~The term shall be based on the economic viability of the business.

~~E.~~B. Rental

1. Rental shall be based on an Appraisal or ~~Market Data Research ("MDR"), proceed to 4~~MDR. See Section 6.0 of the Management Plan.
2. Rental shall be a flat rate per year. An exception to the flat rate for percentage rental based on a percentage of gross receipts may be considered in the Leasing Department's sole discretion.
3. Rental may be reduced if:

~~1) Development Period;~~

a. The Lease includes a development period;
b. Leasehold ~~Improvement;~~improvements will be developed;
c. ~~Substantial construction~~Construction or reconstruction of the leasehold improvements is necessary.~~;~~

~~a) If the lessee fails to undertake such reconstruction, he/she shall be required to pay the rent that was in existence before such waiver or abatement was granted for the period of the waiver or abatement of rent.~~

d. ~~If lessee~~Lessee has difficulty securing financing, however such reduction may not ~~to~~ exceed one (1) year.~~;~~
e. Environmental ~~Clean~~clean-up; is necessary;

~~2) There is an Rental based on % of permanent Navajo Employment;~~

f. ~~An~~ exigent circumstance, which ~~must be~~is justified in writing with supporting documents by the Applicant and approved by the ~~appropriate DED department. The justification shall be in writing and the Applicant shall enclose supporting documents to justify its claim~~Leasing Department.

4. Rental may be nominal rent and the fair annual lease value shall not be ~~determined, based on 3.0 of the Management Plan,~~required for:

a. Navajo Nation Departments;

~~3) Navajo Nation Departments;~~

~~4) Non-profit organizations validly organized under federal law;~~

~~5) Federal or State governmental entities; or~~

b. ~~Other~~Non-profits; or

c. An **exigent** ~~circumstances~~circumstance, **which** ~~must be~~is **justified** in writing with supporting documents **by the Applicant and approved by the** ~~appropriate DED department. The justification~~Leasing Department.

5. Periodic Review / Rental Adjustments:

a. The Lease shall provide for periodic review every five (5) years taking into account economic conditions.

b. The parties may negotiate pre-determined five (5) year rent adjustments, to satisfy the five (5) year review requirement.

c. Periodic rent adjustment shall not increase based on the value of negotiated site improvements or the improved value of the business site because of these improvements if the improvements were funded by Lessee.

d. Periodic rent adjustments shall be based on MDR, appraisal, consumer price index or other method to establish fair annual lease value.

~~g.~~ e. Renewed leases **shall be** ~~in writing and the Applicant shall enclose supporting documents to justify its claims~~subject to rental renegotiation and be based on MDR or an appraisal to establish fair annual lease value.

~~f. Aside from the development~~The five (5) year review **period,** ~~Rental may be postponed to allow the Applicant to secure financing, however, the postponement shall not exceed one (1) year.~~

~~g. Rental adjustments:~~

~~h.~~ f. ~~All Leases shall be reviewed every five years, the five year period~~if applicable, **shall start on the:**

i) ~~fifth anniversary from the date of the execution of~~Date **the Lease**; was executed by all parties,

ii) ~~expiration~~Expiration **date of the Development Period**;, **or**

iii) ~~date~~Date **the first rental was due,**

whichever is applicable.

~~1) The lessee shall be notified by RED in writing ninety (90) days before any adjustment is made, with a courtesy copy to the appropriate DED department.~~

~~2) Rent may be adjusted on the applicable fifth anniversary using the CPI or based on Lease rate adjustments, which shall be stipulated in the Lease.~~

~~a) Lease rate adjustments shall be negotiated on a case by case basis which must be based on the following factors:~~

~~i. Proposed Investment into the business;~~

~~ii. Anticipated Improvements of the business;~~

~~iii. Type of business, business activity; and~~

~~iv. Appraised value or MDR.~~

~~3) The Lease shall specify:~~

~~a) how the adjustment shall be made;~~

~~b) who will make the adjustment;~~

~~c) when the adjustment will be effective; and~~

~~d) how disputes shall be resolved regarding such adjustment.~~

~~F.~~C. Rental Security~~:~~

1. Shall be 50% of the annual rental for businesses ~~that~~with gross revenue over $1 million annually~~:~~.
2. Shall be 25% of the annual rental for all other businesses.
3. Security may be waived if:

a. Applicant has been in good standing for a minimum of five (5) years with ~~the Navajo Nation Business and Procurement Act;~~rental payments paid to OOC;

~~c) Good Standing with Dunn and Bradstreet;~~

~~f) Fortune 500 Company;~~

b. Applicant is a Non-Profit ~~Organizations~~;
~~a. Navajo Nation Departments;~~

~~g) Other Governmental Entities:~~

c. ~~The Security may be waived in~~ Applicant is a Navajo Nation Department or other Navajo Nation entity; or

~~b.~~ d. There is an **exigent** ~~circumstances~~circumstance, **which** ~~must be~~is **justified** in writing with supporting documents **by the Applicant and approved by the** ~~appropriate DED department. The justification shall be in writing and the Applicant shall enclose supporting documents to justify its claim~~Leasing Department.

4. At the termination of the Lease and upon completion of all compliance reviews and inspections to be performed on the premises, the Navajo Nation shall return cash security deposited to the Lessee which was not spent to correct defaults and non-compliance.

~~4) Finance and Security shall be submitted upon the commencement of rental.~~

~~G.~~D. Development ~~Period:~~Periods

1. ~~Shall~~Finance period may be granted for a period not to exceed one (1) year from the date the Lease is fully executed.
~~1.~~2. Development period may **be granted for a period not to exceed three (3) years from the date** ~~of execution of the Lease.~~the Lease is fully executed, unless the Lessee can justify in writing a longer development period, not to exceed five (5) years.
3. ~~May~~Development period may **be extended** ~~in~~**for exigent circumstances,** ~~which~~ with a Lease Modification. The Development Period may only be extended twice for a term not to exceed one (1) year for each extension. Exigent circumstances **must be justified** in writing with supporting documents **by the Applicant and approved by the** ~~appropriate DED department. This justification shall be~~Leasing Department.
4. If the Lessee fails to obtain financing during the Finance Period, or undertake development during the Development Period, the Lease may be subject to automatic termination at the expiration of the applicable Finance Period or Development Period.

E. Insurance Requirements, Generally

~~2.~~1. Lessee shall, at its expense, maintain insurance to cover property business interruption, liability, and casualty **in** ~~writing and the Applicant shall submit supporting documents to justify its claim~~an amount sufficient to cover improvements, personal injury, or death.

~~h. Insurance:~~

~~3.~~2. ~~Be obtained from a Nationally Accredited Insurance Company with a financial strength of at least an "A" and~~ shall be provided by insurance companies duly **authorized** ~~to do business within in the state where the leased premise is located.~~and licensed, having a Best's Rating of A-VIII or better.

~~4.~~3. ~~Include~~The insurance shall expressly identify **the Navajo Nation and the United States as additional** ~~insureds~~insured parties.

4. All required insurance coverages shall be evidenced on certificates of insurance no later than the Effective Date of the Lease, or the date such insurance is required by the Lease.

5. Lessee's insurance requirements shall comply with the Standard Terms and Conditions, Lease Part II Sections 1.11 and 1.12, unless otherwise agreed to in writing by the Risk Management Program.

F. Subleases

~~1) Insurance shall be posted within thirty (30) days from execution of the Lease.~~

~~2) Not be cancelled or amended without thirty (30) days' prior written notice to the RED.~~

~~3) Commercial General Liability Insurance amount shall be:~~

~~a) $500,000 with a general aggregate limit for each occurrence at $1,000,000~~

~~b) $1,000,000 with a general aggregate limit for each occurrence at $2,000,000, if the following:~~

~~i. Storage Tank site;~~

~~ii. Regulated substances on site;~~

~~iii. Heighten Criminal Activity, common in the normal type of business (i.e. gaming, selling of alcohol, etc.).~~

~~c) Insurance amount may be reduced if:~~

~~i. Insurance quote is at a lower rate. from a Nationally Accredited Insurance Company with a financial rating of "A"; or~~

~~ii. The Navajo Nation Risk Management Department, in writing, agrees to a lower amount.~~

~~4) Fire and Casualty Insurance amount shall be:~~

~~a) Extended coverage endorsements covering not less than the full replacement value of all improvements on the leased premises; or~~

~~b) $500,000 but may be reduced if:~~

~~i. Insurance quote is at a lower rate, from a Nationally Accredited Insurance Company with a financial rating of "A"; or~~

~~ii. The Navajo Nation Risk Management Department, in writing, agrees to a lower amount.~~

~~c) May be postponed to:~~

~~i. Receipt of all approvals to commence with construction;~~

~~ii. Upon the first drawdown of financing; or~~

~~iii. Not to exceed ninety days from execution of the Lease.~~

~~The responsibilities of the Applicant shall be completed in six (6) months. At the end of six (6) months, if the Applicant has not made any significant effort in the completion of their responsibility on any of the above documents the Application is void, at the discretion of DED. If the Application is void the application and all the documents shall be returned to the Applicant. However, appropriate DED departments may retain a copy of the Application and the documents at its discretion.~~

1. The Lease may authorize Subleases for part of the leasehold premises without Lessor approval, provided the Sublessee agrees in writing to be bound by each and all of the covenants and conditions of the Lease, and a copy of the Sublease is delivered to the Leasing Department, with a copy to RED, within seven (7) days of the Sublease effective date.
2. Subleases shall not be for the entire leasehold premises.
3. Lessee must conduct a separate operating business on the premises.

4. A Sublessee business must be authorized in the purpose section of the Lease.
5. A Sublease must be consented to by the sureties, if applicable.

G. Alterations, Additions, and Repairs

1. If Lessee intends to make alterations, additions, or repairs in an amount exceeding the negotiated amount based on the project, Lessee must submit a written request with the scope of work and cost break-down of the addition, alteration, or repair and the reason for the request to the Leasing Department. The Leasing Department will submit the request for written approval to the applicable Leasing Department Manager.
2. If the Lessee's request is approved, the Leasing Department shall promptly submit a copy of the written approval, together with the Lessee's written request, to RED for the Lease file.

~~3.2~~4.4 Executive Review Process

A. The ~~appropriate DED department~~Leasing Department **shall prepare the Lease** ~~package and enclose~~Package, including **the following** ~~documents~~:

1. A proposed Leasing Transaction with all exhibits, e.g. Survey;
~~1.~~2. **Executive Summary;**
~~2.~~3. ~~Chapter Resolution~~Land withdrawal designation letter**, if applicable;**
~~3.~~4. **Certificate of Good Standing, if applicable;**
~~4.~~5. **Procurement Clearances**~~; and~~, if applicable;
6. Ethics Clearance, if applicable;
~~5.~~7. **Environmental Summary**~~.~~;

~~4. The appropriate DED department shall initiate the SAS process:~~

~~a. Program Manager/Department Manager;~~

8. Appraisal, MDR, or evidence to justify reduced or nominal rent; and
9. Evidence of authority for an individual to enter into and execute the Lease.

B. The Leasing Department shall submit the Lease Package with an Executive Review Sheet to either the Leasing Department Manager or Program Manager to initiate the Executive Review Process.

C. The Leasing Department shall submit the Lease Package for surname to:

~~6.~~1. the **Division Director**~~:~~, or designee;

~~b. Division of Finance, unless the procurement clearance is issued within thirty days of the initiation of the SAS process;~~

~~c. Department of Justice.~~

2. OOC, if applicable; and
3. DOJ.

~~3.3~~4.5 Approval Process

A. ~~Appropriate DED department~~The Leasing Department shall submit the Lease ~~package~~Package to the ~~DED Approving~~ Committee.

B. If the ~~Lease transaction~~Leasing Transaction is approved, the ~~DED Approving~~ Committee shall issue an official Resolution that must be attached to the ~~document~~Lease for ~~the purposes of~~ execution by the Navajo Nation President ~~and Recording~~or Division Director.

C. If the Committee recommends any Lease amendments, the Lease package will not require another Executive Review process if resubmitted within thirty (30) days; provided, however, that any substantive amendments must be reviewed by DOJ to confirm legal sufficiency.

D. If the Leasing Transaction is denied, the Lease package and supporting documents shall be returned to the Leasing Department.

~~3.4~~4.6 Execution of Lease

~~5. Appropriate DED department shall submit package to the RED for review to ensure compliance with Navajo Nation law, policy, rules and regulations and the Plan.~~

~~a. RED shall have five (5) working days to review the package for compliance.~~

~~b. If the RED finds any violation that may require legal review it shall request a legal opinion from DOJ and the package shall not be submitted to the Navajo Nation President ("President") for final signature.~~

~~c. If the RED finds a violation, it shall immediately notify the appropriate DED department with a written explanation of the violation.~~

~~1) The appropriate DED department shall explain and remove illegal terms and conditions and if necessary, negotiate new terms and conditions with the Applicant.~~

~~2) May be required to submit package through the SAS process, refer to this section 4.3.~~

~~3) If no violation the RED shall return the Lease Package to the appropriate DED department for finalization~~

A. Finalize ~~Lease which include preparing six (6~~two (2) original sets of Lease and obtain Lessee signature and initials.

~~6. Transmit Lease~~ document~~(s) and securing Lessee(s) signature.~~

~~A.~~B. ~~Forward Lease document(s)~~ with copy of the Committee Resolution~~, including transmittal letter to the Office of the President~~ and cover memo to the Executing Official for signature.

~~B.~~C. Upon ~~Lease~~ execution by the ~~President~~Executing Official, the Lease shall ~~be submitted to RED~~become a legally binding document effective immediately.

~~**2.5 Lessee(s) Upon Execution of Lease**~~

~~1. Comply with all the terms and conditions of the Lease~~

~~2. Maintain liaison with the appropriate DED department~~

~~**2.6 Lease Recording and Distribution**~~

~~1. RED shall record Leases, subleases, assignments, amendments, encumbrances, renewals, modifications, cancellations and termination with the:~~

~~Land Title and Records Office~~
~~Southwest Regional Office~~
~~Bureau of Indian Affairs~~
~~PO Box 26567~~
~~Albuquerque, New Mexico 87125-6567~~

~~2. RED is responsible for distributing Lease, in accordance with the Plan, as follows:~~

~~C.~~D. ~~Originals shall be distributed to~~ The Leasing Department shall submit the following to RED:

~~a. Lessee~~

~~b. Albuquerque BIA Land Title and Records Office~~

~~c. DED Real Estate Department~~

~~d. Appropriate DED Department~~

~~e. Navajo Nation Land Department~~

~~f. Navajo Nation Office of the Controller~~

~~Copies shall be distributed to the following:~~
~~a. Local Government Unit upon written request~~

~~b. Appropriate BIA Agency Real Estate Services Office~~

1. ~~Expiring~~two (2) sets of the original executed Lease with all exhibits and a legible land Survey;
2. the Committee Resolution; and

~~3.0~~ the Lease

~~Lessee intending to renew a Lease shall notify the appropriate DED department, one (1) year prior to the expiration of the Lease and exhaustion of all options to renew.~~

~~1. Lessee must be:~~

~~a. Operating a business on the premises;~~

~~b. In compliance with Lease terms and conditions, Navajo law, rules and regulations.~~

~~2. If a notification is not received within one (1) year prior to the expiration, DED may consider another Applicant for the business site.~~

~~3.2 Lessee~~

~~1. Submit a letter of intent to renew Lease to the Navajo Nation President and the appropriate DED department;~~

~~2. LRE must submit a Certificate of Good Standing from the BRD. The certificate shall be dated within 12 months prior to administrative review of the Lease;~~

~~3. Submit the environmental audit as required by Part II of the Business Site Lease to the appropriate DED department;~~

~~4. Submit a Clearance from RED for insurance and bond/security requirements, as applicable;~~

~~5. Submit following documents (if applicable):~~

~~a. Amended business plan, only if amending the purposes of the Lease or the purposes were not fulfilled on the former Lease;~~

~~b. Survey Plat;~~

~~c. ER.~~

~~The responsibilities of the Lessee/Applicant shall be completed in six (6) months. At the end of six (6) months, if the Lessee/Applicant has not made any significant effort in the completion of their responsibility on any of the above~~ Package supporting **documents ~~the Application is void, at the discretion of DED. If the Application is void, the application and all the documents shall be returned to the Lessee/Applicant. However, appropriate DED departments may retain a copy of the Application and the documents at its discretion.~~**

~~**3.3 Division of Economic Development**~~

~~1. Review all documents for accuracy and compliance with all applicable laws and regulations.~~

~~2. Obtain a procurement clearance from the respective tribal departments.~~

~~3. Complete an Appraisal Report or MDR, as/if applicable.~~

~~4. Prepare and negotiate Lease terms and conditions with the prospective Lessee, refer to 4.6 of this Admin Plan.~~

~~5. Begin Review, Approval and Execution Process, refer to Section 4.3, 4.4,4.5 of this Admin Plan.~~

~~**3.4 Lessee Upon Approval of Lease Renewal**~~

~~1. Comply with all the terms and conditions of the Lease;~~

~~1.~~3. ~~Maintain liaison with the appropriate DED department~~and exhibits.

~~3.5~~4.7 Lease Recording and Distribution

~~2. Refer to 4.7 of this Admin Plan~~

~~4.0~~1.0 ~~RED~~Exercising Option to Renew Lease:

~~Lessee~~ shall ~~give written notice to the Navajo Nation President~~record and ~~the appropriate DED Department one (1) year prior to the~~ distribute all Leasing Transaction agreements within seven (7) business days from receipt of the fully executed document from the Leasing Department, in accordance with the Management Plan.

5.0 Expiring Lease (prior to 1 year)

This Section applies to Lessee who wants to enter into a new lease for the same premises upon expiration of the current Lease ~~with the intent or denial of exercising~~, when the ~~option~~Lessee either does not have an option to renew, or has exhausted the options to renew.

5.1 Lessee Responsibilities

A. Notify the Leasing Department one (1) year prior to the current Lease expiration date.

~~3.~~ If ~~a written notice is~~the Leasing Department does not ~~received~~receive notification one (1) year prior to the expiration ~~of~~, the ~~Lease, DED~~Leasing Department may advertise the business site

availability and consider other Applicants. An Application for a new ~~applicant.~~

~~**Responsibilities:**~~

~~**3.5 Lessee**~~

~~1. Submit a written notice of intent or denial to exercise their option to renew~~ Lease ~~with the following acknowledgement:~~

~~The Navajo Nation acknowledges and grants approval for the Lessee to exercise an option to renew pursuant to the terms of the Lease~~
~~APPROVAL:~~

~~Navajo Nation President~~

~~2. Must~~will then be ~~in compliance with applicable Navajo Nation laws.~~

~~**3.6 Division of Economic Development**~~

1. ~~Upon receipt of the letter of intent~~governed by ~~the appropriate DED Department DED shall obtain a procurement clearance from the respective tribal departments~~Section 4.0.

~~1. The appropriate DED department, in coordination with RED, shall ensure the Lessee is in compliance of the Lease before issuing a response to the Lessee, based on the Annual Lease Compliance Form and Site Status Report;~~

~~2. If the Lessee is not in default based on such reports and clearance the letter shall be submitted to the Navajo Nation President for execution.~~

~~3. If the Lessee is not intending to exercise this Option, the appropriate DED department may initiate 4.0 of this Admin Plan.~~

~~**3.7 Lessee(s) Upon Receipt of the Acknowledgement Letter:**~~

B. ~~Comply with all the~~After providing one (1) year advance written notice, Lessee shall:

1. Submit an Application;
2. If an Applicant is an LRE, it must submit:

   a. Current Certificate of Good Standing, and
   b. Evidence of authority for an individual to enter into and execute the Lease on behalf of the Lessee;

3. Submit the environmental audit as required by Lease Part II, if applicable;
4. Submit an Ethics Clearance, if applicable;
5. Be operating a business on the premises; and
6. Be in compliance with current Lease terms and conditions.

C. If the Applicant has not completed these responsibilities or made significant effort in six (6) months of initiating the Application, the Application may be void, at the discretion of Leasing Department.

5.2 Leasing Department Responsibilities

A. Send a copy of the Lessee's written notification to RED;
B. Review all documents for accuracy and compliance with applicable laws and regulations;
~~B.~~C. Prepare and negotiate Lease **terms and conditions** ~~of the Lease;~~with the Lessee, refer to 4.3 of this Administrative Plan.

~~1. Maintain liaison with the appropriate DED department.~~

~~3.8 Lease~~Begin Review, Approval, Execution and **Recording** ~~and Distribution~~

~~C.~~D. ~~Refer to~~Process, refer to Sections 4.4, 4.5, 4.6, and **4.7 of this** ~~Admin~~Administrative **Plan**.

~~4.0 Sublease~~

6.0 Exercising Option to Renew Lease:

A Lessee who has an option to renew may exercise the option, provided the Lessee is not in default under the Lease and is in compliance with applicable laws and regulations.

6.1 Lessee Responsibilities

A. To exercise an option to renew, Lessee shall send a Notice to Exercise Option to Renew ("Renewal Letter") to the Leasing Department one (1) year prior to the expiration of the term. The Renewal Letter must have the following acknowledgment:

> The Navajo Nation acknowledges and grants approval for the Lease renewal pursuant to the terms of the Lease.
>
> APPROVED BY
>
> _____
>
> Name: Date:
> Navajo Nation President

B. After providing the Renewal Letter, Lessee shall:

1. If Lessee is an LRE, submit:
   a. Current Certificate of Good Standing, and
   b. Evidence of authority for the signing individual to enter into and execute the notice of renewal and Modification (if Modification is required) on behalf of the Lessee;
2. Be operating a business on the premises;
3. Be in compliance with current Lease terms and conditions, and with applicable laws and regulations; and
4. Promptly after the Renewal Letter is approved, negotiate a Modification for Renewal with the Leasing Department to set the renewal term rental rate in accordance with the Lease, and based on an Appraisal or MDR to establish fair annual lease value.

C. If the Lessee has not completed these responsibilities or made significant effort in six (6) months of notice of intent to renew, the exercise of renewal may be void, at the discretion of the Leasing Department.

6.2 Leasing Department Responsibilities

A. Review all documents for accuracy and compliance with applicable laws and regulations.
B. Obtain Procurement Clearances, if applicable.

C. Obtain Certificate of Good Standing, if applicable.

D. Provide to RED and OOC a copy of Lessee's notice of renewal, and obtain from RED the Annual Lease Compliance Report to ensure Lessee is in compliance with the Lease.

E. Provided Lessee is in compliance with the Lease and applicable laws and regulations:

1. The Renewal Letter may be processed for Executive Review. Refer to Section 4.4 of this Administrative Plan.
2. Upon completion of Executive Review, transmit the Renewal Letter to the Executing Official for signature. A legally sufficient Renewal Letter does require action by the Approving Committee if it is in accordance with the terms of the existing Lease.
3. Upon execution by the Executing Official, the Renewal Letter shall be an effective Renewal.
4. Submit the original executed Renewal to RED for recording and distribution in accordance with the Management Plan.

F. Promptly after the Renewal Letter is approved, complete a Lease Modification for Renewal to establish the Renewal Term rental rate, based on Appraisal or MDR to establish fair annual lease value. Refer to Section 10 of this Plan.

7.0 Subleases and Tenant Agreements

Lessee who intends to sublease shall contact the ~~appropriate DED department~~Leasing Department. **General information and technical assistance in processing the Sublease transaction will be provided.** Subleases convey possessory interest in part of the land to a Sublessee. Tenant Agreements convey possessory interest in a defined area or space within the leasehold improvements to a Tenant.

~~1. Subleases must be approved by the Nation, except for the following:~~

~~a. Permanent office building tenants;~~

~~b. Shopping center tenants;~~

~~c. Retail mini mall tenants;~~

~~d. Other business where the nature of the business is subleasing/tenant agreements; or~~

~~e. For the purposes of merger, acquisition, or transfer of stock or any publicly traded companies.~~

~~2. If an exception, the Subleases shall be pre-authorized in the Lease;~~

~~3. If a Sublease must be approved by the Nation, then the Sublease must:~~

~~a. Not be for the entire leasehold premises;~~

~~b. Lessee must conduct a separate operating business on the premises.~~

~~4. Subleases shall:~~

~~a. Not exceed the term of the Lease;~~

~~b. Require the Sublessee to agree to be bound to all terms and conditions of the Lease, including, all rental payments, shall be paid to the "Navajo Nation" and submitted to the DOF at the following address:~~

~~Cashier's Section~~
~~P.O. Box 3150~~
~~Window Rock, AZ 86515~~

~~5. Landlord/Tenant Agreements can be used for: 1) Permanent office building tenants; 2) Shopping center tenants; 3) Retail mini-mall tenants; or 4) businesses where the nature of the business is subleasing/tenant agreements.~~

~~**The responsibilities of the Lessee/Sublessee/Applicant shall be completed in three (3) months. At the end of three (3) months, if any of the above documents are not completed the Application is void, unless the Lessee/Sublessee/Applicant has made significant effort in completing the application process. If the Application is void the application and all the documents shall be returned to the Lessee/Sublessee/Applicant. However, appropriate DED departments may retain a copy of the Application and the documents at its discretion.**~~

4.~~2~~7.1 Subleases that Require Approval from the Nation

A. Responsibilities

~~Responsibilities~~

1. Lessee, Proposed Sublessor~~ and Sublessee~~:

   a. ~~Shall provide a Letter of intent~~Provide an Application to Sublease the leasehold interest of the Lessee to the ~~DED~~Leasing Department.
   b. Must be in compliance with the existing Lease terms and conditions, including applicable Navajo Nation laws and regulations.

c. Must agree in writing that the Sublease will in no way relieve the Lessee from carrying out its duties under the Lease.

2. Proposed Sublessee:

a. If ~~Applicant~~proposed Sublessee is a LRE shall:

i) ~~LRE must~~ register with the BRD and comply with the requirements of the Navajo Corporation Code; and

ii) ~~LRE must~~ submit a current Certificate of Good Standing to the ~~appropriate DED Department. The Certificate~~Lessee for the Application to Sublease.

b. Shall register with Office of ~~Good Standing shall be dated within 12 months from the initiation of the Review Process~~Navajo Tax Commission.

c. ~~Must~~Shall be in compliance with Navajo laws and regulations.

d. The package will be considered void if not completed within three (3) months unless the Applicant makes a significant effort to complete the transaction. The voided package shall be returned to the Applicant.

~~6. Division of Economic Development:~~

3. Leasing Department:

a. Upon receipt of all required documents for the Sublease, review for accuracy, completeness, and compliance with all applicable laws and regulations;

b. Obtain ~~a written document from the respective tribal departments to verify Applicant's compliance with Navajo Business~~ Procurement ~~Act~~Clearances for the Lessee and proposed Sublessee;

c. Obtain an updated ~~land survey and ER, if applicable~~Survey;

d. Obtain an ES;

~~d.~~ e. Negotiate Sublease terms and conditions, only if the Sublessee proposes changes or modifications from the Lease:

i) Complete ~~a~~an Appraisal Report or MDR;

ii) Refer to Section 4.~~2(6)~~3 of this ~~Admin~~Administrative Plan.

~~e.~~ f. Begin Review, Approval, and Execution Process, refer to ~~4.0~~Sections 4.4, 4.5, and 4.6 of this Administrative Plan.

~~3.~~4. Lease Recording and Distribution:

a. Refer to Section 4.7 of this ~~Admin~~Administrative Plan.

~~4.~~5. Sublessee(s) Upon Approval:

a. Comply with all the terms and conditions of the Sublease and the Lease;
b. Maintain liaison with the ~~appropriate DED department~~Leasing Department and RED.

~~4.3~~7.2 ~~Sublease~~Subleases that ~~do not~~Do Not Require Approval from the Nation

A. This Section 7.2 applies only if the base Lease expressly authorizes Subleases without Lessor approval.Responsibilities

1. Lessee-Sublessor

a. ~~Shall provide~~ Ensure the Sublease and Sublessee are in compliance with all of the covenants and conditions of the Lease.
b. Obtain a Certificate of Good Standing for both the Lessee and Sublessee.
c. Obtain an updated Survey.
~~c.~~ d. Provide a copy of the Sublease~~, to the appropriate DED department~~ to the Leasing Department within seven (7) calendar days of its effective date.

~~7. Sublessee~~

~~a. Must agree to be bound to all terms and conditions of the Lease~~

~~8. Division of Economic Development~~

~~a. Shall distribute for recording;~~

~~b. Refer to 4.7 of this Plan.~~

e. If the Sublease terminates, provide notice of its termination to the Leasing Department and RED within 14 days of termination date.

2. Leasing Department

a. Immediately upon receipt, review all documents for accuracy and compliance with applicable laws and regulations.
b. If documents are accurate and compliant, the Leasing Department will immediately submit the Sublease documents to RED for recording, distribution, and lease management.
c. If documents are not accurate or compliant, immediately notify the Lessee in writing:

i) of the inaccuracy or non-compliance,
ii) whether corrective action can be taken to cure the inaccuracy or non-compliance, and
iii) that the Sublease will not be effective until such corrective action, if available, is taken.
iv) If adequate corrective action is taken, the Sublease will become effective. If adequate corrective action is not taken, the Sublease will be void and of no force and effect.

~~2.~~3. Sublessee(s) Upon Approval

a. Comply with all the terms and conditions of the Sublease and the Lease.;
b. Maintain liaison with the ~~appropriate DED department~~Leasing Department.

7.3 Tenant Agreements that Do Not Require Approval from the Nation

This Section 7.2 applies only if the base Lease expressly authorizes Tenant Agreements without Lessor approval.

A. Responsibilities

1. Lessee-Landlord

a. Ensure the Tenant Agreement and Tenant are in compliance with all of the covenants and conditions of the Lease.
b. Obtain a Certificate of Good Standing for both the Lessee-Landlord and Tenant.
c. Obtain a floor plan or similar document that clearly describes the area to be leased.
d. Provide a copy of the Tenant Agreement to the Leasing Department within seven (7) calendar days of its effective date.

e. If the Tenant Agreement terminates, provide notice of its termination to the Leasing Department within 14 days of termination date.

2. Leasing Department

a. Immediately upon receipt, review all documents for accuracy and compliance with applicable laws and regulations.
b. If documents are accurate and compliant, the Leasing Department will immediately submit the Sublease documents to RED for recording, distribution, and lease management.
c. If documents are not accurate or compliant, immediately notify the Lessee in writing:

i) of the inaccuracy or non-compliance,
ii) whether corrective action can be taken to cure the inaccuracy or non-compliance, and
iii) that the Tenant Agreement will not be effective until such corrective action, if available, is taken.
iv) If adequate corrective action is taken, the Tenant Agreement will become effective. If adequate corrective action is not taken, the Tenant Agreement will be void and of not force and effect.

3. Tenant(s) Upon Approval

a. Comply with all the terms and conditions of the Tenant Agreement and the Lease;
b. Maintain liaison with the Leasing Department.

~~5.0~~8.0 Novation

8.1 ~~Substitution of the~~Novation General Provisions

A. Pursuant to Uniform Regulations, Section 502, the management of existing business leases on **Navajo Nation** ~~and discharge of~~ trust land may be transferred to a delegated Navajo Business Site Lease managing authority. For example:

1. A business lease managed by the Bureau of Indian Affairs may be novated to the Navajo Nation and is thereafter subject to DED management in accordance with this Administrative Plan and the Management Plan.
2. If a Local Government Unit, Shopping Centers, or an Entity (as defined in the Uniform Regulations) obtains delegated authority to

manage business site leases, a lease managed by DED may be novated to the Local Government Unit, Shopping Centers, or Entity and is thereafter subject to management in accordance with an approved Business Site Leasing Administrative and Management Plan for that entity.

B. The consent of the Lessee of the business lease to be novated is required.

C. A Novation is processed as a Modification for Novation that replaces the current lessor and managing entity with the new lessor and managing entity. For example:

1. Novation of a lease under BIA management authority will replace references to **the Secretary of** the **Interior**~~, Bureau of Indian Affairs. In~~ with the Navajo Nation in each section of the Lease.

~~1.~~2. Novation of a lease under DED management authority will replace references to the Navajo Nation with an authorized Local Government Unit, Shopping Centers, or Entity in each section of the Lease, except where the Navajo Nation is referred to in its government capacity **other** ~~words, adding a new party who was not a party to the original duty~~than lessor.

~~9. Existing Leases:~~

D. If the Lease has been assigned, the most recent Assignee is the Lessee signatory. However, for simple assignments, the original Lessee-Assignor's concurrence is also required.

E. If applicable, Subleases and Sub-Permits will need to be Novated concurrent with the Base Lease.

8.2 BIA Lease Specific Concern:

~~a.~~ **Only** ~~Lease~~leases **with a** term~~Term~~ **of 25 years or less can be novated**~~, however the Term can also be modified to 25 years to allow for a novation.~~

~~b. The Lease shall be modified to exclude the Secretary of Interior ("Secretary") and replace with the Navajo Nation.~~

~~c. Each Section of the Lease giving responsibility to the Secretary must be stricken and replaced with the Nation.~~

~~This modification can only include the striking of the Secretary and modifying the Term if the~~. If the BIA lease **term is greater than 25 years**, the Novation Modification must reduce the Lease term to 25 years or less.

~~10. Assignments~~

~~a. The Lease shall be modified as explained above. However, for simple assignments, the original Lessee's concurrence is required.~~

8.3 Lessee Responsibilities

A. Provide written notice to the Leasing Department requesting or agreeing to novate the Lease;

~~B.~~A. ~~If~~ If Lessee is an LRE, ~~Subleases~~

~~b. The Sublease can be novated, only if the Lease is novated.~~

~~c. The Sublease shall be modified as explained above.~~

~~**4.2 Lessee**~~

B. ~~Shall~~ submit ~~a Letter~~:

1. Current Certificate of ~~Intent;~~Good Standing, and
2. ~~Must be~~Evidence of authority for an individual to enter into and execute the Novation Modification on behalf of the Lessee;

C. Be operating a business on the premises; and

~~C.~~D. Be in compliance with current Lease terms and conditions, and with Navajo Nation ~~law~~laws and regulations.

~~**4.3 Division of Economic Development**~~

8.4 Local Government Unit, Shopping Center, or Entity Responsibility, If Applicable

A. For Novation from DED management to another entity with delegated authority to manage Business Site Leases, the Local Government Unit, Shopping Centers, or Entity shall secure a DED sponsor from the appropriate Leasing Department to process the Novation as set forth below.

B. Coordinate with the Leasing Department sponsor to prepare a Lease Package for Executive Review, including to provide Procurement Clearances, the ES, and any other required documents, such as consent from an original Lessee-Assignor, and concurrent Sublease and Sub-Permit Modifications for Novation.

8.5 Leasing Department Responsibilities

~~D.~~A. Review all ~~required~~ documents ~~for the Novation.~~ for accuracy and compliance with ~~all~~ applicable laws and regulations.

~~1. Obtain a procurement clearance from the respective tribal departments.~~

B. ~~Begin~~Obtain Procurement Clearances.

C. Obtain ES.

~~E.~~D. Submit a Lease Package for Executive Review~~, Approval and Execution Process, refer~~. Refer to Section 4.~~04~~ of this ~~Admin~~Administrative Plan.

~~4.4 Lessee(s) Upon Execution~~

~~1. Comply with all the terms and conditions of the Novation and the Lease.~~

E. ~~Maintain liaison with~~ Obtain approval from the appropriate approving entity

1. To novate a lease under BIA management to DED ~~department~~management, obtain approval from RDC, with sponsorship by a Navajo Nation Council delegate.

~~4.5 Lease Recording and Distribution~~

~~1. Refer to 4.7 of this Plan~~

2. To novate a lease under DED management to a Local Government Unit, Shopping Centers, or Entity, obtain approval from the DED Approving Committee. Refer to Section 4.5 of this Administrative Plan.

F. Upon approval, process the Modification for Novation for execution and recording consistent with Sections 4.6 and 4.7 of this Administrative Plan.

~~6.0~~9.0 Assignments

9.1 General Provisions

Lessee~~(s)~~ who ~~intend~~intends to assign their Lease ~~need~~must submit an Application to ~~contact~~Assign to the ~~appropriate DED~~Leasing Department to ~~receive technical assistance in processing~~process the Assignment.

~~2. Business premise that are undeveloped cannot be assigned;~~

~~3. Business premise that are undeveloped cannot be divided up by an Assignment.~~

A. If the proposed Assignee wishes to change the terms and conditions of the original Lease, ~~the Lessee~~ prior to the Assignment, the Lessee shall modify the Lease, and ~~conduct~~notify the ER to obtain an ~~ER, if applicable;~~ES.

B. If a sale or foreclosure occurs and ~~the Encumbrancer~~an approved encumbrancer is the ~~Purchaser, he or she~~purchaser, they may assign the Lease without approval of the Lessor~~(s)~~ or Lessee~~(s),~~, provided the Assignee agrees in writing to be bound by all the terms and conditions of the Lease. If the Purchaser is a party other than the ~~Encumbrancer~~approved encumbrancer, approval by the ~~Approving Entity~~Committee is required, ~~provided~~and the ~~Purchaser agrees~~purchaser must agree in writing to be bound by all the terms and conditions of the Lease~~;~~.

~~4. The Assignment may be either~~ a complex or simple ~~assignments:~~

C. ~~Complex assignments are an~~ assignment ~~of rights, duties and liabilities.~~

~~1) This assignments shall be for mergers, acquisitions, sale and any other justifiable reasons;~~

~~b.~~ Simple assignments are ~~an~~ assignment of rights and duties.

~~5. If the proposed transfer of possessory interest is approved, the terms and conditions of the Assignor will remain in full force and effect.~~

~~**Responsibilities:**~~

1. ~~**Assignor/**~~ The Assignee will be liable for their acts and omissions upon the effective date of the Assignment. The Assignor will continue to be liable for their acts and omissions prior to the effective date of the Assignment.
2. ~~Shall~~Complex assignments are assignment of rights, duties, and liabilities. The Assignee will assume all of the Assignor's liabilities under the Lease, including liabilities that arose before the effective date of the Assignment. These Assignments are most common in business sales, acquisitions, and mergers.

D. The parties must provide ~~a written notice of intent~~satisfactory evidence to ~~assign~~the Leasing Department that the Assignee has sufficient organizational and financial ability to assume the Lease duties and liabilities.

E. If the Assignment is approved, all terms and conditions of the Lease will remain in full force and effect.

9.2 Assignor and Assignee Responsibilities

~~D.~~A. Submit to the Leasing Department an Application to Assign the leasehold interest ~~of the Lessee to the appropriate DED department~~to an assignee, with ~~both original signatures:~~evidence of the proposed assignee's ability to assume the rights, duties, and if applicable, all of the current Lessee's liabilities under the Lease.

B. ~~Must~~Submit an executed simple or complex Assignment and Assumption Agreement, as applicable.

~~E.~~C. The parties must be in compliance with the existing Lease terms and conditions~~, including~~ and all applicable Navajo laws and regulations.

~~6. If A proposed Assignee~~an Applicant is a~~an~~ LRE~~:~~

~~a. LRE must register with the BRD and comply with the requirements of the Navajo Corporation Code;~~

D. ~~LRE~~, it must submit ~~a~~:

1. Current Certificate of Good Standing ~~to the appropriate DED Department. The Certificate of Good Standing shall be dated within 12 months from the initiation of the Review Process.~~, and

~~**The responsibilities of the Lessee/proposed Assignee shall be completed in three (3) months. At the end of three (3) months, if any of the above documents are not completed the Application may be consideredvoid, at the discretion of the appropriate DED department, unless the Lessee/proposed Assignee has made significant effort in completing the application process. If the Application is void the application and all the documents shall be returned to the Lessee/Applicant. However, appropriate DED departments may retain a copy of the Application and the documents at its discretion.**~~

~~**4.6 Division of Economic Development**~~

~~1. Upon receipt of all required documents for the Assignment, review for accuracy, completeness, and compliance with all applicable laws and regulations;~~

~~2. Obtain written document from the appropriate tribal departments to verify applicant's compliance with Navajo Business Procurement Act;~~

~~3. Negotiate Assignment terms and conditions, only if the Assignee proposes changes or modifications from the Lease;~~

~~a. Complete an Appraisal or MDR.~~

~~b. Complete an ER, if applicable~~

~~c. Refer to 4.2(3) of this Admin Plan~~

~~4. Begin Review, Approval and Execution Process, refer to 4.0 of this Admin Plan.~~

~~**4.7 Assignee(s) Upon Approval**~~

~~1. Comply with all the terms and conditions of this Assignment and the Lease;~~

~~2. Maintain liaison with the appropriate DED department.~~

~~**4.8 Lease Assignment Recording and Distribution**~~

~~1. Refer to 4.7 of this Admin Plan~~

~~**5.0 Modification**~~

~~Modification is a change or an alteration, which introduces new elements into the Lease terms and conditions.~~

2. Evidence of authority of the signatory to act and sign on behalf of the LRE.

E. If the parties have not completed these responsibilities or made significant effort in six (6) months of initiating the Assignment, the Application may be void, at the discretion of Leasing Department.

~~6.2~~9.3 Leasing Department Responsibilities

~~**5.1 Lessee**~~

~~1. Submit Letter of Intent. This Letter would include but not be limited~~Conduct due diligence to~~:~~

~~a. Purposes;~~

~~b. Rental Adjustments;~~

~~c. Land Description;~~

~~d. Lease Improvements;~~

~~e. Business Ownership; and~~

~~f. Change of Terms and Conditions.~~

~~2. Major operational changes, requires Lessee to furnish additional clearances, as may be required, such as:~~

~~a. ER;~~

~~b. Survey Plat and Legal Description, if the~~ confirm proposed ~~Modification will affect the Lease acreage.~~

~~3. Must be in compliance with the terms and conditions of the Lease.~~

A. ~~**The responsibilities of the Lessee/Applicant shall be completed in three (3) months. At the end of three (3) months, if the Lessee/Applicant has not made any significant effort in the completion of their responsibility on any of the above documents the Application**~~Assignee is ~~**void, at the discretion of DED. If the Application is void the application and**~~able to assume all ~~**the documents shall be returned to the Lessee/Applicant. However, appropriate DED departments may retain a copy of the Application**~~

~~and the documents at its discretion.~~duties and applicable liabilities under the Lease.

~~5.2 Division of Economic Development~~

B. Review all ~~required documents~~documents for accuracy and compliance with applicable laws and regulations.
C. Obtain Procurement Clearances for ~~the~~ Lessee-assignor and proposed assignee.
D. Begin Review, Approval, Execution, and Recording Process, refer to Sections 4.4, 4.5, 4.6, and 4.7 of this Administrative Plan.

10.0 Modification~~,~~

A Modification may be used to amend, change, remove, or add provisions to the Lease terms and conditions. Modifications are generally not used to change the parties to a Lease; an Assignment is the proper document for ~~completeness, and~~ that purpose.

10.1 Lessee Responsibilities

A. Submit an Application to Modify Lease to the Leasing Department to explain the reason to change the terms and conditions of the lease, which may include but not be limited to:

1. Purpose,
2. Rental Adjustments,
3. Land Description,
4. Leasehold Improvements,
5. and other changes.

B. For certain changes, Lessee shall furnish additional documents, as may be required, such as:

1. Environmental Review documents for major operational change, and
2. new Survey and legal description, for increased or decreased acreage.

C. Must be in compliance with the Lease terms and conditions.
D. If the Applicant has not completed these responsibilities or made significant effort in six (6) months of initiating the Application, the Application may be void, at the discretion of Leasing Department.

10.2 Leasing Department Responsibilities

~~B.~~A. Review all documents for accuracy and compliance with applicable laws and regulations.

~~1. May request such clearances as may be deemed necessary, depending on what section of the Lease terms and conditions is/are affected by the proposed Modification.~~

~~2. Shall obtain written document from the appropriate tribal departments to verify applicant's compliance with Navajo Business Procurement Act.~~

B. Obtain Procurement Clearances.

C. Complete an Appraisal Report or MDR, as~~if~~ applicable.

D. Obtain an ES.

~~D.~~E. Renegotiate ~~Lease~~applicable terms and ~~conditions (if applicable).~~prepare the Modification.

~~E.~~F. ~~Begin Review, Approval and Execution, Process,~~Complete executive process; refer to Administrative Plan Sections 4.3, 4.4, 4.5, 4.6, and 4.~~5~~7 of this ~~Admin~~ Plan.

~~**5.3 Lessee(s) Upon Approval**~~

11.0 ~~Comply~~Mutual Termination

Mutual Termination applies if the Lessee is not in default and the Lessee and the Navajo Nation both agree to terminate the Lease. Mutual Termination does not eliminate any existing financial or environmental obligations of the Lessee.

11.1 Lessee Responsibilities

A. Submit an Application to Mutually Terminate the Lease to the Leasing Department.

B. Mutual Termination may be granted:

1. During the Development Period as negotiated and defined under Section 4.3 of the Administrative Plan, without penalty, or
2. At the request of the Lessee.

C. If an Applicant is an LRE, it must submit:

1. Current Certificate of Good Standing, and
2. Evidence of authority for an individual to enter into and execute the Lease on behalf of the Lessee;

D. Submit the environmental audit as required by Lease Part II, if applicable;

~~F.~~E. Be in compliance with ~~all the~~ current Lease terms and conditions ~~of the Modification and the Lease~~.

~~1. Maintain liaison with the appropriate DED department.~~

~~**5.4 Lease Recording and Distribution**~~

~~1. Refer to 4.5 of this Admin Plan~~

F. If the Applicant has not completed these responsibilities or made significant effort in six (6) months of initiating the Mutual Termination, the Application may be void, at the discretion of Leasing Department.

11.2 Leasing Department Responsibilities

A. Obtain confirmation in writing from RED that Lessee is not in default under the Lease.
B. Obtain Procurement Clearances.
C. Obtain Certificate of Good Standing, if applicable.
D. Obtain a clearance from the Navajo Nation Environmental Protection Agency, if applicable, with assistance from the ER.
E. Complete executive review process; refer to Administrative Plan Sections 4.4, 4.5, 4.6, and 4.7.

~~7.0~~12.0 Collateral Assignment of Lease

Lessee may ~~collateralize~~use their leasehold interest ~~that creates a lien upon real estate encumbered in a Lease as security for~~collateral to improve the ~~payment of a specified debt~~Lease premises, which will result in a lien on the Lease. If the Collateral Assignment is approved, the Lessee's lender will be an approved encumbrancer with rights described in Lease Part II.

~~A. Responsibilities~~

~~7.2~~12.1 Lessee Responsibilities

A. Shall provide ~~a~~to the Leasing Department written ~~notice~~Application for Collateral Assignment of ~~intent to collateralize leasehold interest held under a~~Lease ~~to~~in coordination with the ~~appropriate DED department~~lender.
~~A.~~B. Provide an executed Collateral Assignment in a form acceptable to the Navajo Nation.
~~B.~~C. Must be in compliance with the existing Lease terms and conditions, including applicable Navajo Nation laws and regulations.

~~2. Must be in compliance with the Navajo Nation Business and Procurement Act.~~

~~5.5 Division of Economic Development~~

D. Current Certificate of Good Standing, if applicable.
E. If the Applicant has not completed these responsibilities or made significant effort in six (6) months of initiating the Application, the Application may be void, at the discretion of Leasing Department.

12.2 Leasing Department Responsibilities

~~C.~~A. Review all documents for the Collateral Assignment of Lease, in consultation with DOJ.

~~D.~~B. Obtain ~~a written document from the respective tribal departments~~Procurement Clearances for assignor and proposed assignee.

~~E.~~C. Begin Review, Approval ~~and~~, Execution, and Recording Process, refer to Sections 4.~~3~~, ~~4.~~, 4.5, 4.6, and 4.~~5~~7 of this ~~Admin~~Administrative Plan.

~~**5.6 Collateral Assignment of Lease Recording and Distribution**~~

~~1. Refer to 4.7 of this Admin Plan~~

~~7.3~~12.3Lessee~~(s)~~ Upon Approval of Collateral Assignment of Lease

Shall not modify, transfer, or further mortgage the ~~leasehold interest~~Leasehold Interest, or enter into a management agreement, without prior written approval of the Lessor, ~~and Surety of the Lease~~unless otherwise stipulated in the Lease, and without prior approval of the approved encumbrancer, unless otherwise stipulated in the ~~Lease~~Lessee's loan documents.

~~2. Comply with all the terms and conditions of the Lease.~~

~~3. Maintain liaison with the appropriate DED department.~~

~~8.0~~13.0Revocable Use Permit (RUP)

~~Definitions for purposes of this Section 12.0:~~

13.1 *~~Permit~~* ~~means a written agreement between the Navajo Nation and the Applicant for a~~General Provisions

A Revocable Use Permit ~~to use Navajo Nation Trust~~ is for land ~~for a specified purpose, pursuant to the Navajo Nation Business Site Leasing Regulations of 2005. A Permit~~that is already withdrawn for commercial purposes. It conveys no possessory interest and may be revoked at will.

A. ~~Permits~~RUPs shall be issued ~~if:~~for land previously withdrawn for commercial purposes, if:

~~a. Previously withdrawn for commercial purposes;~~

1. Short term business, events, fundraising ~~or~~, government operations, ~~including~~or political ~~entities;~~events, or
2. ~~Sale~~ Short term sale of goods and services.

B. Rental for ~~Permits~~RUPs shall be negotiated (i.e.~~:~~., daily, weekly~~), not including the administrative fee;~~, monthly), as follows. Rental shall not be ~~the following~~construed to be the rental for any future Lease:

1. For-Profit:

    a. ~~$50~~100.00 a day for a term less than thirty (30) days;
    b. ~~$200~~250.00 per month.

2. Non-Profit or community service/fundraising:

    a. $25.00 a day for a term less than thirty (30) days;
    b. $100.00 per month.

3. Rental for ~~Permits~~RUPs for licensed Dealerships include, but not limited to vehicles, ATV, motorcycle, boats, and mobile homes:

    a. $250.00 per day for a term less than thirty (30) days;
    b. $500.00 per month.

C. ~~Permits~~For Permittees continuing from an expired Lease, rental may continue at the rate applied during the last year of the Lease.

1. If the expired Lease included percentage rental, the percentage amounts for the Agreement shall not be applied, and only the GMAR amount shall be assessed.

~~C.~~D. RUPs can be modified, subject to ~~12~~Section 13.1~~(1)~~.
~~D.~~E. ~~Permits~~RUPs shall be ~~issued~~approved by the ~~Nation, which has been filed by~~Leasing Department Manager for PDD, and the ~~Applicant with the appropriate DED department~~Leasing Department Manager or Program Manager for SBDD.

~~5.7 Requirement~~

13.2 Requirements

~~E.~~A. Term

1. ~~Shall~~RUPs shall not exceed ~~one (1) year~~two (2) years from the effective date, except the ~~permit~~RUP may include ~~an~~ no more than one (1) option to renew for an additional ~~term which shall not exceed~~ one (1) year~~;~~ term, allowing for a maximum of three (3) years. The effective date is the date the RUP is signed by the Leasing Department Manager or Program Manager, as applicable.

    a. Perpetual terms are not permitted.
    ~~c.~~b. Upon the expiration of the ~~Permit~~RUP and after exhaustion of both terms, the ~~Permit~~RUP cannot be extended, however, a new ~~Permit~~RUP may be issued.

~~1) The same Permittee on the same site can only be issued a new permit twice.~~

~~d.~~ c. Permittee may be granted a new ~~permit~~RUP beyond the ~~two permit~~twice Permit limit~~, so long as it is evident that~~ if there are exigent or other circumstances beyond the Permittee's control, and the Permittee is not circumventing the Lease process. ~~The Permittee shall justify an extension to the appropriate DED department. This justification may be approved only if shown exigent circumstances exist or~~ The exigent or other circumstances ~~exist beyond the control of the Permittee~~must be justified in writing with supporting documents by the Permittee and approved by the Leasing Department.

~~b. Perpetual terms shall not be permitted.~~

2. Permittees ~~can~~not in default may exercise ~~one~~an option to renew~~,~~ by submitting a ~~letter of~~ notice to the ~~appropriate DED department.~~Leasing Department with a copy to RED. Notice must be given at least ~~five (5~~ten (10) working days~~,~~ prior to the expiration of the Primary Term~~; provided~~.

~~1) Permittee is not in default with the terms and conditions of the Permit;~~

~~2) Permittee is in compliance with Navajo laws and regulations;~~

B. ~~The renewal term shall not exceed the Primary Term, however, the renewal term can be for a period less than the Primary Term (ex. If the Permit is for six (6) months the renewal term can only be up to six (6) months).~~Termination ~~Permits~~

~~3.~~1. RUPs shall be terminated for non-compliance with the terms and conditions ~~of the Permit or any Navajo Nation laws and regulations~~.

~~4.~~2. ~~The appropriate DED department shall immediately~~ In the event of non-compliance with the RUP, the Leasing Department shall notify RED in writing and ~~RED shall notify the Permittee~~ within ~~five (5~~ten (10) working days from the notification ~~from the appropriate DED department of non-compliance and termination by certified letter, which shall include the following:~~, RED shall proceed to terminate the RUP in accordance with Section 10.7 of the Management Plan.

~~3) Cause for termination;~~

~~4) Actual date of termination;~~

~~5) Timeframe for vacating the premises, which shall not exceed five (5) days from the effective date of termination.~~

~~F.~~C. Security

1. ~~Permitee~~Permittee shall ~~submit~~provide Security ~~only~~ if seeking a ~~Permit~~an RUP for a term that exceeds six (6) months.
2. Security shall be for an amount equal to three (3) months of rental.

~~2. Holdover~~

~~a. Appropriate DED department will conduct an on-site inspection of the leasehold premise to ensure the Permittee has vacated after the expiration or termination of the Permit.~~

3. ~~If the Permittee remains in possession of the leasehold premise upon termination or expiration of the lease ("holdover period") the~~Security may be waived by the Leasing Department if justified in writing by the Applicant and approved by the Leasing Department.

13.3 Applicant Responsibilities

A. Applicant shall:

1. Submit an Application for an RUP to the Leasing Department.

~~1)~~ Submit appropriate ~~DED department shall notify RED.~~

~~2) Rental: In the event of a holding over by Lessee beyond the expiration or termination date~~Insurance or Indemnification Form, as applicable~~, Permittee shall continue.~~ Refer to ~~pay the Navajo Nation the rental charged from the previous month before expiration of the Permit, until the holdover period ends.~~

~~3.~~2. ~~Enforcement; If the Permittee does not respond to RED's letter notifying the Lessee that it is a delinquent Holdover Tenant, RED shall refer the matter to the Department of Justice ("DOJ"). DOJ will enforce all remedies as outlined in~~Administrative Plan Section ~~8.8 of the Management Plan.~~4.3(E)(1) to (4).

~~**Responsibilities**~~
~~**5.8**~~ If an Applicant

~~1. Shall provide a written Letter of Intent for a Permit to the appropriate DED department.~~

~~4.~~3. ~~May~~ is an LRE, it must submit:

~~a. Worker's Compensation~~

~~1) Minimum amount as required by the State in which the premises are located~~

~~b. Commercial General Liability Insurance:~~

~~1) Amount sufficient to cover operations of Permittee~~

~~c. Fire and Casualty Insurance:~~

~~1) Minimum amount as required by the State in which the premises are located;~~

~~2) All insurers must be from a Nationally Accredited Insurance Company with a financial strength of "A" or equivalent;~~

~~3) The insurance must be maintained for the entire term of the Permit, including the renewal term.~~

~~2. ER, if applicable (i.e. oil, gas, propane, flammable materials, hazardous and regulated substances)~~

~~a. If contamination is found then the site must be cleaned;~~

~~b. Once the site has been cleaned a Permit may be issued while pending approval of EPA and the United States Environmental Protection Agency ("USEPA").~~

~~3. If Applicant is a LRE:~~

~~a. LRE must register with the BRD and comply with the requirements of the Navajo Corporation Code;~~

a. ~~LRE must submit a Certification of Good Standing to the appropriate DED department. The~~Current **Certificate of Good Standing** ~~shall be dated within twelve months from the initiation of the Review Process.~~, and

b. ~~**The responsibilities**~~—Evidence of authority of lease signatory to act on behalf of the ~~**Applicant shall be completed in three (3) months. At the end of three (3) months, if the**~~ LRE.

~~5.~~4. If the Applicant has not completed these responsibilities or made ~~any~~ significant effort in ~~the completion of their responsibility on any~~three (3) months of ~~the above documents~~initiating the Application ~~is~~, the Application may be void, at the discretion of ~~DED. If the Application is void the application and all the documents shall be returned to the Lessee/Applicant. However, appropriate DED departments may retain a copy of the Application and the documents at its discretion~~Leasing Department.

~~5.9 Division of Economic Development~~

13.4 Leasing Department Responsibilities

~~G.~~A. Review~~,~~ request~~,~~ and check land status. ~~Submit ER, if necessary.~~

~~1. Shall obtain a written document from the appropriate tribal departments to verify Applicant's compliance with Navajo Business Procurement Act.~~

B. Obtain an ES, including GPS center point coordinates if no survey is available for the permitted premises.

C. Obtain Procurement Clearances.

~~H.~~D. If the Applicant does not provide appropriate insurance coverage, the ~~appropriate DED department~~Leasing Department must obtain ~~the signature of the Applicant on the~~a signed Indemnification document.

~~I.~~E. Upon receipt of required documents, prepare ~~Permit~~two (2) RUPs for signature by Applicant.

~~J.~~F. Upon return of original signed ~~Permit~~RUP by Applicant, the ~~Permit~~RUP is ~~then~~ submitted to:

~~a. Appropriate DED department~~

1. ~~Department of Justice~~DOJ, only if changes are made to the standard format~~.~~; and
2. ~~DED Division Director~~Leasing Department Manager or Program Manager, as applicable, for approval and execution.

~~2. Upon an executed Permit, the appropriate DED department shall forward the Permit to RED.~~

~~3. RED shall:~~

~~a. Collect the administrative fee;~~

~~b. Assign a tracking number; and~~

~~c. Distribute the Permit.~~

~~4. Distribute copies to:~~

~~a. Permittee~~

~~b. Appropriate DED department~~

~~c. Land Department~~

~~d. DOF~~

G. The Leasing Department shall submit two (2) original RUPs to RED for distribution and management in accordance with the Management Plan.

~~9.0~~14.0Conditional Use Permit (CUP)

~~Definitions for purposes of this Section 13.0:~~

14.1 ~~*Permit* means a written agreement between the Navajo Nation and the Applicant for a conditional use of Navajo Nation Trust land for a specified purpose contrary to the land status. A Permit~~General Provisions

A Conditional Use Permit is for land that has not yet been withdrawn for commercial purposes. It conveys no possessory interest and may be revoked at will.

A. ~~Permits~~CUPs shall be issued, only, if:

~~c. Land is not withdrawn for commercial purposes;~~

1. Chapter Resolution is obtained as described in Section 14.2(C) below~~;~~,
2. Grazing Official or Land Board approval~~;~~, and
3. Permittee is diligently pursuing a land withdrawal designation and Lease.

B. Rental for ~~Permits~~CUPs shall be negotiated (i.e., daily, weekly, monthly), not including the Administrative ~~Fee, shall be~~Fees, as listed below:

1. For Profit ~~rental shall be~~:

   a. $~~50~~100.00 a day for a term of less than thirty (30) days~~;~~.
   b. $~~200~~250.00 per month.

2. Non-Profit ~~rental shall be~~:

   a. $25.00 per day for a term less than thirty (30) days.
   b. $100.00 per month

3. ~~Permits~~CUPs can be modified, subject to ~~13~~Section 14.1~~(1)~~.

4. ~~Permits~~ RUPs shall be ~~issued~~approved by the ~~Nation, which has been filed by~~Leasing Department Manager for PDD, and the ~~Applicant with the appropriate DED department~~Leasing Department Manager or Program Manager for SBDD.

~~5.10 Requirement~~

14.2 Requirements

~~C.~~A. Term

1. ~~Permits~~CUPs shall not exceed ~~a Primary Term of~~ two (2) years from the effective date, except the permit may include no more than one (1) option to renew for an additional one (1) year~~.~~ term, allowing for a maximum of three (3) years. The effective date is the date the CUP is signed by the Leasing Department Manager or Program Manager, as applicable.

    a. Perpetual terms shall not be permitted.
    b. Upon the expiration of the ~~Permit~~CUP and after exhaustion of both terms, the ~~Permit~~CUP cannot be extended, however, a new ~~Permit~~CUP may be issued.
    c. Permittee ~~can~~ may be granted a new CUP beyond the twice permit limit if there are exigent or other circumstances beyond the Permittee's control, and the Permittee is not circumventing the Lease process. The exigent or other circumstances must be justified in writing with supporting documents by the Permittee and approved by the Leasing Department.

~~1.~~2. Permittees not in default may exercise ~~one~~an option to renew~~,~~ by submitting a ~~letter of notice~~ to the ~~appropriate DED department.~~Leasing Department with copy to RED. Notice must be given at least ~~five (5~~ten (10) working days~~,~~ prior to the expiration of the Primary Term~~; provided:~~.

    ~~1) Permittee has begun the process for obtaining a Lease;~~

    ~~2) Permittee is not in default with the terms and conditions of the Permit;~~

    ~~3) Permittee is in compliance with Navajo Nation laws and regulations;~~

    ~~4) The renewal term shall not exceed the primary term.~~

~~D.~~B. Obtain approval from the Grazing Official and applicable Land Users~~;~~.

~~E.~~C. Chapter Resolution is required and shall ~~obtain~~include the following:

1. Recommend approval of the ~~Permit;~~CUP, and
2. Recognize the land is not yet withdrawn for commercial purposes.

~~F.~~D. Termination

~~b. Permits shall be immediately terminated twenty-four (24) months from the approval of the Permit, if a Lease has not been approved.~~

1. ~~Permits~~CUPs shall be terminated for non-compliance with the terms and conditions ~~of the Permit or any Navajo laws and regulations~~.
2. ~~The appropriate DED department shall immediately~~ In the event of non-compliance with the CUP, the Leasing Department shall notify RED in writing, and ~~RED shall notify the Permittee~~ within ~~five (5~~ten (10) working days from the notification, RED shall proceed to terminate the CUP in accordance with Section 10.7 of the Management Plan.

E. Security ~~of non-compliance~~

1. Permittee shall submit Security if seeking a CUP for a term that exceeds six (6) months.
2. Security shall be for an amount equal to three (3) months of rental.
~~2.~~3. Security may be waived or increased by the Leasing Department. Waivers shall be justified in writing by the Applicant and ~~termination by certified letter, which shall include the following:~~approved by the Leasing Department. Increases shall be justified in writing by the Leasing Department.

~~1) Cause for termination;~~

~~2) Actual date of termination;~~

~~3) Timeframe for vacating the premises, which shall not exceed five (5) days from effective date of termination.~~

~~9.2~~14.3Applicant Responsibilities

~~5.11 Applicant~~

A. ~~Shall provide a written Letter of Intent~~Submit an Application for a ~~Permit~~the CUP to the Leasing Department.

~~1.~~ Submit appropriate ~~DED department.~~

~~2. May submit:~~

~~a. Worker's Compensation:~~

~~1) Minimum amount as required by the State in which the premises are located.~~

~~a) Commercial General Liability Insurance:~~

~~i. Amount sufficient to cover operations of Permittee.~~

~~ii. Fire and Casualty Insurance:~~

~~b) Minimum amount as required by the State in which the premises are located.~~

~~i. All insurers must be from a Nationally Accredited Insurance Company with a financial strength of "A" or equivalent.~~

~~ii. The~~ insurance ~~must be maintained for the entire term of the Permit, including the renewal term.~~

~~A.~~B. ~~ER, if~~ or Indemnification Form, as applicable ~~(i.e. oil, gas, propane, flammable materials, hazardous and regulated substances)~~. Refer to Administrative Plan Section 4.3(E)(1) to (4).

~~b. If contamination is found then the site must be cleaned; and~~

~~c. Once the site has been cleaned a Permit may be issued while pending approval of EPA and the USEPA.~~

~~3. If~~an Applicant is ~~a~~an LRE~~:~~

~~a. LRE must register with the BRD and comply with the requirements of the Navajo Corporation Code;~~

C. ~~LRE,~~ it must submit ~~a current Certification:~~

1. Current Certificate of Good Standing ~~to the appropriate DED department.~~, and
2. ~~The responsibilities~~ Evidence of authority of lease signatory to act on behalf of the ~~Applicant shall be completed in three (3) months. At the end of three (3) months, if the~~ LRE.

~~B.~~D. If the Applicant has not completed these responsibilities or made ~~any~~ significant effort in ~~the completion of their responsibility on any~~three (3) months of ~~the above documents~~initiating the Application ~~is~~, the Application may be void, at the discretion of ~~DED. If the Application is void the application and all the documents shall be returned to the Lessee/Applicant. However, appropriate DED departments may retain a copy of the Application and the documents at its discretion.~~Leasing Department.

~~5.12 Division of Economic Development~~

14.4 Leasing Department Responsibilities

~~C.~~A. Review~~,~~ request~~,~~ and check land status. ~~Submit ER, if necessary.~~

~~1. Shall obtain a written document from the appropriate tribal departments to verify Applicant's compliance with Navajo Business Procurement Act.~~

B. Obtain an ES, including GPS center point coordinates if no survey is available for the permitted premises.

C. Obtain Procurement Clearances.

D. If the Applicant does not provide appropriate insurance coverage, the ~~appropriate DED department~~Leasing Department must obtain a ~~sign~~signed Indemnification document.

E. Upon receipt of required documents, prepare ~~Permit~~two (2) CUPs for signature by Applicant.

F. Upon return of original signed ~~Permit~~CUP by Applicant, the ~~Permit~~CUP is then submitted to:

~~a. Appropriate DED department;~~

1. ~~Department of Justice, unless no~~ DOJ, only if changes ~~have been~~are made to the standard ~~form.~~format; and
2. ~~DED Division Director~~Leasing Department Manager or Program Manager, if applicable, for approval and execution.

~~2. The Permit shall be submitted to the DED Division Director for approval.~~

G. ~~Upon an executed Permit, the appropriate DED department~~Leasing Department shall forward ~~the Permit~~two (2) original CUPs to RED, for distribution and management in accordance with the Management Plan.

~~3. RED shall:~~

~~a. Collect the Administrative Fee;~~

~~b. Assign a tracking number; and~~

~~c. Distribute the Permit.~~

~~4. Distribute copies to:~~

~~a. Permittee~~

~~b. Appropriate DED department~~

~~c. Land Department~~

~~d. DOF~~

~~10.0~~15.0 Emergency Operating Agreement (EOA)

15.1 General Provisions

An Emergency Operating ~~Definitions for purposes of this Section 14.0:~~
Agreement ~~means~~permits a ~~written Agreement between the Navajo Nation and the Operator for~~business to operate on a business site in an emergency ~~use of Navajo Nation Trust land for~~ for a specified purpose. ~~An Agreement~~It conveys no possessory interest and may be revoked at will.

A. ~~Agreements~~An EOA shall be issued, only~~,~~ if:

1. Abandoned ~~Structure or Building~~structure or building to avoid vandalism or property damage.
2. Operating Business with:

a. Abandoned premises;

~~1) Lessee;~~

~~c.~~b. ~~Lessee agrees~~ agreed in writing to mutually terminate and vacate the premises; or

~~d.~~c. Expired or terminated Lease, Permit, ~~and Agreement~~or EOA, provided the Operator is not the Lessee, Permittee, or Operator of the expired or terminated ~~Lease, Permit, and Agreement~~agreement, unless:

i) ~~Delay~~ There is delay to obtain a new Lease ~~for an expired Lease~~, with the same Lessee ~~that is~~, after a Lease expires, and the delay is beyond the control of the Lessee and ~~such delay~~ is not the result of the Lessee's actions.

B. Operator must diligently pursue a Lease, unless:

1. ~~To provide~~Providing for security; or
2. ~~To temporarily manage~~Temporarily managing an operating ~~businesses~~business.

~~5. Operators must be in compliance with Navajo laws and regulations.~~

C. ~~Rent shall be waived only for this Agreement, and~~Rental shall not be construed to be the rent for future Permits or Leases~~.~~, and may be:

1. Reduced or waived, or
2. Based on the rental rate of the Operator's expired or terminated Lease, Permit, or EOA.

D. EOAs can be modified, subject to 14.1.

E. EOAs shall be approved by the Leasing Department Manager or Program Manager, as applicable.

15.2 Requirements

A. Term

~~**5.13 Requirement**~~

~~D.~~A. ~~Term~~

1. ~~Agreement~~EOA shall not exceed ~~a Primary Term of~~ two (2) years from the effective date except the EOA may include no more than one (1) option to renew for an additional one (1) year~~.~~ terms, allowing for a maximum of three (3) years. The effective date is the date the EOA is signed by the Leasing Department Manager or Program Manager, as applicable.

    a. Perpetual terms are not permitted.
    b. Upon the expiration of the Agreement and after exhaustion of both terms, the EOA cannot be extended, however, a new EOA may be issued.
    c. Operator ~~obtaining a Lease shall have one~~may be granted a new EOA beyond the twice EOA limit if there are circumstances beyond the Operator's control, and the Operator is not circumventing the Lease process. The circumstances must be justified in writing with supporting documents, if applicable, by the Operator and approved by the Leasing Department.

~~1.~~2. Operators not in default may exercise an option to renew by submitting a ~~Letter of Notice~~notice to the ~~appropriate DED department~~Leasing Department with copy to RED. Notice must be

given at least ~~five (5~~ten (10) working days~~,~~ prior to the expiration of the Primary term~~; provided:~~.

~~1) Operator has begun the process for obtaining a Lease;~~

~~2) Operator is not in default with the terms and conditions of the Agreement;~~

~~3) Operator is in compliance with Navajo laws and regulations;~~

~~4) The renewal term shall not exceed the Primary term.~~

~~b. Operator not obtaining a Lease shall have two options to renew, by submitting a letter of notice to the appropriate DED department. Notice must be given at least five (5) working days, prior to the expiration of the Primary Term and option to renew; provided~~

~~1) Operator is not in default with the terms and conditions of the Agreement;~~

~~2) Operator is in compliance with Navajo laws and regulations;~~

~~3) The renewal term shall not exceed the Primary Term.~~

~~E.~~B. Termination

1. Agreement shall be terminated for non-compliance with the terms and conditions ~~of the Agreement or any Navajo laws and regulations.~~
2. ~~The appropriate DED department~~In the event of non-compliance with the EOA, the Leasing Department shall ~~immediately~~ notify RED in writing ~~of any non-compliance issues~~ and ~~thereafter RED shall notify the Operator~~ within ~~five (5~~ten (10) working days from the notification, RED shall proceed to terminate the EOA in accordance with Section 10.7 of the ~~notification:~~Management Plan.

~~4) Cause for termination~~

~~5) Actual date of termination~~

~~6) Timeframe for vacating the premises, which shall not exceed five (5) days from effective date~~

~~10.2~~15.3 Applicant Responsibilities

~~5.14 Applicant~~

~~1. Shall submit Letter of Intent~~Submit Application for an ~~Agreement.~~

~~2. May submit~~

~~a. Worker's Compensation:~~

A. ~~Minimum amount as required by~~ EOA to the ~~State in which the premises are located~~Leasing Department.

~~b. Commercial General Liability~~ Submit appropriate Insurance~~:~~

~~1) Amount sufficient to cover operations of Operator.~~

~~c. Fire and Casualty Insurance:~~

~~1) Minimum amount as required by the State in which the premises are located.~~

~~d. All insurers must be from a Nationally Accredited Insurance Company with a financial strength of "A" or equivalent.~~

~~e. The insurance must be maintained for the entire term of the Agreement, including the renewal term.~~

B. ~~ER, if~~ Indemnification Form, as applicable ~~(i.e. oil, gas, propane, flammable materials, hazardous and regulated substances).~~ Refer to Administrative Plan Section 4.3(E)(1) to (4).

~~f. If contamination is found then the site must be cleaned.~~

~~g. Once the site has been cleaned, Agreement may be issued while pending approval of EPA and the USEPA.~~

~~5.15 Division of Economic Development~~

C. Be in compliance with Navajo laws and regulations.

15.4 Leasing Department Responsibilities

A. Seek interested Operators, when possible.
~~C.~~B. Review request~~,~~ and check land status. ~~Submit ER, if necessary.~~
C. ~~Shall obtain a written document from the appropriate tribal departments to verify Applicant's compliance with Navajo Business Procurement Act,~~

~~unless~~Obtain an ES, including GPS center point coordinates if no survey is available for the permitted premises.

D. Obtain Procurement Clearances.

1. Proceed with EOA approval if there is no response within five (5) working days.

~~D.~~E. If the Applicant does not provide appropriate insurance coverage the ~~appropriate DED department~~Leasing Department must obtain a signed Indemnification document.

~~E.~~F. ~~Prepare Agreement~~Upon receipt of required documents, prepare two (2) Agreements for signature by Applicant.

~~F.~~G. Upon return of original signed ~~Agreement~~EOA by Applicant, the ~~Agreement~~EOA is then submitted to:

~~a. Appropriate DED department~~

1. ~~Department of Justice~~DOJ, only if changes are made to the standard format.; and

~~b. DED Division Director for execution.~~

2. ~~The Agreement shall then be submitted to the DED Division Director~~Leasing Department Manager or Program Manager, as applicable, for approval and execution.

H. The Leasing Department shall forward two (2) original EOAs to RED for distribution and management in accordance with the Management Plan.

16.0 Sub-Permits

16.1 General Provisions

A. A Sub-Permit may be entered into between a Lessee and Sub-Permittee on premises subject to an active Lease currently in effect. A Sub-Permittee may use part of a Lease premises on Navajo Nation trust land for a specified purpose not included in the Lease. A Sub-Permit conveys no possessory interest and may be revoked at will.

B. Sub-Permits shall be issued for part of the premises concurrent with an active business site lease for the same premises if:

1. Short term business (including sale of goods or services), events, fundraising, government operations, or political events.
2. Sub-permits must be initiated by Lessee, and the Lessee will be Sub-Permittor.

C. The Sub-Permit must include a provision that the Sub-Permittor and the Sub-Permittee indemnify the Navajo Nation against any and all loss, claims, and liability of any kind arising from the Sub-Permit.

D. Fees payable to the Navajo Nation for Sub-Permits shall be applied (i.e., daily, weekly, monthly) as follows, and shall not be construed as rental for the Lease:

1. For Profit

a. $100.00 a day for a term less than 30 days;
b. $250.00 per month.

2. Non-Profit or community service/fundraising

a. $25.00 a day for a term less than 30 days;
b. $100.00 per month.

3. For Profit with high value sales, such as licensed dealers for vehicles, all-terrain vehicles, motorcycles, boats, and mobile homes:

a. $250.00 a day for a term less than 30 days;
b. $500.00 per month.

The Sub-Permittor may charge fees in addition to the above fees payable to the Navajo Nation. The Navajo Nation has no role or responsibility with respect to fees payable to the Sub-Permittee.

E. Sub-permits shall be approved by the Leasing Department Manager or Program Manager, as applicable.

16.2 Requirements

~~2.~~ Term~~Upon an executed Agreement, the appropriate DED department shall submit the Agreement to RED and RED shall:~~

~~a. Collect the administrative fee;~~

~~b. Assign a tracking number to the Agreement; and~~

~~c. Disburse copies of the Agreement.~~

~~3. Distribute copies to:~~

~~a. Operator~~

~~b. Appropriate DED department~~

~~c. Land Department~~

~~d. DOF~~

A.

1. Sub-Permits shall not exceed two (2) years from the effective date, except the Sub-Permit may include an option to renew for an additional one (1) year term, allowing for a maximum of three (3) years. The effective date is the date the Sub-Permit is signed by the Leasing Department Manager or Program Manager, as applicable.

    c. The Sub-Permit term shall not exceed the term of the Lease.
    d. Perpetual terms shall not be permitted.
    e. Upon the expiration of the Sub-Permit and after exhaustion of both terms, the Sub-Permit cannot be extended, however, a new Sub-Permit may be issued.

2. Sub-Permittees and Sub-Permittors not in default may exercise an option to renew by submitting a notice letter to the Leasing Department with copy to RED. Notice must be given at least ten (10) working days prior to the expiration of the Primary Term.

B. Termination

1. Sub-Permits shall be terminated for non-compliance with the terms and conditions.
2. In the event of non-compliance with the Sub-Permit, the Leasing Department shall immediately notify RED in writing, and within ten (10) working days from the notification from the Leasing Department, RED shall proceed to terminate the Sub-Permit in accordance with Section 10.7 of the Management Plan.

16.3 Sub-Permittee Applicant Responsibilities

A. A Sub-Permittee shall comply with the responsibilities set forth in Section 13.3 of the Administrative Plan, as applicable.

16.4 Sub-Permittor (Lessee) Applicant Responsibilities

A. The Lessee, as Sub-Permittor, shall comply with the requirements set forth in Section 13.4, as applicable. With respect to Section 13.4(G) compliance, however, the Lessee shall provide three (3) original copies of the Sub-Permit to RED.
B. The Leasing Department shall assist Sub-Permittor and serve as a liaison with Navajo Nation governmental entities as needed to comply with Section 13.4 responsibilities.

~~11.~~017.0 Appendix - References

Navajo Nation business site leases are subject to Navajo and Federal legal authorities, including the following, which may be amended from time to time.

A. Title 25 United States Code Annotated Section 415(e)

B. Title 5 of the Navajo Nation Code, Section 2301 *et seq.* (Navajo Nation Business Site Leasing Act of 2000)

C. Title 2 of the Navajo Nation Code, Section 500 *et seq.* (Resources and Development Committee Establishment Act)

D. Title 2 of the Navajo Nation Code, Section 851 *et seq.* (Navajo-Hopi Land Commission Establishment Act)

E. Title 2 of the Navajo Nation Code, Section 1501 *et seq.* (Division of Economic Development Establishment Act)

~~B.~~F. Navajo Nation Business Leasing Regulations of 2005 (~~Tribal~~Navajo Regulations)

~~C.~~G. Economic Development Committee Uniform Business Leasing Regulations of 2008 (Uniform Regulations)

H. ~~Adopting~~Navajo Division of Economic Development Master Plan of Operation, Resolution RDCO-055-19

I. Land Withdrawal Designation Regulations, Resolution RDCJN-33-15.

~~D.~~J. Title 2 of the Navajo Nation Code, Section 81 *et seq.* (Navajo Nation Privacy and Access to Information Act)

~~4. Indian Health Service Sanitation~~

~~E.~~K. Title ~~26~~12 of the Navajo Nation Code ~~(Local Governance~~, Section 1501 *et seq.* (Navajo Business and Procurement Act)

L. ~~5~~Title 15 of the Navajo Nation Code ~~§2301~~, Section 601 *et seq.* (Navajo Preference in Employment Act)

~~F.~~M. Title 1 of the Navajo Nation ~~Business Site Leasing Act of 2000~~Code, Section 551 *et seq.* (Navajo Sovereign Immunity Act)

~~5. Navajo Nation Title 2~~

~~*Disclaimer: Refer to current documents*~~

~~12.0~~18.0 Appendix – Forms

DED will provide forms for the following documents, which may be updated from time to time, except for Part II Business Site Lease, which may be modified or amended only with RDC approval. DED will make the current version of these form documents available to the public in a convenient manner.

A. Part I Business Site Lease
B. Part II Business Site Lease

~~6. Modification~~

C. Notice to Exercise Option to Renew
D. Sublease
E. Tenant Agreement
~~C.~~F. Assignment

1. Complex Form
2. Simple Form

G. Modification
H. Mutual Termination
~~D.~~A. ~~Revocable Use Permit~~
~~E.~~I. Collateral Assignment of Lease
J. Revocable Use Permit
K. Conditional Use Permit
~~F.~~A. ~~Mutual Termination~~

~~7. Security Agreement~~

~~8. Sample business plan Outline~~

~~G.~~L. Emergency Operating Agreement
M. Sub-Permit Form
~~H.~~A. ~~Conditional Use Permit~~
~~I.~~N. Indemnification Form
~~J.~~O. Sample ~~Sublease Form~~Business Plan Outline
P. Leasehold Credit Rules
Q. Application
R. Sample Management Agreement
S. Leasing Department Folder Management
T. Sample Evidence of Authority
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MANAGEMENT PLAN

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1.0 Definitions

Definitions can be found in Section 2.1 of the Administrative Plan. Terms defined below are used only in the Management Plan.

2.0 Lease, Sublease, Assignment, Modification, Permit, EOA, and Sub-Permit Management

2.1 RED Responsibilities for Lease Management

Upon receipt of a fully executed Lease Transaction, RED shall:

A. *Collect the* ~~appropriate~~ ***administrative fee,*** ~~proceed to 2.3 of.~~ RED will notify the ~~Navajo~~Lessee that the administrative fee is due, and collect the appropriate fee in accordance with the Administrative Plan ~~("Admin Plan");~~Section 2.2.

~~1.~~ ~~*Assign a Lease number:*~~

B. . All Leases shall be categorized under its five (5) agencies for accounting and recording purposes. The categories shall be:

1. Fort Defiance Agency: NNFD
2. Eastern Agency: NNEN
3. Chinle Agency: NNCH
4. Western Agency: NNTC
5. Shiprock Agency: NNSR

NOTE: ~~Business Site Leases~~ A novated Lease shall maintain its original Lease number.

C. ~~Lease~~ ***Recording and Distribution.***

1. RED shall record ~~Leases, assignments, amendments, encumbrances~~Lease Transactions, renewals, ~~modifications,~~ and cancellations ~~and termination~~ with:

Land Title and Records Office
Southwest Regional Office
Bureau of Indian Affairs
~~PO~~
P.O. Box 26567
Albuquerque, ~~New Mexico~~NM 87125-6567

~~a.~~ ~~RED is responsible for distributing~~shall distribute Lease~~, in accordance with the Plan, as follows:~~

2. ~~Originals shall be distributed~~ Transactions, renewals, and cancellations ~~to the following~~:

a. Lessee~~;~~ (original)

~~a) Albuquerque BIA Land Title and Records Office;~~

b. ~~DED Real Estate~~RED (original)

~~b.~~ c. Leasing Department~~;~~ (copy)

~~b) Appropriate DED Department;~~

~~c.~~ d. Navajo Nation Land Department~~; and~~ (copy)

~~d.~~ e. Navajo Nation Office of the Controller~~;~~ Accounts Receivable (copy)

~~2) Copies shall be distributed to the following:~~

~~a) Local Government Unit, upon written request; and~~

~~e.~~ f. Appropriate BIA Agency Real Estate Services Office (copy)

D. *Notice to ONTC.* If the lease transaction is a pre-authorized Sublease entered into under Administrative Plan Section 4.3(F) and 7.2, or a Tenant Agreement entered into under Administrative Plan Section 7.3 provide notice of the Sublease or Sub-permit and identity of Sublessee or Subpermittee to ONTC.

E. ***Obtain the Security***~~: The~~ *(Performance and Environmental Audit).*

~~3.~~1. RED will provide notice to Lessee that **Security** ~~must be for a minimum of 50% of one (1) year rental on businesses that gross $1 million annually and 25% of one (1) year rental on small business development;~~is due and collect Security in the form of cashier's check, or coordinate electronic fund transfer with OOC Cashier's, unless Security is waived or postponed in accordance with the Administrative Plan Section 4.3(C).

~~2. Pursuant to Lease terms and conditions, the Security may be waived or postponed:~~

~~a. If the Security is waived no further action is necessary;~~

~~b. If the~~ **Security is postponed, RED shall:**

~~4.~~2. ~~Provide~~ send a **written notice**~~, ninety (90) calendar~~ to the Lessee at least thirty (30) **days before the Security is due**~~, which~~ with a copy to the Leasing Department. The notice **shall include the following** information:

~~a) Actual due date;~~

~~b) Lessee may notify RED within thirty (30) calendar days receipt of this letter that the Lessee is unable to obtain a Security;~~

~~c) If Lessee fails to post a Security within ninety (90) calendar days from receipt of this letter, the Lease shall be subject to termination, proceed to 7.0 of the Management Plan.~~

~~2) If the Lessee is unable to post Security within ninety (90) calendar days, the Lessee may request for an additional postponement if exigent circumstances are present and provide supporting documents to support its claim. The Lessee shall provide a written request to RED. The postponement shall not exceed one year from the end of the development period.~~

~~3. If a Security is not waived or postponed:~~

~~a. Within thirty (30) days from signature of the President, RED shall send a written notice as follows:~~

a. Actual due date,

~~1) Lessee may notify RED within thirty (30) calendar days receipt of this letter that the Lessee is unable to obtain a Security;~~

~~2) If Lessee fails to post a Security within forty-five (45) calendar days from receipt of this letter, the Lease shall be subject to termination, proceed to 7.0 of the Management Plan.~~

~~4. If unable to post the Security:~~

~~a. The Lease is subject to termination, proceed to 7.0 of the Management Plan;~~

~~b. If the Lessee is unable to obtain a Security, Lessee should notify RED with an explanation, within thirty (30) days of receipt of this letter;~~

~~c. If the Lessee notifies RED that a Security cannot be obtained, then RED may allow any other guarantee deemed acceptable by RED. The Security, which ever applicable, shall be deposited with RED.~~

~~5. Insurance:~~

~~a. Notify Lessee, within thirty (30) calendar days, from signature of the President of the following requirements:~~

~~1) Evidence of Public Liability, Personal Injury, and Property Damage and other Insurance coverage in the amounts stated in the Lease. The Navajo Nation ("Nation") and the United States shall be included in the policy as additional insured. If Public Liability, Personal Injury and Property Damage and other Insurance coverage is not submitted within ninety (90) calendar days, RED shall terminate the Lease, unless otherwise stipulated in the Lease;~~

~~2) Fire and Casualty Insurance with extended coverage endorsements covering not less than full insurable value of all improvements on the leased premises, written jointly to protect Lessee, Nation and the United States. If Fire and Casualty Insurance coverage is not submitted within ninety (90) calendar days, RED shall terminate the Lease, unless otherwise stipulated in the Lease.~~

~~3) Any other Evidence of Insurance as required in the Lease, if the insurance certificate is not submitted within ninety (90) calendar days, RED shall terminate the Lease.~~

~~b. If any above-mentioned insurance is postponed, RED shall notify the Lessee, ninety (90) days before the insurance is required to be submitted;~~

b. ~~If Lessee~~ The amount to be submitted,

c. Details on where and how the Security is to be submitted, and

d. Inform the Lessee that failure to provide the Security by the actual due date may result in cancellation of the Lease as provided in Section 10.0, Cancellation.

This Section 2.1(E)(2) applies to both performance security under Lease Part I, and also environmental audit security under Lease Part II 2.0, Special Terms and Conditions for Navajo Nation Business Site Leases with Storage Tanks.

3. If Security is not submitted by the due date as provided above, RED shall send a second written notice to the Lessee informing the Lessee that the Security is past due, with a copy to the Leasing Department. The notice shall include the following information:

    a. Inform the Lessee that this notice is the "Second Notice," and
    b. If the Lessee **does not** provide the required security within ten (10) days, the Lease will be canceled as provided in Section 10.0, Cancelation.

F. Insurance

1. RED will provide notice to Lessee that the Certificate of Insurance is immediately due on the Effective Date, or such other date as negotiated and set forth in the Lease.
2. The Lessee shall maintain insurance until the Lease is terminated, cancelled, or expired.
3. The Lessee shall **submit the** ~~insurance~~Certificate of Insurance to RED annually.
~~5.~~4. If Lessee does not submit the Certificate of Insurance **on the date due,** ~~the Lease is subject to termination, proceed to 7~~RED shall follow the process as provided in 8.0 and 9.0 **of the Management Plan.**

~~**1.2 Lessee Responsibilities:**~~

~~1. Sanitation Clearance;~~
~~2. Utility Clearance;~~
~~3. Road Clearance;~~
~~4. Storage Tank Clearance, if applicable.~~

~~**1.3 Appropriate DED department Responsibilities:**~~

~~D.~~G. Development Period

1. ~~Shall notify~~RED shall send a written notice to **the Lessee** ~~every~~one (1) **year** ~~on the anniversary of the date of the Lease, of~~prior to **the expiration** ~~date of~~ **the development period**~~;~~. The notice shall include the following information:

    a. ~~Final notification shall be sent ninety (90) days~~ Date the development period expires.
    b. Lessee may be subject to pay the rent that was in existence **before** any waiver or abatement was granted for failure to undertake agreed upon developments, and
    c. Lease may be subject to cancellation if there is no development as provided in the Lease.

2. RED shall issue a second written notice to the Lessee six (6) months prior to the **expiration of the development period**. RED shall provide a copy to the Leasing Department and OOC Accounts Receivable. The notice shall include the following information:

a. ~~If~~Date **the** development period expires,

~~1) Lessee requests an extension, the appropriate DED department may grant the extension based on written justification from the Lessee;~~

b. ~~An extension shall~~ **be** subject to pay the rent that was in existence before any waiver or abatement was **granted** ~~only once~~for failure to undertake agreed upon developments, **and** ~~the extension cannot exceed~~

c. Lease may be subject to cancellation if there is no development as provided in the Lease.

~~a) If the development period is~~ **one (1) year**~~.~~

~~2) If an extension is granted, proceed to 9.0 of the Admin Plan.~~

3. ~~Termination of the Lease: On the date of~~ or less, RED shall send a written notice ninety (90) days prior to the **expiration of the development period**~~, the Lease shall be sent through the Review, Approval and Execution~~. Copy provided to the Leasing Department and OOC Accounts Receivable. The notice shall include the following information:

a. Date the development period expires, and

b. Lease may be subject to cancellation if there is no development as provided in the Lease.

2.2 Permits, Sub-Permit, and EOA Management

A. Upon receipt of an executed Revocable Use Permit, Conditional Use Permit, EOA, or Sub-Permit with supporting documents, RED shall:

1. Confirm the Permit, Sub-Permit or EOA has satisfied insurance and procurement clearance requirements, and if so, continue to **process** the Permit or EOA as set forth below;
2. Collect the Administrative Fee, in accordance with Section 2.1(A) above;
3. Assign a tracking number using the following code categories:

a. EOA Code E; RUP Code R; CUP Code C

i) Fort Defiance Agency:	[E/R/C] - FD
ii) Eastern Agency:	[E/R/C] - EN
iii) Chinle Agency:	[E/R/C] - CH
iv) Western Agency:	[E/R/C] - TC
v) Shiprock Agency:	[E/R/C] - SR

Sub-Permits shall have the tracking number associated with the Lease in effect **for** ~~mutual or unilateral termination,~~that business site.

4. Distribute the Permit, Sub-Permit, or EOA to:

a. Permittee or Operator, as applicable (original)
b. Lessee/Sub-permittor and Sub-permittee, as applicable (original),
c. RED (original),
d. Leasing Department (copy),
e. Navajo Nation Land Department (copy), and
f. OOC Accounts Receivable, if applicable (copy);

5. Provide notice of sub-permits to ONTC, as applicable, in accordance with Section 2.1(D) above.
6. Obtain the Security, as applicable, in accordance with Section 2.1(E) above;
7. Obtain evidence of insurance or indemnification agreement, as applicable, in accordance with Section 2.1(F) above.
8. Maintain a file with the documents and correspondence necessary and appropriate to manage the Permit, EOA, or Sub-Permit.

B. If the Permit, EOA, or Sub-Permit has not satisfied environmental review, insurance, or procurement clearance requirements, it shall be void with no force and effect. RED shall immediately notify the Leasing Department and the applicant (i) that the Permit, EOA, or Sub-Permit is void, (ii) the reason the Permit, EOA, or Sub-Permit is void, and (iii) what must be done to satisfy environmental review, insurance, or procurement clearance requirements if the applicant would like to restart the application process.

~~E.~~C. If, after notice and an opportunity to cure consistent with Section 2.2(B) of the Management Plan, the permittee, operator, or sub-permittee does not pay the applicable Administrative Fee or Security, or is in default under the terms of the Permit, EOA, or Sub-Permit, then RED shall **proceed to** cancel the Permit, EOA, or Sub-Permit in accordance with Section 10.~~7.0~~ **of the Management Plan.**

~~2.0~~3.0 Lease Compliance

~~2.1~~3.1 Rental Compliance

~~:~~OOC, in conjunction with **RED, shall maintain and ensure that the rental payments are timely and** that the **Lessee is not in default.** Rental payments are monitored by OOC Accounts Receivable based on the terms and conditions of the Lease.

A. The Lessee shall remit rental payments to OOC by cashier's check, electronic fund transfer, credit card payment, or in another form acceptable to OOC Cashier's Section.

B. OOC shall provide the Lessee's monthly accounting statement to RED.

~~A.~~C. Late Charges

~~b. Rental is due on the date specified~~Late fees will apply **in** accordance with the Lease

1. ~~If the~~ if rental payment is not received ~~within ten (10) days following the~~by due date~~:~~.

~~1) A late fee shall be charged and pro-rated for each day the rent is not paid, beginning the tenth day after due date, until the thirtieth day, when the amount shall be paid in full.~~

~~2) The late fee shall be 10% of the rental due for the month.~~

~~c. If rental payment is not received within sixty (60) days following the due date:~~

~~1) A late fee shall be charged at 10% of the rental due for the month.~~

~~d. If rental payment is not received within~~After ninety (90) days ~~following the due date:~~

~~1) A late fee shall be charged at 10% of the~~ rental ~~due for~~default, the ~~month.~~

2. Lease is subject to ~~termination, proceed to 7~~cancellation as provided in Section 8.0 and 9.0 of the Management Plan.

~~2. All Lease payments are due on the date specified in the Lease and shall be submitted to RED. It is the Lessee's responsibility to ensure that the rental payment is received by RED on or before the date specified:~~

D. ~~Payments mailed or delivered to RED will be forwarded within one (1) working day from~~Rental Default

~~a.~~ Upon receipt of ~~payment to the Accounts Receivable Section within the Office of the Controller ("OOC"), unless otherwise specified in the Lease;~~

~~b. Payments received by RED after 2:00pm shall be forwarded the next working day from the receipt of payment to the Accounts Receivable Section within DOF, unless otherwise specified in the Lease;~~

~~c. Payments received from RED to the Accounts Receivable Section or other designated location after 2:00 p.m. will be receipted and posted on the following business day.~~

~~3. RED shall be responsible for the periodic review:~~

~~a. All lease rates adjustments shall be pre-determined and RED shall notify~~ the OOC's monthly accounting statement of the Lessee ~~ninety (90) days before the expiration of the periodic review period;~~

~~b. Any CPI adjustments shall be determined by RED and RED shall notify~~displaying non-payment. RED shall immediately send written notice in accordance with Section 9.2 below to inform the Lessee of the ~~adjusted amount, ninety (90) days before the expiration of the periodic review period. The appropriate DED department shall process the modification thereafter;~~

~~3.~~1. ~~Market Data Research (MDR) shall be evaluated by RED and~~ non-payment and that the rental must immediately be paid. RED shall provide ~~the appropriate DED department the report one hundred twenty (120) days before the expiration of the periodic review. The appropriate DED department shall negotiate the lease adjustment with the Lessee and process~~

~~the modification thereafter; or~~a copy to the Leasing Department and OOC. RED shall proceed to Section 9.3 below.

2. ~~Appraisals~~In the event of death of a Lessee, RED shall enforce the Lease as set forth in Section 9.0(B) below.

3. Any uncured payment arrearages of employees of the Navajo Nation or entity of the Nation **shall be** ~~obtained~~ pursued by the following, in accordance with an intradepartmental agreement to be entered into between OOC and DED:

   a. pursuant to the Navajo Nation Executive Branch Personnel Policies Manual Article XVI(B)(2) (regarding garnishment of wages, including payroll deductions),

   b. **through** ~~a contractor~~ judicial means, and/**or**

   c. pursuant to the Navajo Business and Procurement Act, 12 N.N.C. §1507, if applicable (regarding Navajo Nation's ability to offset money claims against any amount the Navajo Nation owes to or has an account payable to the Lessee).

E. Compromise with delinquent Lessees may be pursued in accordance with Section 8.2 of this Management Plan.

F. Lease Rate Adjustment.

1. If the Lease includes pre-determined rent adjustments (including calculations for CPI or other inflation adjustments) to satisfy the periodic review requirements set forth in Section 4.3(B)(7) of the Administrative Plan, **RED**~~. The~~ will do the following:

   a. After the due date for any initial adjusted rent payment, confirm with OOC Accounts Receivable that the Lessee has made the **appropriate** ~~DED department shall~~rental adjustment in accordance with the updated rent schedule in the Lease. If the Lessee has not made the appropriate adjustment, RED shall promptly give notice to the Lessee, with a copy to OOC Accounts Receivable, that the rent payment is insufficient and any outstanding amount is due immediately. Outstanding rent amounts will be treated as late payments.

   b. If the rent increase involves a CPI or other inflation adjustment, RED will calculate the amount and provide the Lessee 6 months' advance notice. RED shall send a second 3 months' advance notice. A copy of both notices will be provided to OOC Accounts Receivable.

2. If the Lease provides for periodic review every five years without pre-determined rent adjustments, RED will do the following:

   a. At least 6 months before expiration of the periodic review (i.e., the rent adjustment date), RED will notify the Leasing Department to obtain an Appraisal or MDR giving consideration to economic conditions, exclusive of improvements or development required by

the contract or the Lessee's contribution value of such improvements, so the Leasing Department can **negotiate** rent adjustment in a Lease Modification.

b. Unless otherwise provided in **the lease** ~~adjustment with the Lessee and process the~~ **modification** ~~thereafter~~, after the due date for any modified rent amount, confirm with OOC Accounts Receivable that the adjusted rent payment was paid in accordance with the Lease Modification, and, if not, promptly give notice to the Lessee, with a copy to Accounts Receivable, that the rent payment is insufficient, and any outstanding amount is due immediately. Outstanding rent amounts will be treated as late payments.

~~2.2~~3.2 Annual Lease Compliance:

RED ~~will~~shall conduct an on-site inspection of all Leases~~, under the jurisdiction of the Division of Economic Development ("DED")~~ on an annual basis to ensure compliance with ~~Lease~~the Lease's terms and conditions. ~~The~~An Annual Lease Compliance Report ~~("Report")~~ shall be completed by July ~~1~~1st of each year.

A. RED may conduct on-site inspections with at least seventy-two (72) hours' notice to Lessee.

B. Upon completion of the onsite inspection, RED shall prepare and complete the Annual Lease Compliance Report.

~~4.~~ RED shall provide Annual Lease Compliance Report, and ~~property inventory form;~~

~~A.~~C. ~~Submit Report, Property Inventory Form, and site status report ("~~Site Status Report~~")~~ to ~~Project Development~~the Leasing Department~~, Small Business Development Department, Tourism ("appropriate DED department") as identified~~ and file in ~~the DED Master~~accordance with Section 12.0 of this Management Plan ~~of Operation, for review, action and filing;~~.

~~B.~~D. If the Lessee is not in compliance with the terms and conditions of the Lease, RED shall initiate and implement the provisions for enforcement ~~outlined~~as provided in Section ~~8~~9.0 of the Management Plan.

~~2.3~~3.3 Property Inventory

~~**1.4 Property Inventory:**~~

RED ~~will~~shall complete the Property Inventory Form ~~during onsite inspections concurrently with the Report.~~annually, and when the Lease is expired, terminated, cancelled, or the premises have been abandoned. Upon completion, RED shall provide a copy of the completed Property Inventory Form to the Lessee and the Leasing Department.

~~1.5 HoldoverHoldover:~~

3.4

After the expiration, termination, or cancellation of Lease, RED will conduct an on-site inspection ~~of the leasehold premise to~~ to ensure the Lessee has vacated ~~after the expiration or termination of the Lease.~~

the leasehold premises. If the Lessee ~~remains in possession~~has not vacated the premises, RED will notify OOC Accounts Receivable what course of ~~the leasehold premise upon termination or expiration of lease ("holdover period") the appropriate DED department shall notify RED, in writing, of the appropriate action to take against the Lessee~~action RED will take to address the issue, and whether OOC is to apply holdover rent.

A. ~~Negotiations:~~ If the Lease expires:

1. The Leasing Department may issue a Revocable Use Permit or Emergency Operating Agreement in the event that the Lessee is ~~in negotiations with the Navajo Nation during~~making a good faith effort to obtain a new Lease, or
2. If the Lessee is not making a good faith effort to obtain a new Lease, RED may refer the matter to DOJ for appropriate action.

~~A.~~B. If the Lease is terminated or cancelled and the holdover ~~period~~Lessee is still occupying the leasehold premises, the Lessee shall ~~continue to pay the Navajo Nation the Adjusted Minimum Annual Rental on the entire premise until the lease is negotiated. The Adjusted Minimum Annual Rental would be paid proportionately to the number~~treated as an unauthorized occupant per Section 9.7 of ~~holdover days.~~the Management Plan.

~~B.~~C. ~~Rental:~~ In the event of a ~~holding over~~holdover by Lessee beyond the expiration ~~or termination~~ date, ~~as applicable,~~ the Lessee shall pay the ~~Navajo~~ Nation double the ~~Adjusted Minimum Annual Rental on the entire premise from and including the first (1st) day of holdover~~most recent rental until ~~the holdover period ends~~a new Lease, Revocable Use Permit, or EOA is issued.

~~1. Enforcement: If the Lessee does not respond to RED's letter notifying the Lessee that it is a delinquent Holdover Tenant, RED shall refer the matter to the Department of Justice ("DOJ"). DOJ will enforce all remedies as outlined in Section 7.8.~~

D. In the event Lessee will or has entered into holdover status through no fault of Lessee (e.g., where timely notice was given to the Department of Lessee's intent to renew a Lease, and Lessee exhibited a good faith effort to enter into a new Lease, Revocable Use Permit, or EOA before the Lease expired), then RED, with written consent from DOJ, may direct OOC not to apply holdover rent pending continued good faith negotiation of the new Lease.

4.0 Survey Plat and Legal Description

4.1 Survey Requirements

A. Leases shall contain adequate Surveys and legal descriptions based on metes and bounds, rectangular, or lot and block systems. Surveys should include the square footage of structural improvements (buildings) located on the leased premises.

B. Legible existing Surveys and legal descriptions from previous business site leases on the same premises are permissible if they are legible and can be verified using new technology (or provide updated Survey). These are referred to as "recycled surveys."

C. Record Keeping. The Survey shall be attached to each Lease as an exhibit. The Leasing Department and RED shall each retain an original Survey, unless a recycled survey is used in accordance with 4.1(B). RED's survey may be provided in an electronic format acceptable to RED.

4.2 RED's Responsibilities

A. RED shall review and verify the Survey meets the requirements of this Section 4.0 concurrent with the Lease negotiation by Leasing Department.

B. Within five (5) business days of receiving a request for Survey review from a Leasing Department, RED shall notify the Leasing Department in writing if there are any error(s) that must be corrected. If a party other than the Leasing Department is actually obtaining the Survey, RED shall provide a copy of such notice to the other party and may communicate directly with the other party to address and resolve the errors.

4.3 Qualifications of Land Surveyor

The land surveyor shall be licensed in the State in which the land survey is conducted.

5.0 Navajo Nation Environmental Review Process (ERP)

5.1 ERP General Matters

A. Capitalized terms in this Section 5.0 not defined in the Plan shall have the meanings given to them in the Tribal Regulations.

B. RED shall ensure the ERP is conducted in compliance with Subchapter 800 of the Tribal Regulations. Within RED, the Environmental Reviewer shall be responsible for the ERP.

C. An ~~Environmental Review ("ER") Record must be maintained for all Leasing Decisions. Any environmental related~~Applicant shall consult with the Leasing Department for advice and guidance through the ERP. The Leasing Department may serve as a liaison between the Applicant and RED, and may assist the Applicant to obtain and submit required documents ~~must be transferred~~ to the

Environmental Reviewer. ~~These documents must be available for public review at all times, during normal business hours.~~

~~2. If a modification or amendment, proceed to 3.2 of the Management Plan;~~
~~3. If an assignment, transfer, proceed to 3.3 of the Management Plan;~~
~~4. If renewal or exercise of an option to renew of a Lease, proceed to 3.4 of the Management Plan;~~
~~5. If an existing business site, with an existing environmental review;~~
~~6. If a new business site, proceed to 3.6 of the Management Plan.~~

~~2.4~~5.2 ~~Modification~~Threshold Determination and ~~Amendments~~Exemption

~~7. ER not~~*Required Documents*. The following documents are **required**:

A. ~~Extending a term or condition of~~ to begin **the** ~~Lease, including the Term, Completion of Development, removal of improvements etc.~~ERP:

~~a. Exercising an option to renew or renewal of the Lease without any changes in the Term~~legible survey **and** ~~Conditions of the Lease.~~
~~b. Change in the Land Description, unless to increase the acreage of the land.~~
~~c. Extending the improvements (building) for the same or similar business operations, without an increase in the acreage of the land, and without changes in the terms or conditions, unless changes fit within these exceptions.~~
~~d. Change in the Rental or any rent adjustments, as allowed under the Lease.~~
~~e. Increase in the value of Improvements.~~
~~f. Waiver, postponement or any changes in the Rental and Performance Bond, and the Construction Bond~~
~~g. Novation~~
~~h. Demolition and removal of a building, unless the building contains environmental contamination (i.e. hazardous substances, asbestos, underground storage tanks etc.)~~
~~i. Any changes in the Lease that would not have an impact to the biological or cultural resources of the Nation, which will be at the discretion of the Environmental Reviewer.~~

~~If any of the above, proceed to 3.8 of the Management Plan.~~

~~8. ER may be required:~~

1. ~~Change in the~~legal **land description** ~~that would include land surfaces or sub-surfaces not in the original land~~for the proposed leasehold premises; and

~~a.~~ detailed written **description**;

~~1.~~2. ~~Change in the purposes that would include a dramatic change in the~~ of proposed **business operation**, ~~(i.e. from an office building to gas station);~~ and any improvements to be developed within the leasehold premises.

~~b. Change in purposes that would have land clearing, additional building construction (unless there is no land increase from the original land withdraw), or discharge of emission or effluent;~~

~~c. Change in the Improvements, for operations not allowable under the lease.~~

~~d. Before demolition or removal of the building, if the building contains environmental contamination (i.e. hazardous substances, asbestos, underground storage tanks etc.)~~

~~e. Any change which would impact, alter or disturb the biological or cultural resources of the Nation, which will be at the discretion of the Environmental Reviewer.~~

~~If any of the above, proceed to 7.7 of the Management Plan~~

~~**1.6 Assignment or Transfer**~~

~~1. ER not required~~

B. ~~If~~*Prior ERP Documents.* If the Leasing Decision pertains to an existing lease or business site that has undergone an ERP, the Applicant may submit prior environmental review documents to the Environmental Reviewer as early in the process as possible to determine if the previous ERP adequately evaluates the impacts of the proposed Leasing Decision.

C. *Threshold Determination.* Upon receipt of the required documents and any prior ERP documents, the Environmental Reviewer shall determine if the Leasing Decision is subject to the ERP, considering whether it may (i) impact, (ii) alter, (iii) disturb, or (iv) otherwise cause physical disturbances to the biological or cultural resources of the Navajo Nation. The ERP shall make this threshold determination within five (5) business days after receipt of the required documents.

D. *Leasing Decisions Exempt from the ERP.* If the Leasing Decision is not subject to the ERP, the Environmental Reviewer shall issue an Environmental Summary that states the determination and specifically identifies the documents reviewed. No further ERP action is required unless the acreage is increased, there is a change in lease purpose or site use, or a change in business operations that may impact, alter, disturb, or otherwise cause physical disturbances to biological or cultural resources.

5.3 ERP Compliance Process

A. *Applicability.* A Leasing Decision may be subject to the ERP if **there are no** ~~changes to the terms~~previous ERP records, or if an ERP was not previously conducted.

B. *Compliance Determinations.* The Applicant (or Leasing Department) shall obtain Compliance Determinations from Heritage **and** ~~conditions of the Lease,~~Historic Preservation Department (HHPD), Department of Fish & Wildlife (DFW), **and** ~~an Environmental~~ Environmental Protection Agency (EPA) (each, a "reviewing department"). To initiate the review process, the Applicant shall simultaneously submit the legible survey, legal land description, and detailed written description of the proposed business operation and any improvements to be developed within the leasehold premises to:

1. HHPD with a Cultural Resource Compliance Form (CRCF),
2. DFW with a Biological Resource Compliance Form (BRCF), and
3. EPA with a request for potential environmental impact by human activity determination.

C. *Compliance Determination Timeline*. Each reviewing department's completion of the Compliance Determination will be timely if provided within twenty (20) business days of the department's receipt of the Applicant's request, or receipt of information it requires and requested from the applicant to complete the Compliance Determination, whichever is later.

~~a. Review has been conducted on the Lease.~~
~~b. Extending a term or condition of the Lease (under an assignment or transfer), including the Term, Completion of Development, removal of improvements etc.~~
~~c. Exercising an option to renew or renewal of the Lease (under an assignment or transfer) without any changes in the Term and Conditions of the Lease (under an assignment or transfer).~~
~~d. Change in the Land Description, unless to increase the acreage of the land.~~
~~e. Extending the improvements (building) for the same or similar business operations, without an increase in the acreage of the land, and without changes in the terms or conditions, unless changes fit within these exceptions.~~
~~f. Change in the Rental or any rent adjustments, as allowed under Lease (under an assignment or transfer)~~
~~g. Increase in the value of Improvements.~~
~~h. Waiver, postponement or any changes in the Security, and the Construction Bond~~
~~i. Novation~~
~~j. Demolition and removal of a building, unless the building contains environmental contamination (i.e. hazardous substances, asbestos, underground storage tanks, etc.)~~
~~k. Any changes in the Lease (under an assignment or transfer) that would not have an impact to the biological or cultural resources of the Nation, which will be at the discretion of the Environmental Reviewer.~~
~~If any of the above, proceed to 3.9 of the Management Plan.~~
~~2. ER may be required:~~
~~a. Change in the land description that would include land surfaces or sub-surfaces not in the original land description;~~
~~b. Change in the purposes that would include a dramatic change in the business operation, (i.e. from an office building to gas station);~~
~~c. Change in purposes that would have land clearing, additional building construction (unless there is no land increase from the original land withdraw), or discharge of emission or effluent;~~
~~d. Change in the Improvements, for operations not allowable under the Lease.~~

e. Before demolition or removal of the building, if the building contains environmental contamination (i.e. hazardous substances, asbestos, underground storage tanks etc.);

B.D. Any change which would impact, alter or disturb the biological or cultural resources of the Nation, which will be at the discretion of theby Environmental Reviewer.

If any of the above, proceed to 3.7 of the Management Plan

1.7 Renewal or exercising an option to renew a Lease

1. ER not required for exercising an option to renew
   a. If only exercising an option to renew and not changing any terms and conditions of the Lease;
   b. If changing any terms or conditions of the Lease, proceed 3.2 of the Management Plan
2. ER is not required for renewal of a Lease, if the terms and conditions are not changed. If there is a change, proceed to 3.2 of the Management Plan.

1.8 An ER is required for all Leases on new business sites (land that has been withdrawn for business purposes, but have been untouched).

1.9 ER Process: a valid ER may be obtained by one of the following process:

1. Project Specific Environmental Assessment:
   a. Application: this process is used when the Applicant/Lessee plans to withdraw land for his/her proposed business. The Applicant/Lessee with the assistance from the DED Department hires an environmental professional to conduct the fieldwork and prepares an environmental assessment (EA).
   b. Process:
      1) Once the environmental professional is hired, the environmental professional has the responsibility to obtain a compliance determination from the following three (3) departments:
         a) Historic Preservation Department (HPD), Division of Natural Resources (DNR);
         b) Department of Fish and Wildlife (FWD), DNR; and
         c) Environmental Protection Agency (EPA).
      2) Once the environmental professional obtains the compliance determination from the above-mentioned three (3) departments and prepares the EA report, the environmental professional provides a completed projected specific EA to the DED department or in some instances the Applicant/Lessee.

1. The DED department orThe Applicant sends the completed EAshall submit the Compliance Determinations from HHPD, DFW, and EPA to the Environmental Reviewer RED for review. The complete EA should include the following information:, or evidence that a Compliance Determination was requested and not timely provided by the reviewing department.

a) The Environmental Reviewer may conclude the ERP without a Compliance determinationDetermination from all three (3)one or more of the reviewing departments.

2. *Note*: If the compliance determination was not, provided within 20 days of the time all required documents were submitted to execute a compliance determination, please provide in writing that the environmental professional made(1) reasonable efforts were made to obtain the compliance determination from the Navajo Nation department and that the delay isthree (3) reviewing departments' determinations, and (2) any delays were not the fault of the Applicant. Please include any supporting documents supporting your statement.

b) The Environmental Summary Sheet (ES sheet)
c) Development Summary (i.e. Laundromat, fast food; etc.)
d) Project data: proposed development layout.
e) Site map: aerial or topographical

3) Upon submittal of the documents listed in Clause 3.6 (1)(b)(3), Environmental Reviewer shall conduct itsReviewer's review within period shall not exceed five (5) workingbusiness days. If from the receipt of all the above mentioned documents are not submitted to three (3) of the reviewing departments' Compliance Determinations. If the Environmental Reviewer, determines that Public Notice is appropriate under the Environmental Reviewer, within five (5) working dayscircumstances, the process set forth in Section 5.5 shall provide in writing and identify the missing document to be initiated within the DED department.

3. Upon completion of the initial five (5) day review period.

E. Environmental Summary.

3.1. If the Compliance Determinations are sufficient, the Environmental Reviewer shall sign the ES sheet and return back to the DED departmentissue an Environmental Summary.

2. Recycled Environmental Assessment:

a. Application: this process is used when an Applicant/Lessee plans to withdraw land for his/her proposed business or land that has been previously withdrawn for development purposes. The DED department has a previous prepared EA (recycled EA) and allows the applicant to use the recycled EA to fulfill the environmental review requirement.

b. Process:

2. The DED department or Applicant/Lessee shall provide the following informationIf the Compliance Determinations are insufficient, the Environmental Reviewer shall provide notice to the Applicant and Leasing Department with a written explanation of the insufficiency and request for correction.

1) The Applicant, with support from the Leasing Department if appropriate, shall make any required corrections and resubmit the Compliance Determinations to the Environmental Reviewer.

a) The recycled EA;

b) ES sheet;

c) Development Summary (i.e. Laundromat, fast-food; etc.);

d) Archeological survey;

e) Project data: proposed development layout;

f) Site map: aerial or topographical; and

g) *If applicable*, any previous correspondence and/or copies of inspection, violation and corrections reports from any Navajo Nation departments/divisions (i.e. HPD, FWD or EPA) regarding the particular business site location.

4.3. Upon for another review of the documents listed in Clause 3.6(2)(b)(1), RED shall make the determination if there is a new impact present. In other words, a new impact will be found if the recycled EA is not project specific for this new project. For example, if the previous EA was intended for a convenience store and the new project is for a convenience store and a gas station, it will be determined that there is a new impact present because of the new gas station.

h) If the DED Department or Applicant/Lessee determines that there is a new impact present, please provide a description of the new business operation, new infrastructure(s), new addition(s), and/or improvement(s).

i) If the DED Department or Applicant/Lessee does not know if there is a new impact present, the Environmental Reviewer shall make that determination upon reviewing the documents listed in Clause 3.6(2)(b)(1),

5.4. *If applicable*, if it is not determined that there is a NO new impact presentIf the resubmitted Compliance Determinations are sufficient, the Environmental Reviewer shall sign the ES sheet and return back to the DED department.issue an Environmental Summary. The Environmental Summary shall be provided to the Applicant and Leasing Department.

2) *If applicable*, if it is determined that there is a new impact present, Environmental Reviewer shall seek compliance by sending the recycled EA to one or all of the above-mentioned three (3) departments to obtain an update (compliance determination).

a) EPA, HPD and/or FWD reviews the recycled EA. At times, the departments may issue a conditional approval to proceed with mitigation measures as their compliance document. If there are conditional measures, the conditions should be listed in the business site lease.

i. If the Environmental Reviewer determines that the EA shall go to EPA, the Environmental Reviewer

shall provide EPA's Office of Environmental Review (OER) the recycled EA.

ii. Upon receipt of the recycled EA, OER shall initiate consultation with each of its programs within two (2) days. The consultation shall take no more than 15 days.

b) Upon completion of the review, EPA, HPD and/or FWD shall send the compliance determination to the Environmental Reviewer.

c) Upon receipt of the compliance determination from EPA, HPD and/or FWD, the Environmental Reviewer shall sign the ES sheet and return back to the DED department.

- *Note:* if the compliance determination is not provided within 20 days of the time all required documents were submitted to obtain an update (compliance determination), the compliance determination on the recycled EA may be concluded without that department's determination so long as RED made a reasonable efforts to obtain the compliance determination from the Navajo Nation department and that the delay is not the fault of the Applicant.

3. Environmental Summary Sheet: **(non-NEPA Type Document)**

a. Application: The Applicant/Lessee plans to withdraw land for his/her proposed business.

b. Required documents:

1) The applicant with the assistance from the DED department shall submit the following documents to the Environmental Reviewer to obtain a compliance determination from EPA and FWD:

a) ES sheet;

b) Required document as outlined in 12.0, Exhibit, FWD's policies;

c) Development Summary (i.e. Laundromat, fast food, etc.);

d) Project data: proposed development layout;

e) Site map: aerial or topographical;

f) Letter including the following information:

i. Provide the air resources (i.e. If there is a power plant, oil and gas well sites or compressor station in the area, make a note of it) for the proposed business sites; and

ii. Outline how the proposed business site may impact livestock, vegetation, local cultural values/everyday lifestyle activities such as farming, grazing, hunting, fishing, medicinal plant collecting, plants used for dying rugs, weaving, jewelry, wood hauling, recreation, sheepherding, shopping, local flea markets and recreation.

iii. Funding source of the project: Please include information as to how the applicant and DED departments are paying for the project. If federal funding or technical assistance from a federal agency is being used, please outline what is being paid for and what federal agency.

a. If the RED determines that there is a major federal action, the National Environmental Policy Act process shall be used.

- Note: it is important that the applicant and DED department outline all federal involvement (funding or technical assistance) to ensure compliance with its federal funding source.

2) The applicant with the assistance from the DED department shall submit the following documents to the Archeologist, RED, to obtain a compliance determination from HPD:

a) A letter outlining the following:

i. Provide information as to the type of business will be located on the business site;

ii. Provide a description of where the business site shall be located;

- *Note*: The land status must include in what Chapter, Agency, County and State, the business will be located. For State, please write "Tribal trust". If the land is adjacent to State, allotted or fee land, please also include that information.

iii. *If applicable*, provide information as to whether the business site and/or building is of historical archeological value and/or Navajo traditional value;

- *Note*: HPD or the BIA may provide information if the business site and/or building is a historical value. Navajo traditional value includes, but not limited to ceremonial and traditional offering areas, and event areas associated with traditional cultural beliefs (oral traditions).

iv. *If applicable*, Provide information as to whether there has been a previous disturbance such as utilities and right of way;

v. *If applicable*, Provide information as to whether the business site has previously been surveyed;

b) Photographs of the proposed business site;

c) Legal land description: it should include the Township and Range or Universe Transverse Mercator; and

d) Pre-field record checks: any previous records that pertains to the land; and

e) *If applicable*, ethnography;

c. Process to obtain a compliance determination from FWD and EPA:

1) The Environmental Reviewer reviews the documents as outlined in Clause 3.6(3)(b)(1) to ensure all the required documents have been submitted.

a) If there are missing documents, the Environmental Reviewer within five (5) working days shall provide in writing to the applicant and DED department that there are missing documents.

b) If all the required documents are submitted to the Environmental Reviewer, the Environmental Reviewer within five (5) working days of receipt of the required documents shall provide all the required documents to FWD and EPA for review.

- *Note*: The Environmental Reviewer shall maintain a date base as to when the required documents were submitted to FWD, EPA and HPD to ensure a timely review.

2) Upon receipt of the compliance determination (and it is within the 20 days), the Environmental Reviewer shall sign the ES sheet and return back to the DED department.

3) If the compliance determination is not provided within 20 days of the time all required documents were submitted to obtain compliance determination, the compliance determination may be concluded without that department's determination. The Environmental Reviewer shall then write on the ES sheet that the department did not provide a compliance determination within the required 20 day time frame. Thereafter, the Environmental Reviewer shall sign the ES sheet and return back to the DED department.

d. Process to obtain a compliance determination from HPD:

1) The Archeologist reviews the documents as outlined in Clause 3.6(3)(b)(2) to ensure all the required documents have been submitted.

a) If there are missing documents, the Archeologist within three (3) working days shall provide in writing to the DED department that there are missing documents.

b) If and when all the required documents are submitted to the Archeologist, the Archeologist within three (3) working days of receipt of the required documents shall go to HPD to conduct a record check on traditional cultural property and previous archeological survey.

2) Following the visit to HPD, if the Archeologist determines that there is no ethnography on record at HPD or no record at all, the Archeologist shall conduct the following:

a) Initial phase one (1) survey; and

b) Ethnography.

3) If the Archeologist determines that there is an ethnography and records at HPD or after the completion of the steps outlined in Section 3.6(3)(d)(2), the Archeologist shall conduct the following steps in three (3) working days:

a) *If applicable*, draft a narrative report(may include photography of the area) or an Archeological Inventory Report Documentation Page (AIRS form); and

i. A narrative report shall be submitted for projects over 30 acres and/or containing more than four (4) sites; or

ii. An AIRS form is required for use on small projects projects less than 30 acres in size and containing no more than four (4) sites.

b) *If applicable*, consult with Navajo Tribal Utility Authority, Navajo Department of Transportation and Navajo Nation Land Department to determine records and surveys.

4) Upon completion of steps outlined Section 3.6(3)(d)(3), the Archeologist shall send the narrative report or AIRS form and may have to submit other information as outlined in Section 3.6(3)(b)(2) to HPD to seek a compliance determination.

a) If is determined that there is federal "undertaking" triggering the need for consideration under Section 106 of the National Historic Preservation Act, HPD shall seek to obtain the Bureau of Indian Affairs' approval of HPD's compliance determination prior to returning the compliance determination to RED.

b) If is determined that there is no federal "undertaking" triggering the need for consideration under Section 106 of the National Historic Preservation Act, the signature of HPD's Department Manager signifying compliance with the Navajo Nation Cultural Resources Protection Act is required. Once signed, HPD shall return its compliance determination to RED.

5) Upon receipt of the compliance determination (and it is within the 20 days), the Archeologist shall provide the copy of the narrative report and HPD's compliance determination to the Environmental Reviewer to include in the ES sheet.

6) If the compliance determination is not provided within 20 days of the time all required documents were submitted to obtain compliance determination, the compliance determination may be concluded without that department's determination. Archeologist shall notify the Environmental Reviewer that HPD did not seek the compliance determination within 20 days. If compliance

~~determination is not provided within 20 days, the Environmental Reviewer shall then write on the ES sheet that the department did not provide a compliance determination within the required 20 day time frame. Thereafter, the Environmental Reviewer shall sign the ES sheet and return back to the DED department~~

~~1.10 Environmental Summary Sheet:~~

~~1. Fill out the attached form~~

~~2. If the Leasing Activity is under an exception, as provided herein, briefly describe the exception RED shall execute the ES.~~

~~3. Under the Compliance determination include:~~

~~a. Date of the Compliance Determination;~~

~~b. Source – Navajo Division and EPA or outside contractor;~~

~~c. If an update, explained above, need fill out appropriate;~~

~~d. Briefly explain findings.~~

~~4. Under the different laws, briefly summarize whether there is an impact or no impact.~~

~~5. Environmental Reviewer shall sign the ES.~~

5. The only document required in the lease package to reflect that an ERP has been conducted is the ES. However, the Approving Committee may review the Environmental Review Record before approving leasing decisions.

5.4 Lessee Compliance Obligation

An Environmental Summary shall be null and void, and penalties may be imposed by the HHPD, DFW, and EPA , if an Applicant or Lessee increases the acreage of leasehold premises, changes site use, or changes business operations without obtaining a Lease Modification and updated Environmental Summary. Such actions shall be deemed a default subject to the enforcement provisions of this Management Plan, including Lease cancellation.

~~2.5~~5.5 Public Notice

A. If the ~~Environmental Reviewer finds the~~business activities pose a new and/or potential impact to the Navajo Nation's resources, the ER may determine public notice is required prior to ~~be critical, then~~certifying the ~~Environmental Review may be published~~Applicant/Lessee has completed ERP.

~~A.~~B. If public notice is required, RED shall publish the ER in a newspaper of general circulation ~~newspaper a notice~~ of the project~~.~~ for fifteen (15) calendar days.

~~B.~~C. The public notice must:

1. Provide at least one opportunity for public comment, for no more than a 30-calendar day period~~;~~, and
2. Indicate the record is open to the public and outline how the record can be reviewed~~, properly~~.

~~C.~~D. Public Comments must be taken into consideration by the ER before issuing an Environmental ~~Reviewer before 3.8~~Summary.

~~1.11 ER Record:~~

5.6 ~~The~~ Environmental ~~Reviewer must~~Review Records Management

A. RED shall maintain a ~~record for the~~ digital records management system for all NNEPA, FWD, and HHPD compliance records and related documents.

B. The compliance records and related documents may be available for public review to the extent provided by the Navajo Nation Privacy and Access to Information Act 2 N.N.C. § 81 *et. seq.* and applicable Navajo Nation laws and policies.

~~1. The~~ Environmental Review ~~conducted for Leases.~~

~~2. It must be available at all times, under normal business hours, for public review.~~

~~D.~~C. ~~The Environment Review~~ Record must contain the following information:

1. Compliance ~~determinations;~~Determinations,

~~a. Correspondences;~~

2. ~~Any~~Correspondence,

~~2.~~3. Required supporting documents~~;~~,

~~3.~~4. Environmental Summary~~;~~,

~~b. *If applicable,* Public Notice; and~~

5. ~~*If,*~~ if applicable, and

~~4.~~6. Public Comments~~.~~, if applicable.

~~1.12 The only document needed in the Review Package and before the DED Approving Committee before final approval is the Environmental Summary. However, the Committee reserves the right to review the Environmental Review Record, before such approval.~~**Fair Annual Lease Value**

6.1 Implementation~~DED~~

Rental shall ~~determine the annual rental~~be based on ~~the MDR or by an~~ fair annual lease value determined by:

~~1.13~~ **An Appraisals completed by a certified Appraiser in accordance with the Uniform Standard Procedures of Appraisal~~.~~**

~~1.14 Implementation:~~

A. ~~The Nation~~ Practice. An Appraisal shall ~~determine rental based on the MDR~~be obtained for ~~all Leases except to~~ an Applicant/Lessee that generates ~~over $1~~more than $2,000,000 ~~annually~~ in actual or expected gross receipts ~~or rental properties with more than four (4) units. For Appraisals, the Nation will assume full responsibility.~~;

~~1. Appraisals shall be applied only to an Applicant/Lessee that generates over $1,000,000 annually in gross receipts or rental properties with more than four (4) rental units.~~

~~2. All other Leases shall be based on the MDR, such rate shall be updated periodically, to comply with the periodic review of the Tribal Regulations.~~

~~1.15 MDR:~~

~~DEFINITIONS~~

~~Lease Data is defines as relevant data on existing leases such as business purpose, location, annual rents and terms, etc.~~

B. MDR may apply to all other leases that do not meet the criteria as provided in Section 6.2(A).

Fair annual lease value determination shall be based on improvement cost, replacement cost, earning capacity, sales and lease data of comparable sites. The appraisal or MDR document shall be attached to every Lease.

6.2 Market Data Research (MDR)

The MDR is a process to obtain fair annual lease value, considering improvement cost, earning capacity, sales and Lease Data ~~Analysis~~:. Either RED or the ~~DED~~Leasing Department ~~and upon request,~~ with ~~the~~ assistance ~~of the~~from RED ~~shall~~, will conduct an analysis based on the Lease Data and other available information ~~available.~~to determine a fair annual rent.

A. Required documents

Until such time as the Leasing Departments have access to all leasing records on the Navajo Nation ~~Lease Database is a current database of Lease Data.~~

~~1. Application:~~, the ~~MDR may be used by DED~~Leasing Department ~~to determine an annual rent, if the actual or expected gross receipts are below $1,000,000 and the property has less than four (4) rental units.~~

~~2. Process:~~

1. ~~The Applicant/Lessee and/or DED Department shall~~may submit in writing the following information to RED:

a. Actual or ~~expect~~expected gross receipt total~~;~~,

~~1) Number of rental units on property;~~

b. Real property improvements~~;~~,
c. Location (Town and State~~);~~),
d. Acreage~~;~~,
e. Business purpose~~;~~, and
f. One photo of the business site and road (if applicable).

B. Upon receipt of the ~~information listed in Clause 4.3(2)(a),~~required documents, RED shall provide the ~~Lease Data~~data sheet/report to the ~~DED~~Leasing Department within three (3) ~~working~~business days. The ~~Lease Data~~ data sheet/report will not be provided until all ~~information in Clause 4.3(2)(a) is~~

required documents have been provided to RED. The ~~DED~~Leasing Department ~~shall use~~ may then analyze the Lease Data to determine fair annual ~~rent. Once the annual rent is determined, the DED~~lease value.

~~b. RED or the Leasing Department shall obtain the Program Manager's approval. Thereafter, the DED Department shall obtain RED's signature to ensure the MDR is valid.~~

~~3. RED's responsibilities~~

~~a. Shall provide the Lease Data on an Excel Spreadsheet with subject property and a disclaimer regarding confidentiality.~~

~~b. Shall provide training regarding the~~ may use market data analysis ~~of the Lease Data for the DED Departments.~~

~~c. Shall update the Lease Database when the leases are signed by the President or upon periodic review as outlined in the lease.~~

~~d. Shall ensure all Lease Data is supported with information from DED's confidential files or other legitimate sources common to statistical research.~~

~~B.~~C. ~~May use Market Date Analysis~~ for exigent circumstances, such as a new proposed market for the Navajo Nation (~~i.~~e.g., liquor store). The ~~Market Lease Data Analysis may be compared to~~market data analysis may compare a similar outside business to an existing business within the Navajo Nation, or an outside certified appraiser may be used as outlined in ~~Clause~~ Section 6.4. ~~5.~~

D. RED's responsibilities:

1. Provide the data sheet/report on the subject property to the Leasing Department with a notice regarding confidentiality for protected information.
2. Provide training on MDR and Lease Data analysis for the Leasing Departments.
3. Develop a process whereby the Navajo Nation Lease Database is automated and constantly updated.
4. Ensure all Lease Data is supported with information from RED's confidential files or other legitimate sources common to statistical research.

~~3.~~26.3 Nominal Rent:

Nominal Rent shall be either:

A. Based on services as consideration, subject to applicable federal or Navajo law; or

B. Not less than $150.00 per year.

~~3.~~36.4 Criteria for Appraisers:

A. All Appraisers who perform appraisal assignments shall meet the following criteria:

1. The Appraiser ~~must complete~~shall

a. Complete the appraisal and appraisal reports in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP). ~~Furthermore, the~~Appraisal reports must meet the requirements of SR 2-2(a) and the Appraiser must comply with the Competency Rule. ~~Prior to accepting an assignment or entering into an agreement to perform any assignment, an Appraiser must have knowledge and/or experience regarding commercial rental property within the Navajo Nation.~~

b. ~~Appraiser shall provide~~Provide proof of good standing in the state of the registration or ~~provide~~ proof of reciprocity from the state in which the Appraiser is conducting the appraisal.

~~e. In exigent circumstances, DED Departments may contract with an Appraiser who lacks knowledge and/or experience in commercial rental property within the Navajo Nation. The Appraiser must provide written justification of how he/she is going to competently complete the assignment, which includes research or the retention of another Appraiser who posses the required knowledge and/or experience in those exigent circumstances.~~

c. ~~The Appraiser must be~~Be categorized as a Certified General by the National Registry.

~~4. It is highly recommended that the Appraiser have current Errors and Omission Insurance and provide proof of coverage.~~

d. Be an LRE authorized to do business on the Navajo Nation.

B. Once the appraisal is complete, the Applicant/Lessee and ~~DED department~~Leasing Department shall provide a courtesy copy of the Appraisal Report to RED for its file.

C. The Appraiser must include in ~~his/her~~appraisal report a signed statement agreeing to protect the confidentiality of all information ~~he/she~~the Appraiser obtains relative to Navajo Trust Lands. This is in addition to the general requirements stipulated in the Confidentiality Clause of the Ethics Rule in USPAP.

4.07.0 ~~File~~Financial Management

~~**1.16** Lease Files shall be maintained by appropriate DED Departments in accordance with the Nation Privacy Act. Files will be kept for five (5) years after expiration of the business site Lease. Thereafter, all files shall be digitized, archived by the DED.~~

~~**1.17 Files shall be maintained in the**~~**The following ~~sequence in a two-divider folder:~~**

~~1. Approved Lease documents and supporting documents including:~~

~~a. Signature Authority Sheet;~~

~~b. DOJ Request for Services;~~

~~c. Transmittal Memo or Letter;~~

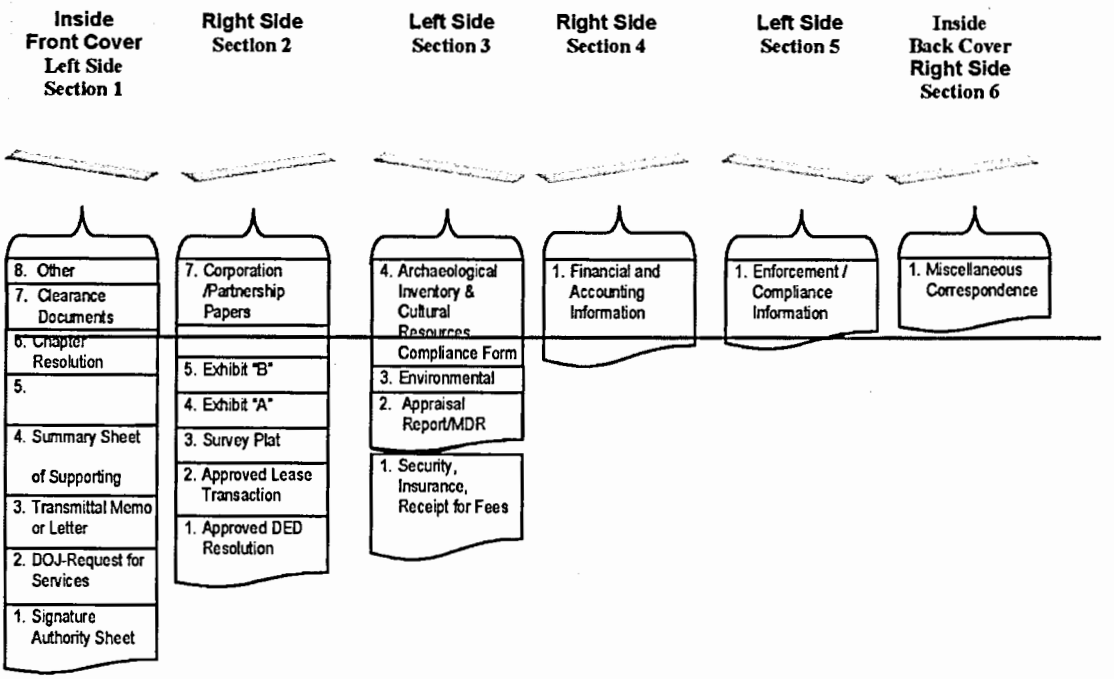
~~d. Summary Sheet of Supporting Documents;~~

~~e. Chapter Resolution, if applicable;~~
~~f. Clearance Documents;~~
~~g. Other (Land Withdrawals, etc.);~~
~~1. Approved~~ accounting procedures ~~DED Approving Committee Resolution;~~

~~h. Approved Lease Transaction;~~
~~i. Survey Plat;~~
~~j. Exhibit A;~~
~~k. Exhibit B;~~
~~l. Corporation/ Partnership Paper, if applicable;~~
~~m. Security, Insurance, Receipt for Fees;~~
~~n. Appraisal Report/MDR form;~~
~~o. Environmental Review;~~
~~p. Financial and Accounting Information;~~
~~q. Enforcement/Compliance Information;~~
~~r. Miscellaneous Correspondence.~~

~~1.18 Lease Folder Management~~

~~1. Outline:~~



~~* Document and exhibits, which depend upon the nature of the transaction, or circumstances. Examples:~~

~~1. Exhibit or Attachment may be a copy of Existing Lease.~~
~~2. Exhibit "A" may be a Proposed Lease or Copy of Existing Lease.~~
~~3. Exhibit "B" may be a Proposed Sublease.~~

~~2.0 Financial Management:~~

~~Accounting Procedures~~ shall apply to Leases governed by the Tribal Regulations. ~~DEFINITIONS:~~

~~*Invoice* means rental and other outstanding amounts.~~

~~*Billing* means Invoice process.~~

~~4.2~~7.1 Accounting Procedures:

A. ~~RED~~OOC shall send invoices annually to the ~~Lessees on the 20th of each month prior to the due date of the Lease payment, unless payments are made in advance~~Lessee.

B. Leases executed during the year shall receive invoices prorated for the current calendar year.

~~1. Payments shall be made by~~ If the Lessee ~~no later than the 10th of each month. If a payment is not received by the 11th day, RED shall send a notice of violation to the Lessee including assessing the appropriate penalty for the Lessee.~~

~~2. All Lease rental payment shall be submitted to the Navajo Nation, RED to account for revenue. Send payment by cashier's check or money order to:~~

~~The Navajo Nation~~
~~c/o Division of Economic Development~~
~~Real Estate Department~~
~~P.O Box 664~~
~~Window Rock, AZ 86515~~

~~3. RED shall forward any received payment to the appropriate account, including the Cashier's Section and Business and Industrial Development Fund by the next working day.~~

C. ~~The Lessee~~, in its present form or any other identifiable capacity as an individual~~, business, corporation or partnership~~ or LRE is in default under the Lease and has outstanding debt or delinquent accounts receivable owing to the Nation, the Lessee will not qualify for procurement clearance under NBPA, as applicable, and the Nation may exercise the right to offset any claim against ~~amounts owed~~amount the Navajo Nation owes to or has ~~a claim with accounts~~ an account payable to the ~~individual, business, corporation or partnership;~~Lessee. See Management Plan Section 3.1(D)(3) (providing for wage garnishment, offset of monies owed to Lessee, and judicial enforcement) and Navajo Business and Procurement Act, 12 N.N.C. § 1507 (right of offset), as applicable.

~~4. RED shall complete a Status Report at the same time as the inspection for the Report. On July 1st provide a written Status Report, on all sites, to OOC.~~

~~a. Status indicating active, inactive, holdover, permit, settlement, decease or abandonment. Upon a report of a decease, abandonment, or closure, the OOC will cease billing;~~

D. ~~The appropriate DED department shall~~ RED shall have the option to review or generate ~~their~~its own Agency business site leasing report through ~~Financial~~

~~Management Information System ("FMIS") accounts receivable module or any~~current accounting software utilized by the OOC~~;~~.

E. ~~Department of Justice ("DOJ") shall disseminate "~~When a Settlement Agreement~~" to RED and OOC, Accounts Receivable Section~~ is executed by the Attorney General, DOJ shall disseminate the fully executed Settlement Agreement to RED within ten (10) ~~ten~~ days of ~~final copy;~~execution.

1. RED shall provide the fully executed settlement agreement to the Lessee, OOC Accounts Receivable, and the Leasing Department.
2. OOC Accounts Receivable will provide an updated account ledger to RED and DOJ within ten (10) days of confirmation that the Lessee has complied with the Lessee's settlement payment obligations, if any. RED will provide the updated account ledger to the Lessee within 10 days of receipt.

F. Protected Lease information shall be kept confidential in accordance with the Navajo Nation Privacy and Access to Information Act, 2 N.N.C. § 81 *et seq.*, and shall not be made available to any other individual or organization by the OOC~~;~~. OOC shall not disclose confidential information other than (i) pursuant to the parties' written request, ~~DED, DOJ and only the named Lessee on the Lease~~(ii) to DED, (iii) to DOJ, (iv) to the current Lessee, which may be an assignee or successor-in-interest, or (v) as otherwise required by applicable law.

G. DED shall comply with Navajo Business and Procurement Act, Title 12, Chapter 15, ~~Section 15~~ as codified in the Navajo Nation Code. Requests for Procurement Clearance from DED through ~~the~~ OOC shall be in compliance with the Act to protect the resources and financial integrity of the Nation.

~~4.3~~7.2 Financial ~~Training:~~Reports

~~5. DED shall have designated staff recertified annually to FMIS Master Directory inquiry with a passing score determined by the OOC. The FMIS access is restricted to DED designated staff;~~

~~6. FMIS Training is required for DED designated staff each year through OOC for annual recertification in Common Foundation, Inquiry or other module training;~~

~~7. To protect sensitive business information, the control over end users must be at inquiry level. Valid security matrix is required prior to accessing FMIS Master Directory. Sharing of password is prohibited.~~

~~**2.2 Financial Reports:**~~

To ensure Leases are properly monitored for compliance, OOC Accounts Receivable shall ~~annually~~ generate the account receivable reports ~~by June 30th of each year~~monthly and disseminate or transmit electronically to ~~the Navajo Nation Office of the Controller, DED,~~ RED and the ~~Secretary of Interior~~Leasing Department.

~~4.~~47.3 Audit:

A. ~~OOC shall permit an authorized representative of the~~ Navajo Nation Auditor General's Office ~~to~~may conduct annual random audits of Leases.

B. Written audit reports shall be provided to ~~Navajo Nation Office of the Controller and Accounts Receivable Section once~~the Division once a final audit is completed by Navajo Nation Auditor General.

~~3.0 Termination~~

~~If at any time the Lessee files an appeal with the Office of Hearing and Appeals, any steps taken to terminate the Lease shall immediately cease, proceed to 9.0 of the Management Plan.~~

~~3.1 Mutual Termination~~

~~8.0 Lessee agrees to terminate the Lease and the Nation agrees to approve the termination of the Lease. The termination~~**Lease Collection Procedures**

8.1 Collections

OOC will ~~not preclude any financial or environmental obligations of the Lessee(s).~~

~~1. Mutual Termination may be granted:~~

~~a. During the Development Period as negotiated and defined under 4.2(3)(c) of the Admin Plan, without penalty;~~

~~b. Mutual Termination may be granted at the request of the Lessee.~~

~~2. Mutual Termination shall be processed by the appropriate DED department unless the Lease is in default then the RED shall process the Mutual Termination.~~

~~3. Responsibilities~~

~~a. Lessee~~

~~1) Shall submit a written request to mutually terminate the Lease to the appropriate DED department or RED, whichever applicable.~~

~~b. Division of Economic Development~~

~~1) Shall obtain a written document from the appropriate tribal departments to verify Lessee's compliance with Navajo Business Procurement Act and Navajo Nation laws and regulations.~~

~~a)~~ If provide notice to RED of Lessees that are in arrears or otherwise not in compliance with the ~~Navajo Business Procurement Act, proceed to 9.0. of the Management Plan.~~

~~2) Request a clearance with the Navajo Nation Environmental Protection Agency – Storage Tank~~

~~3) Begin Review, Approval and Execution Process, proceed to 4.3 of the Admin Plan.~~

~~c.~~ Lease ~~Recording and Distribution~~

~~1) Proceed to 4.7 of the Admin Plan~~

~~3.2 Unilateral Termination~~

~~Lessee is in default of the terms and conditions of the Lease, including but not limited to: Rental, Purpose, Unlawful Uses, Accounting, Improvements, Non-development, Bond, Construction Bond, Unauthorized Sublease, Assignment, transfer,~~for RED's management ~~greement, Encumbrance, Liens, taxes, Assessments, Utility Charges, Lessor's paying claims, Sanitation, Insurance requirements, Trespass, Abandonment~~

~~1.~~ of collection efforts. The goal of RED ~~responsibilities:~~

~~a. Immediately send a notice, which must include the following;~~

~~1) Date the Default occurred;~~

~~2) Provide an explanation of the Default~~ and ~~the determination;~~

3) Inform the Lessee of remedies that will be pursued;
4) Inform the Lessee of Possible termination and Security/insurance collections;
5) The three options the Lessee has including:
a) Cure;
b) Request additional time; or
c) Dispute the determination, which must include an explanation; and
6) The Actual Date when the Lessee must respond.

b. Must be by certified mail, return requested.

c. Lessee willOOC is to have ten (10) days from date the notice is mailed to respond.

d. If the Lessee cures the Default,pay their rental debt on a timely basis through the process can stop immediately.

e. If the Lessee requests additional time proceed with the following:
1) Immediately send a response to allow for additional time, which will be determined at the sole discretion of the RED;
2) The additional time should be no less than ten (10) days, however, it is seems the cure can not be done in ten (10) days, then state how long, however, no extension should extend beyond ninety (90) days.
3) This additional time may be granted it the Lessee is diligently pursing to curenegotiation and any additional extensions may be granted if Lessee is diligently pursuing to cure.
4) If the time from the Default extends beyond ninety (90) days and there is no reasonable excuse or reason, as to not being able to cure proceed to 8.4 of the Management Plan;

f. If the Lessee disputes the determination of the Default and provides an explanation then first, the RED Manager will give its recommendation as to whether a Default has indeed occurred. If necessary, may seek a legal analysis from the DOJ;

g. If no Default is found, then the process shall stop immediately;

h. If Default is found, a response letter will be sent to Lessor, which should contain the following:
1) Restate the default;
2) Provide an explanation, with supporting references, applicable laws and regulations;
3) State an Actual Date for the Lessee to cure, which must be no less than ten (10) days.

i. If Lessee continues to dispute the determination, RED shall request a meeting with the Lessee to resolve the dispute, proceed to 8.4 of the Management Plan.

j. If no cooperation or response, proceedwithout having to 7.5 of the Management Plan.

k. If the Lessee decidesresort to appeal, proceed to 9.0.of the Management Plan.

3.3 Expiration

Lease expires and Lessee has not notified the Lessor in a reasonable time to obtain a new Lease.

1. Lessee has not notified the DED Division Director of intentions to exercise an option to renew or to obtain a new Lease thirty (30) calendar days from the date of expiration.
2. Upon the thirtieth day from the date of Expiration, the RED shall notify the Lessee of the following:
   a. Date of Expiration
   b. Ten (10) working days to respond otherwise,

RED shall begin evictionlegal proceedings; or.

1) RED shall immediately notify the [appropriate DED department] of the available business site

3. Response process
   a. If begins steps to obtain a new Lease or responds within ten (10) day limit, by filling out an Application, proceed to 4.0 of the Admin Plan
   b. If does not respond within the ten (10) day limit:
      1) RED may contact DOJ to begin a forcible detainer action; or
      2) RED shall immediately notify the [appropriate DED department] of the available business site

3.4 Relinquishment

Withdrawn commercial/business sites may revert to Chapter use, if it is supported by a Chapter Resolution and approved by the EDC

3.5 Property Management

RED shall inspect and inventory all improvements located on leased premises within thirty (30) calendar days following termination or abandonment and within sixty (60) calendar days following Expiration.

1. Copy of Inventory shall be disbursed to the following:
   a. Navajo Nation Environmental Protection Agency
   b. Risk Management Program
   c. Property Management

A. If an account is collected through judicial action, the Lessee, including associated individuals and LREs, shall not be considered for another Lease until a minimum of five (5) years has lapsed.

B. All bankruptcy cases shall be subject to applicable Federal bankruptcy laws and all other applicable laws to discharge a debt to the Nation.

C. However, the continued right to cancel the Lease is subject to all applicable Navajo Nation, Federal and State laws in which the property is located.

D. In the event of death of a Lessee or owner of an LRE Lessee, RED will pursue collections as set forth in Section 9.0(B) below.

E. Any uncured payment arrearages of employees of the Navajo Nation or entity of the Nation shall be pursued in accordance with Section 3.1(D)(3) (providing for wage garnishment, offset of monies owed to Lessee, and judicial enforcement).

8.2 Compromise with Delinquent Lessee

Compromise may be pursued at RED's discretion if the Lease rental is uncollectible after all collection efforts have been exhausted, and the Lessee agrees to settle outstanding debt with the Nation through a Settlement Agreement or Promissory Note. When initiating a Settlement Agreement, RED shall consult with the Leasing Department, OOC Accounts Receivable, and in coordination with DOJ.

A. RED shall consider factors such as death, bankruptcy, other circumstances, and the amount of debt on a case-by-case basis before recommending to the DOJ a Settlement Agreement and/or Promissory Note to be entered into.

B. In consultation with the Leasing Department, OOC Accounts Receivable Section, and DOJ, RED may negotiate with the interested party as to the terms of the Settlement Agreement or Promissory Note, or RED may forward the matter to DOJ to take the lead in negotiations in consultation with RED, the Leasing Department, and OOC Accounts Receivable.

C. Once negotiations are complete, the DOJ shall draft and/or review the Settlement Agreement and/or Promissory Note. If the Agreement includes a settlement payment by the Lessee, it should include a payment deadline and be reviewed by OOC Accounts Receivable before the final Agreement is executed by the parties.

D. Upon execution and completion of any applicable Lessee obligations, the accrued rental and any fees shall be adjusted by OOC Accounts Receivable in accordance with the terms of the Settlement Agreement. The Settlement Agreement and related documents shall become a part of the Lease file maintained by RED.

E. RED shall be responsible for enforcement of Settlement Agreements and Promissory Notes in the event that the Lessee fails to comply with their terms and conditions. RED may work with the DOJ to enforce the terms of a Settlement Agreement.

~~5.0~~9.0 Enforcement, Relief and Remedies:

RED shall ~~have the primary responsibility to~~ enforce the terms of the Lease ~~through~~.

A. RED shall keep detailed records of periodic contacts with Lessees and efforts to resolve Lease defaults, in accordance with the internal policies and procedures of RED. The Lease file is the Navajo Nation's legal record of Lease transactions and relevant communications, and any entries made must be considered as potential evidence in a court of law.

B. In the event of death of an individual Lessee or the owner of an LRE Lessee, RED will communicate with the deceased's successor-in-interest or the administrator of the deceased's estate for all Lease management purposes, including collections, ~~obtaining insurance proceeds, enforcing the Security, recommending suit~~enforcement, and the exercise of remedies, in compliance with the terms of the Lease, this Management Plan, and the Navajo Nation Rules of Probate Procedure.

~~A.~~C. RED will send correspondence to the Lessee in accordance with the notice provision of the Lease, which may be updated by the Lessee. It is the responsibility of the Lessee, Lessee's successor-in-interest, or the administrator of Lessee's estate (as applicable) to provide updated notice information to RED.

~~B.~~D. If at any time the Lessee files an appeal with the Office of Hearing and Appeals, any steps taken to ~~terminate~~cancel the Lease shall immediately cease~~, proceed~~. Proceed to ~~9~~Section 11.0 of the Management Plan.

~~C.~~E. RED ~~shall, if necessary,~~may consult with the DOJ for any legal action ~~that may be necessary~~.

~~5.1~~9.1 Defaults ~~:~~

A. RED shall promptly communicate with Lessee to cure any violations or breach of the terms and conditions of the Lease, for example.

1. Not paying rent, late charges, or repayment plans (proceed to ~~10~~Section 8.0 ~~of the Management Plan);~~above)

~~2.~~ ~~Conducting business outside the business site;~~

2. ~~Conducting business~~ or without a valid Lease;
3. Not conducting business under the purposes set forth in the Lease;
4. Unlawful conduct or business on the business site;
5. Holdover ~~—~~(unless authorized~~;~~ by the Lease or Section 3.4 above);
6. Assigning, Subleasing, or ~~transfer~~otherwise transferring an interest in the Lease, including collateral assignment of the ~~lease~~Lease, without ~~approval of the Nation~~following the process to authorize such transfer;
7. ~~No development~~Not developing or ~~completion of~~completing development within the time granted in the Lease;
8. Not paying rent, if required, for period of waiver or rent abatement if Lessee failed to undertake development activity required during the period of waiver or abatement;
9. Not maintaining the ~~premises in a pleasant~~following:

a. Premises in an aesthetically clean and orderly appearance~~;~~,
b. Rental security throughout the lease term,
c. A construction bond,
d. Appropriate insurance throughout the lease term,
e. Sanitation permits and health codes and standards,
f. Environmental audit deposit, if applicable,

g. Storage tank bond, insurance or other qualifying financial responsibility mechanism as required by Lease Part II, Section 2.0 *et seq*. and 40 CFR 280, if applicable.

~~8.~~10. Unlawful construction or violation of applicable building codes;

~~3. Not maintaining Security throughout the Lease term;~~
~~4. Not maintaining construction bond throughout the Lease term;~~
~~5. Not maintaining appropriate insurance through the Lease term;~~
~~6. Violating health codes and standards~~
~~7. Malpractice for professional offices;~~
~~8. Encumbering the Lease without approval from the Lessor;~~
~~9. Not paying taxes or necessary utility payments for the health and protection of the customers and employees;~~
~~10. Not maintaining the sanitation clearance;~~
~~11. Not comply with environmental laws, including Hazardous and Regulated Substances;~~

11. Not complying with the following:

a. Required Environmental laws,
b. Navajo Preference in Employment Act ~~and~~,
~~b.~~ c. Navajo Business Opportunity Act~~;~~, and

~~12. Not complying with environmental laws for Storage Tanks~~
~~13. Not maintaining an Environmental Audit Deposit;~~
~~14. Not maintaining Storage Tank Bond, insurance or other qualifying financial responsibility mechanism as required by 40 CFR 280~~

d. Navajo Nation tax laws

~~9.~~12. Any other violations or breach of the terms and conditions of the Lease.

If a Default has occurred, proceed to 89.2 of the Management Plan, unless the Default is going to cause death, injury or sickness to anyone, including the business owner, then proceed to 89.6 of the Management Plan.

~~5.~~29.2 Once a Default has occurred, RED ~~must~~shall proceed with the following ~~process~~:

A. Immediately ~~send~~provide a written notice~~, which must~~ sent by certified mail, return receipt requested, and in accordance with the notice provision of the Lease. The cancellation letter shall include the following~~;~~:

1. Date the Default occurred;
2. ~~Provide an~~An explanation of the Default ~~and the determination~~;
3. ~~Inform the Lessee of remedies~~ Remedies that will be pursued;
4. ~~Inform the Lessee~~Notice of possible ~~termination~~cancellation, security and ~~Bond~~bond/insurance collections~~;~~. and, if applicable, pursuit of remedies in Management Plan 7.1(C).
5. ~~That~~Notice that the Lessee has three ~~option~~(3) options:

~~1) Cure;~~

a. Cure the Default within ten (10) business days of the date the letter is deemed received;

~~c.~~ b. Request additional time ~~or~~to cure the Default; or

~~d.~~ c. Dispute the ~~determination~~Default, which must include ~~an~~a written explanation~~;~~ to support the Lessee's position that there is no Default.

6. The Actual Date when the Lessee must respond~~;~~, in writing, which is ten (10) business days from the date the notice is deemed received. Notice is deemed received three (3) business days after it was sent by certified mail, return receipt requested.

~~b. Must be by certified mail, return requested;~~

~~c. Lessee will have ten (10) days from date the notice is mailed to respond.~~

B. RED shall make reasonable efforts to ensure Lessee receives notice, for example to send a courtesy copy by email in addition to notice by certified mail, if the Lessee has provided an email address to RED.

C. RED will provide a courtesy copy of the default notice letter to the Leasing Department.

~~5.~~9.3 Response ~~process~~Process

A. If the Lessee cures the Default, ~~the process can stop immediately~~RED shall inform the Lessee by a written notice that the Default has been cured.

B. If Lessee requests additional time before the deadline in Section 9.2(A)(5), then RED shall proceed with the following:

1. ~~Immediately send a response to allow~~Review the request for additional time~~, which will be determined at the sole discretion of~~. In reviewing the request for additional time, RED~~;~~ shall consider whether the Lessee is diligently curing the Default.

~~d.~~ The request for additional time should not be ~~no~~ less than ten (10) ~~days, however, it is seems the cure can not be done in ten (10) days, then state how long, however, no extension~~business days, but should not extend beyond ~~ninety (90)~~ calendar days~~.~~

2. ~~This additional time may be granted it~~ from the ~~Lessee is diligently pursing to cure and any~~date of Lessee's written request for additional ~~extensions may be granted if Lessee is diligently pursuing to cure.~~time.

~~e.~~ If the ~~time from the~~ Default extends beyond ~~ninety (90) days~~90 calendar days from the date of Lessee's written request for additional time and there is no reasonable ~~excuse or reason, as to not being able to cure~~justification for the delay, RED shall proceed to ~~8.4 of the Management Plan;~~

~~15. If the Lessee disputes the determination of the Default and provides an explanation then first, the RED Manager will give its recommendation as to whether a Default has indeed occurred. If necessary, may seek a legal analysis from the DOJ;~~

~~a. If no Default is found, then the process shall stop immediately;~~

~~b. If Default is found, a response letter will be sent to Lessor, which should contain the following:~~

~~1) Restate the default;~~

~~2) Provide an explanation, with supporting references, applicable laws and regulations;~~

~~3) State an Actual Date for the Lessee to cure, which must be no less than ten (10) days.~~

3. ~~If Lessee continues to dispute the determination, RED shall request a meeting with the Lessee to resolve the dispute, proceed to 8~~Section 9.4 of the Management Plan.

~~16. If no cooperation or response, proceed to 8.5 of the Management Plan;~~

~~17. If the Lessee decides to appeal, proceed to 9.0 of the Management Plan.~~

~~5.4~~9.4 Compromise

A. If the Lessee is not able to cure but is willing to cooperate with RED, the RED~~, then RED should~~will begin ~~compromising with the Lessee~~process to ~~mutually terminate~~negotiate a compromise and enter into a Settlement Agreement. See Section 8.2 of this ~~Lease~~Management Plan.

B. If ~~necessary RED may request the assistance of the DOJ to enter into a settlement agreement with the Lessee so as to terminate this~~ has entered into two (2) prior Settlement Agreements under the Lease~~,~~ term, RED shall not consider additional compromises, and shall proceed to Section 9.5 of ~~the~~this Management Plan. The RED Manager may ~~hear the dispute and negotiate~~ approve a written request for ~~a fair and reasonable solution~~waiver, with justification, of this limitation on compromise.

C. If, after attempt to compromise, the Default is still not cured and RED determines a compromise is not likely, RED shall proceed to ~~8~~Section 9.5 of ~~the~~this Management Plan.

~~5.5~~9.5 Remedies

A. If the Lessee~~,~~ does not respond or cure within the time given, or does not cooperate with ~~the~~ RED, the following may be exercised:

1. Cancel the Lease, proceed to ~~7.2~~Section 10 of the Management Plan;
2. Pursue other remedies, including execution on ~~Bonds or~~security and bonds, collection of insurance proceeds~~;~~, and, if applicable, the remedies in Management Plan 7.1(C); and/or
3. Any combination of remedies listed above.

~~18. If~~ RED decides to ~~terminate~~cancel the Lease, ~~it shall:~~

~~a. Obtain a written document from the appropriate tribal department to verify the Applicant's compliance with Navajo Business Procurement and Navajo Nation law and regulations.~~

B. ~~Begin Review, Approval and Execution Process,~~ proceed to ~~4.3~~Section 10.2 of the ~~Admin~~Management Plan.

~~19. Once the RED has an approved termination of the Lease, a letter shall be sent immediately to the Lessee informing the Lessee of the termination~~

~~20. The termination letter shall be sent to the Lessee by certified mail, return receipt requested. The termination letter shall:~~

~~a. Explain the grounds for termination;~~

~~b. Notify the Lessee of unpaid amounts, interest charges, or late payment penalties due under the Lease;~~

~~c. Demand full payment, if applicable~~

~~d. Notify the Lessee of its right to appeal the termination; and~~

~~e. Order the Lessee to vacate the premises within 30 days of the mailing of receipt of the termination letter, if an appeal is not filed by that time.~~

~~21. A termination shall become effective thirty-one (31) days after the mailing;~~

~~22. The filing of an Appeal shall tell the effective date of a termination. Pending the outcome of an Appeal, the Lessee shall make all requisite payments, as well as comply with the terms of the Lease.~~

~~23. Once a termination has taken place, the RED may:~~

~~a. Enter the Premises;~~

~~b. Change locks, place padlocks on the buildings;~~

~~c. Discontinue utility services;~~

~~d. Assist the Lessee to vacate the premises;~~

~~e. Do anything to the extent permitted by law to retake the premises.~~

~~5.6~~9.6 Emergency ~~cancellation~~Cancellation of the Lease

A. If (a) conduct causes or threatens to cause immediate and significant harm to the premises or persons, including the business owner, or (b) an individual on the premises undertakes criminal activity thereon, ~~the~~ as determined by RED, then RED may ~~contact the Navajo Nation Police Department and immediately terminate the Lease without notice to the Lessee.~~:

~~**3.6 Eviction/Court Action:**~~

1. ~~Eviction through Court Action would be imposed on the~~ contact the Navajo Nation Public Safety, and
2. immediately cancel the Lease without notice to the Lessee~~(s) if~~.

B. If RED cancels the Lease under this Section 9.6, RED shall provide notice of the emergency cancellation to the Lessee~~(s) were~~ as soon as practicable under the circumstances.

9.7 Unauthorized entry, occupation, and/or use of Lease Premises

RED may seek DOJ assistance and pursue all available remedies, including calling law enforcement and the filing of a forcible entry and detainer action to regain possession if, but not limited to:

A. A person enters, occupies or uses leasehold premises without a Lease or other authorization, and

B. A holdover Lessee is **unwilling to vacate the business site after termination,** cancellation, or expiration **of the Lease.**

C. RED's inspection and enforcement responsibility to ensure no unauthorized entry, occupation, and/or use includes all business site lease premises. For example, if a business site lease under BIA management expires, the premises comes under RED management.

RED will consult with, and provide updates to, the Leasing Department regarding the enforcement activity.

10.0 Cancellation and Expiration

10.1 Mutual Cancellation

Mutual Cancellation of a Lease in default may be negotiated as part of a Compromise or Settlement Agreement. See Sections 8.2 and 9.5 of this Management Plan. If a Lessee desires to mutually terminate a Lease in good standing, refer to Administrative Plan Section 11.

10.2 Unilateral Cancellation

A Lease is subject to Unilateral Cancellation if Lessee is in default of the terms and conditions of the Lease, including but not limited to the following: Rental, Purpose, Unlawful Uses, Accounting, Improvements, Non-development, Security, Construction Bond, Unauthorized Sublease, Assignment, Transfer, Management Agreement, Encumbrance, Liens, Taxes, Assessments, Utility Charges, Lessor's Paying Claims, Sanitation, Insurance Requirements, Trespass, and Abandonment.

A. RED responsibilities:

1. Obtain an updated account ledger from OOC Accounts Receivable to verify the account balance as of the cancellation notice date.
2. Send a written notice letter, with a copy to the Leasing Department and OOC Accounts Receivable, to inform the Lessee that the Lease will be cancelled.
3. The cancellation notice letter shall be sent to the Lessee by certified mail, return receipt requested, and in accordance with the notice provision of the Lease. The letter shall include:

    a. Reference to the initial notice of default sent pursuant to Management Plan Section 9.2;

b. Notice of intent to cancel the Lease, and the grounds for cancellation, with supporting documents attached, as applicable;
c. Notice of all unpaid amounts, interest charges, and late payment penalties due under the Lease, as shown on the OOC Accounts Receivable ledger;
d. Demand for full payment;
e. Notice of intent to collect security and/or insurance, and initiate additional collection remedies, if applicable;
f. Notice that failure to pay the aforementioned amount and cancellation of the Lease do not relieve the Lessee of its contractual obligation;
g. Notice that the Lessee will be ineligible to receive future benefits, including but not limited to receiving a lease, loan, priority certification under the Navajo Business Opportunity Act, and other business opportunities from the Navajo Nation.
h. Notice that the Lessee has the following four (4) options:

i) Cure the Default,
ii) Request additional time to cure the Default,
iii) Dispute the determination of Default, which must include a written explanation, or
iv) Do nothing, in which case the Lease will be cancelled and any and all collection efforts may be pursued;

i. The Actual Date when the Lessee must cure the default or vacate the premises, which is ten (10) calendar days from the date the notice is deemed received. The notice is deemed received three (3) business days after it was sent by certified mail; and
j. Notice of the Lessee's right to appeal the cancellation to the RED Manager in accordance with Section 11 of the Management Plan.

4. If the Lessee provided an email address in the notice provision of the Lease, RED will also provide the notice via email with the certified mail letter to follow.
5. If the Lessee cures the Default, the unilateral cancellation process can stop immediately.
6. If the Lessee requests additional time, RED will:

a. Immediately send a written response to the Lessee's request for additional time to cure, which will be granted at the sole discretion of RED;
b. The additional time, if granted, should be no less than ten (10) business days, and no longer than ninety (90) calendar days, and
c. This additional time may be granted if the Lessee is diligently pursuing to cure. Additional extensions may be granted, in RED's sole discretion, if Lessee is diligently pursuing to cure.
d. If the Default extends beyond the additional time granted by RED and there is no reasonable excuse or justification for Lessee's

failure to cure, RED shall proceed to Section 9.4 or 9.5 of this Management Plan.

7. If the Lessee disputes the default, RED Manager will consider the explanation and determine whether a Default has indeed occurred. The RED Manager may seek a legal analysis from the DOJ.

a. If the RED Manager determines there is no Default, the process to cancel the Lease shall cease immediately.
b. If the RED Manager determine there is a Default, the RED Manager shall send a response letter to Lessee, which should:

i) restate the Default,
ii) provide an explanation with supporting references, applicable laws, and regulations;
iii) state an actual date for the Lessee to cure or vacate the premises, which must be no less than ten (10) business days from the date of the response letter; and
iv) state that the Lessee may appeal RED's determination in accordance with Section 11 of the Management Plan.

10.3 Expiration

This Section applies when the Lease expires, the Lessee has not notified RED and the Leasing Department in a reasonable time to obtain a new Lease, and the Lessee has not vacated the premises.

A. RED shall notify OOC Accounts Receivable that holdover rent shall apply in accordance with the terms of the Lease.

B. Upon ~~issuance of warrant of removal by the Nation Courts, Lessor will secure the lease premises with the assistance of the law enforcement.~~the thirtieth (30th) day from the expiration date, RED shall provide the following notice to the Lessee, with a copy to the Leasing Department:

~~**3.7 Trespass:**~~

1. ~~If a person or~~ Date of Expiration and the application of holdover rent,
2. The **Lessee**~~(s) occupies the premises without~~ must vacate within ten (10) business days from **the** ~~Economic Development Committee approval,~~date **the** ~~RED~~ letter is deemed received, and
3. Failure to vacate **may** ~~pursue appropriate~~result in RED pursuing all available **remedies, including** ~~the~~ calling law enforcement and **filing** ~~of a trespass~~a forcible entry and detainer **action to regain possession.**

C. If the Lessee does not vacate the premises within ten (10) calendar days, or another date agreed to by RED after consultation with the Leasing Department, RED shall:

1. contact OOC Accounts Receivable to provide a status update on the application of holdover rent, and
2. contact DOJ to begin a forcible entry and detainer action or other legal proceedings.

10.4 Relinquishment

If a ~~person or Lessee(s) remain in possession after the~~lease is terminated, canceled, or expired, the premises continue to be designated for commercial or industrial use, as applicable. The land withdrawal designation may be changed in accordance with the Navajo Land Withdrawal Designation Regulations, RDCJN-33-15 ("Land Withdrawal Regulations"), as may be amended. If the business site land was administratively or legislatively withdrawn prior to promulgation of the Land Withdrawal Regulations, the land may be relinquished if supported by a Chapter Resolution and approved by the RDC, unless the Land Withdrawal Regulations are amended to provide a different process.

10.5 Property Inspection Upon Expiration, Termination, Cancellation, or Abandonment

A. RED shall inspect and complete a Property Inventory Form on leased premises within thirty (30) calendar days following **expiration** ~~or~~, **termination** ~~of a~~, cancellation, or abandonment.

B. Copy of the Property Inventory Form shall be disbursed to:

1. Navajo Nation Environmental Protection Agency, if applicable,
2. Division of General Services, Insurance Services Department, Risk Management Program,
3. OOC Property Management Department, and
4. DED Leasing Department.

10.6 Rental Security upon Expiration, Termination, Cancellation, or Abandonment

Upon Lease~~, RED shall treat such occupation as a trespass. RED shall take action to recover possession and pursue additional remedies and may seek DOJ assistance for filing of such actions~~ expiration, termination, cancellation, or abandonment, RED shall retain any or all of the deposit to apply towards Lessee's balance, damages beyond normal wear and tear, or incomplete developments. Within ten (10) business days after calculating the amount, if any, to be retained, RED will (1) submit a request to OOC to return any amount of the deposit not retained to the Lessee in accordance with the terms of the Lease, any applicable intragovernmental agreement, and Navajo Nation fiscal procedures, and (2) notify the Lessee of the amount to be retained by the Navajo Nation, and the amount to be returned to the Lessee.

10.7 Termination, Cancellation, and Expiration of Permits, EOAs, and Sub-Permits

A. *Termination by the Leasing Department.* The Leasing Department may terminate a Permit, EOA, or Sub-Permit at will by providing written notice as set forth in the Permit, EOA, or Sub-Permit. Mutual termination of a Permit or EOA may be granted and processed by the Leasing Department. Mutual termination of a Sub-

Permit may be negotiated by the Lessee/Sub-Permittor and the Sub-Permittee, with notice to the Navajo Nation in accordance with the terms of the Sub-Permit.

B. *Cancellation by RED for Preliminary Non-Compliance.* If the permittee, operator, or sub-permittee does not pay the applicable Administrative Fee or Security to RED, after receiving notice and an opportunity to cure in accordance with Section 2.2(C) of the Management Plan, then RED shall notify the permittee, operator, or sub-permittee of the non-compliance and cancellation of the Permit, EOA, or Sub-Permit. The time granted to cure non-payment of the Administrative Fee or Security shall be determined by RED in RED's sole discretion.

C. *Cancellation by RED upon Default.* If the Leasing Department gives RED notice in writing of non-compliance with a Permit, EOA, or Sub-Permit in accordance with Section 12.2(B), 13.2(D)(3), and 16.2(B) of the Administrative Plan, then within ten (10) business days from receipt of the notice, RED shall notify the permittee, operator, or sub-permittee of the non-compliance and cancellation of the Permits, or EOA, as applicable. If RED becomes aware of non-compliance with a Permit, EOA, or Sub-Permit from another source, RED shall promptly inform the Leasing Department of the non-compliance and RED's intention regarding the Permit, EOA, or Sub-Permit, which may include either (i) working with the permittee, operator, or sub-permittor and sub-permittee to bring the Permit, EOA, or Sub-Permit into compliance, or (ii) cancelling the Permit, EOA, or Sub-Permit.

D. *Notice of Cancellation.* When cancelling a Permit, EOA, or Sub-Permit, RED shall:

1. Obtain an updated account ledger from OOC Accounts Receivable to verify the account balance as of the cancellation effective date.
2. Send notice by certified mail, return receipt requested, with a copy to the Leasing Department and OOC, and shall include the following:

    a. Reason for cancellation,
    b. Effective date of cancellation,
    c. Timeframe for permittee, operator, or sub-permittee to vacate the premises, which shall not exceed ten (10) business days from the date of cancellation, and
    d. Notice of all unpaid amounts, interest charges, and late payment penalties due, as shown on the OOC Accounts Receivable ledger,
    e. Demand for full payment of amount due, and
    f. Notice that failure to pay the amount due will result in the Lessee being ineligible to receive future benefits, including but not limited to receiving a lease, loan, priority certification under the Navajo Business Opportunity Act, and other business opportunities from the Navajo Nation.

~~C.~~E. *Site Inspection.* RED shall inspect and complete an Inventory Report of permit, sub-permit, and EOA premises within thirty (30) calendar days following

expiration, termination, cancellation, or abandonment. RED will provide a courtesy copy of the Inventory Report to the Leasing Department.

~~6.0~~11.0Appeals

~~An interested party may appeal the decision of the Navajo Nation, after exhaustion of all tribal remedies, to the Secretary of the Interior ("Secretary")~~

~~6.1~~11.1Appeal Procedure~~:~~

Lessee shall notify the RED Manager, in writing, of any ~~arising dispute.~~appeal within ten (10) business days of the final determination or decision by RED that is being appealed.

~~6.2~~11.2Compromise with RED

A. Upon receipt of ~~the~~a written appeal, RED shall contact the Lessee~~/interested party~~ and attempt to compromise and come to a fair and reasonable solution to the dispute, as provided in ~~7.0.~~9.4 and 8.2 of this Management Plan. The letter from RED must include the following:

1. Date of the dispute,
2. An explanation of the dispute and the determination,
3. The Actual Date when the Lessee must respond in writing, within thirty (30) days of letter,
4. Supporting documents attached, if applicable, and
5. Other relevant information, if applicable.

B. If the dispute cannot be resolved ~~within twenty (20) days from the date of the appeal, the Lessee/interested party may appeal to the OHA.~~through compromise, RED shall issue a written decision.

~~1.~~ Upon receipt of the written decision ~~or expiration of the time limit, whichever occurs first~~issued by RED, the Lessee shall have ten (10) ~~calendar~~business days to appeal to ~~OHA.~~

C. ~~Navajo Nation~~ the Office of ~~Hearings~~Hearing and ~~Appeal ("~~Appeals (OHA~~")~~).

D. If the Lessee ~~and~~does not appeal within the required time frame, RED ~~are not able to compromise~~shall pursue cancellation as provided in Section 10.2 of the Management Plan.

11.3 Navajo Nation OHA

~~2.~~ If the Lessee ~~may file~~files an appeal ~~with the OHA~~

~~D.~~A. under Section 11.2(C) above, OHA shall review whether the determination of RED is:

1. Arbitrary, capricious, or an abuse of discretion,
2. Not supported by substantial evidence, or
3. Not in accordance with the law.

B. OHA shall issue a decision upon reviewing all the information to make a determination as provided in 11.3(A).

6.311.4Navajo Nation Supreme Court (~~"NSC~~)

A. Lessee or RED may appeal to the ~~NSC~~Navajo Nation Supreme Court once a decision has been ~~made by OHA.~~issued by OHA. The appeal shall be filed within thirty (30) calendar days from the date of OHA's decision.

B. ~~The~~The Navajo Nation Supreme Court review will be limited to issues of law and the record.

C. De ~~Novo~~novo review is not allowed.

6.411.5Secretary of the Interior

A. After exhausting all Navajo Nation remedies provided in Sections 11.1 to 11.4 and receiving a decision from the Navajo Nation Supreme Court, the Lessee may appeal to the Secretary ~~once a decision has been made by NSC~~of the Interior.

~~3. Secretary shall determine if:~~

~~a. Any adverse affects to Lessee~~

B. ~~Not~~The appeal to the Secretary shall be filed within thirty (30) calendar days from the date of the Navajo Nation Supreme Court's decision.

~~B.~~C. The Secretary's review shall be limited to whether the Navajo Nation Supreme Court's decision is not in accordance with the Navajo Nation Business Site Leasing Regulations of 2005.

12.0 File Management

12.1 General Information

Lease files shall be maintained by RED in accordance with the DED Plan of Operations and the Navajo Nation Privacy and Access to Information Act. Digital electronic and paper copies of the lease files shall be kept by RED. Paper files will be kept for seven (7) years after expiration of the Lease. Thereafter, all files shall be archived by RED in digital format.

12.2 RED File Maintenance

RED shall maintain the following files:

A. Lease Agreements

1. Approved and Executed Lease Agreement (including Lease Part I and Part II) with all exhibits, renewal letters, modifications, assignments, subleases, settlement agreements, etc.);
2. Survey, legible or original certified (if hard copy certified is available),
3. Executive Summary;
4. Certificate of Good Standing, if applicable;

5. Procurement Clearance documents;
6. ES Sheet;
7. Appraisal report or MDR Summary Sheet;
8. DED Approving Committee Resolution;

~~b. Discriminating to Lessee~~

~~4.0 Lease Collection Procedures:~~

~~4.1 Collections:~~

~~Leases that are in arrears or otherwise not in compliance with the Lease are forwarded to RED for collection efforts. The goal of the collection officers is to have the Lessee pay their rental debt on a timely basis through the process of negotiation and cooperation without having to resort to legal proceedings;~~

~~1. RED shall keep detailed records of efforts and have periodic contacts with Lessees, in accordance with the internal policies and procedures of the RED.~~

~~a. The Lease file is a legal document and any entries made must be considered as potential evidence in a court of law;~~

~~2. It is the responsibility of the Lessee to keep the RED informed of their current address and telephone numbers. RED is not responsible for sending correspondence to other than the last known address and telephone number provided by the Lessee;~~

~~3. If an account is collected, through judicial action, the Lessees shall not be considered for another Lease until a minimum of ten (10) years has lapsed;~~

~~a. All bankruptcy cases shall be subject to the Federal Bankruptcy Laws and all other applicable laws to discharge a debt to the Nation.~~

~~b. However, the continued right to terminate the property is subject to all applicable Navajo Nation, Federal and state laws in which the property is located.~~

~~c. In the event of death of a Lessee, RED shall contact the surviving spouse or the administrator of the deceased's estate to proceed with the probate in compliance with the Navajo Nation Rules of Probate Procedures;~~

~~d. Any uncured payment arrearages of employees of the Navajo Nation or entity of the Nation shall be pursued,~~

~~1) Pursuant to the Navajo Nation Executive Branch Personnel Policies Manual Article XVI(B)(2); or~~

~~2) At the option of RED through judicial means or through the Navajo Business and Procurement Act, 12 N.N.C.§1507.~~

~~4.2 Compromise with delinquent Lessee(s):~~

~~When the Lease rental is uncollectible and all collection efforts have been exhausted and the Lessee agrees to settle outstanding debt with the Nation, with a Settlement Agreement or Promissory Note.~~

~~DEFINITION~~

~~*Affected Party* means the Lessee, Sublessee, Assignee, Permittee, Encumbrancer or any other person or entity who owes debt to the Nation~~

~~1. RED shall consider factors such as death, bankruptcy, other circumstances and the amount of debt on a case-by-case basis before recommending to the DOJ a Settlement Agreement and/or Promissory Note be entered into.~~

~~2. RED may in its discretion negotiate with the Affected Party as to the terms of the Settlement Agreement or Promissory Note or forward negotiations to DOJ~~

~~3. Once negotiations are completed the DOJ shall draft and/or review the Settlement Agreement and/or Promissory Note before submitting for approval.~~

~~4. Once the Settlement Agreement and/or Promissory Note is signed by the Affected Party, DOJ will submit the Settlement Agreement and/or Promissory Note to the DED Division Director for concurrence and final execution by the Attorney General;~~

~~5. Upon final approval, the accrued rental and any fees may be taken off the books of the Nation. A separate record shall be maintained by RED and OOC Accounts Receivable Department showing the Leases that have been settled or a repayment plan is agreed to. OOC shall be responsible for collections of Settlement Agreements and/or Promissory Notes.~~

9. Business Organization Documents (e.g., Corporation/LLC/Partnership Paper), if applicable;
10. Evidence of administrative fee payment (Section 2.2), such as copy of check or money order, or electronic payment record, and transmittal memo to OOC;
11. Certificate of Insurance or Signed Indemnification Document;
12. Evidence of the Security Deposit, such as copy of check or money order, electronic payment record, Certificate of Deposit, Bond, or Letter of Credit, with the transmittal memo to OOC;
13. Evidence of the Construction and/or Performance Bond, if applicable;

~~5.0 Appendix—Forms:~~

~~1.~~14. Annual Lease Compliance Reports;
~~2.~~15. Property Inventory Forms; and
16. Miscellaneous Correspondence (including distribution letters and subsequent communications with Lessee and other interested parties).

B. Sub-Permits, Permits, and Emergency Operating Agreements

1. Original Sub-Permit, Permit or Emergency Operating Agreement, with any renewals, modifications, etc.
2. Evidence of Administrative fees,
3. Certificate of Insurance or Signed Indemnification Document,
4. Evidence of Security deposit, if applicable,
5. Certificate of Good Standing, if applicable,
6. Procurement Clearances,
7. Environmental Review documents (if the permittee is conducting a business related to oil, gas, propane, flammable material, hazardous, and regulated substances and plans to initiate any ground disturbing activities),
8. Survey, if applicable, and
9. Miscellaneous Correspondences (including distribution letters and subsequent communications with Lessee and other interested parties).

C. Rental

1. Appraisal Report, or
2. MDR Request and Summary Form.

D. Environmental Review

1. Compliance Determination from EPA, FWD and HPD,
2. ES Sheet,
3. Site Development Plan, and
4. Conceptual Layout: proposed development.

E. Legal Description

1. Evidence of land-withdrawal, or land designation letter,
2. Legal description, and
3. Survey, legible or original certified (if hard copy certified is available).

12.3 Lease Folder Management Table

Inside Front Cover Left Side Section 1	Right Side Section 2	Left Side Section 3	Right Side Section 4	Left Side Section 5	Inside Back Cover Right Side Section 6
6.) Corporation/ Partnership Documents (incl. Certificate of Good Standing)	8.) DED Approving Committee Resolution	4.) Archaeological Inventory & Cultural Resources Compliance Form	2.) Security & Receipts for Fees	2.) Executive Summary	1.) Miscellaneous Correspondence
5.) Exhibit B	7.) Land Withdrawal Letter and/or Chapter Resolution	3.) Environmental Review Record	1.) Financial & Accounting Information	1.) Memorandum from Leasing Department	
4.) Exhibit A	6.) Summary Sheet and Supporting Documents	2.) Appraisal Report/ MDR			
3.) Survey Plat	5.) Letter of Intent	1.) Insurance and Indemnification Forms			
2.) Distribution Letters	4.) Clearance Documents				
1.) Approved Lease Transaction	3.) DOJ-Request for Services (*Attorney-Client Privileged*)				
	2.) Signature Authority Sheet				
	1.) Enforcement/ Compliance Information				

13.0 Appendix – Forms

Forms (for reference, may be updated from time to time by the Department, and may be made available by the Department in a convenient manner):

A. Annual Lease Compliance Report
~~C.~~B. Site Status Report
C. Property Inventory
~~1. Environmental Summary~~
~~2. FMIS Steps on Entering Standard Invoice~~
~~3. Standard Invoice~~
D. Sheet Form

Proposed Amendments 08/21/2025 (clean)

Lease No. _____
~~Permit~~Administrative Fee: $~~150~~200.00

PART I
NAVAJO NATION ECONOMIC DEVELOPMENT LEASE
(Navajo Nation Trust Land)

Standard Business Site Lease

THIS LEASE~~, in sextuplicate,~~ is ~~made and~~ entered into ~~this ___ day of ___, 20___,~~ by and between THE NAVAJO NATION, hereinafter called Lessor, whose address is Post Office Box 663, Window Rock, Navajo Nation (Arizona) 86515, and _____ ***[for multiple Lessee parties, state how the tenancy is held, e.g. joint tenants with right of survivorship or tenants in common]***, hereinafter called the Lessee, whose address is _____, in accordance with the provisions of 25 U.S.C. §§ 415(e) as amended, and as implemented by the regulations contained in the Navajo Nation Business Site Leasing Regulations of 2005~~, hereinafter called the Tribal~~ ("Navajo Regulations"); and any amendments thereto relative to business leases on restricted lands which by this reference are made a part hereto. This Lease shall be effective on the date it is signed by the Navajo Nation President or an authorized designee ("Effective Date").

A. LAND DESCRIPTION

1. For and in consideration of the rents, covenants, agreements, terms and conditions contained herein, Lessor hereby leases to the Lessee the following described premises:

[LEGAL DESCRIPTION OF BUSINESS SITE TRACT]
INSERT SNIP OF LEGAL DESCRIPTION
AVOID RETYPING IF POSSIBLE]

Said Property is shown on the attached survey plat marked as Exhibit "A"~~,~~ which by reference is made part hereof.

2. All of the above land is located in _____ Chapter of the Navajo Nation, County of _____, State of _____, subject to any prior, valid, existing rights-of-way and easements. There is hereby reserved and excepted from the leased premises rights-of-way for utilities constructed by or on authority of the Lessor, provided that such rights-of-way do not unreasonably interfere with Lessee's use of the leased premises.

Initials:_____

B. PURPOSE, UNLAWFUL USES

1. Lessee shall develop, use and operate the leased premises for the following purposes only:

[*INSERT SPECIFIC PURPOSES*]

2. The leased premises shall not be used by Lessee, Sublessee(s~~)~~, Tenants, Subpermittee(s), or Assignee(s), for any purpose or purposes other than those set out above, except with the prior written consent of Lessor. Consent may be withheld, granted, or granted upon conditions, in the sole discretion of Lessor.

3. Lessee agrees that it will not use or cause to be used any part of the leased premises for any unlawful conduct or purpose.

C. TERM

The term of this Lease shall be_____years, beginning on the date this Lease is executed by the Navajo Nation President or an authorized designee.

Lessee may exercise options to renew for one additional term of_____years, and a second additional term of_____years. Both options may be granted provided the Lease is not in default. Lessee shall give written notice ~~of its intent~~to exercise an option to renew this Lease to the ~~Division Director of the Division of Economic Development or successor~~Leasing Department at least one year~~,~~ prior to the expiration date of ~~this Lease.~~the applicable term. Renewal of this Lease is subject to the written approval of the ~~Division Director for the Division of Economic Development or successor,~~Navajo Nation President and to applicable provisions of Navajo Nation law and the regulations contained in the ~~Tribal~~Navajo Regulations, including all amendments and successors thereto.

D. RENTAL

1. The Lessee, in consideration of the foregoing, covenants and agrees to pay in lawful money of the United States of America to the Controller of the Navajo Nation for the use and benefit of the Lessor the following: ~~[*BE SPECIFIC AS TO THE RENTAL TERMS OF THE LEASE*]~~

[Be specific as to the rental terms of the Lease. Rental may be structured as either:

(i) a flat rate;

(ii) a flat rate plus a percentage of Gross Receipts (defined in BSL Part II), if the lessee is a business located in a shopping center or mall, or generates over $1,000,000;

(iii) based on a percentage of Gross Receipts; and/or

(iv) based on a market indicator.]

2. Lessee must make monthly rental payments in advance equal to at least one-twelfth of the aforementioned minimum annual rental. ~~[*For businesses which gross $1,000,000 or more annually may elect to pay monthly rental in an amount based on the percentage rental rate on the month's gross receipts; however, no payment shall be less than one-twelfth of the minimum rental. Monthly payments based on the percentage rental rate on gross receipts shall be paid not later than the tenth (10th) day after the end of the month for which rental is due.*]~~ All rental shall be deposited with the Controller

of the Navajo Nation. ~~When~~The rents shall be paid to the ~~annual accounting required by Section 1.3, Part II~~Controller without prior notice or demand.

~~2.~~3. ***[If percentage rent is applied, insert:*** Not later than April 15, of each successive calendar year or fraction thereof following the Effective Date of this Lease ~~is completed, the~~, Lessee shall ~~pay any~~ submit to OOC Accounts Receivable and DED Real Estate Department certified statements of Gross Receipts, with payment of the balance due ~~on~~, if any ~~rental or~~, for the preceding calendar year under the percentage rental~~, if applicable, or if~~ fee. **If there is** ~~an overpayment, the overpayment shall be credited toward future rents.~~**no percentage rent, insert:** Intentionally omitted.***]***

Initials:_____

~~3.~~4. Rental shall be paid on the 1st of each month~~, if~~. If rental is unpaid ten (10) days after the due date, the Lessee shall be subject to a late charge~~.~~ of 10% of the monthly amount due. Should the Lessee not pay rent within thirty (30) days after the due date, the Lessee shall be subject to a ~~late charge of 10% of the monthly amount due, however such amount shall be prorated for each day the rent is not paid until the thirtieth day after the due date, the amount above shall be paid in full. If the Lessee does not pay the full amount within sixty (60) days the Lessee shall be subject to an additional~~continuing late charge of 10% of the monthly amount due~~.~~ until the Lessee has paid the full amount due. If the Lessee ~~does~~has not ~~pay~~paid the full amount ~~within ninety~~due after (90) days, the ~~Lessee shall be subject to an additional late charge of 10% of the monthly amount due, and the lease~~Lease shall be subject to ~~termination~~cancellation.

~~1. Upon the fifth anniversary of this Lease, the rental will be reviewed and adjusted by the Lessor and each successive five-year period thereafter. In no event will the adjusted rental be less than the amount paid during the preceding five-year period.~~

~~4.~~5. In the event a sublease, assignment, amendment, or transfer of this Lease, or any right to or interest in this Lease, or any improvements are made to the leased premises, the rent and other terms of this Lease shall be subject to renegotiation. In addition, if the Lessee exercises any options to renew, the Lessor reserves the right to renegotiate the rent, for any change in economic conditions and other terms of the Lease.

6. ***[If rent schedule does not include pre-determined 5-year rent adjustments, insert:*** Upon the fifth anniversary of this Lease, the rental will be reviewed and adjusted by the Lessor and each successive five-year period thereafter. In no event will the adjusted rental be less than the amount paid during the preceding five-year period.***]***

~~5.~~7. ***[If rental includes percentage rental, insert:*** Lessor reserves the right to inspect the books and records of Lessee and any Sublessee or Assignee to verify the accuracy of the rentals paid~~.~~***.]***

E. IMPROVEMENTS

1. The Lessee, in consideration for the granting of this Lease, covenants and agrees that Lessee will construct_____at a cost of and having a reasonable value of $_____or more.

2. Except as otherwise provided in this Lease, all buildings and improvements, excluding removable personal property and trade fixtures, on the leased property shall remain on said property after termination of this Lease and shall thereupon become the property of Lessor. However, Lessor may require Lessee, at Lessee's expense, to remove improvements and restore the premises to the original state, within reason, upon termination of this Lease. Any removal of property by Lessee must be completed within ninety (90) days after termination of this Lease, such presence on the property shall not be deemed a holdover or trespass, provided Lessee is acting in a diligent manner to remove such property. Upon the expiration of the ninety (90) day extension, the Lessor ~~has the right to~~ may either grant another extension, or re-enter the premises, at ~~such~~which time the Lessee shall have no further right to or interest ~~to~~in the premises or any remaining property or improvements.

Initials:_____

3. The term "removable personal property" as used in this Section shall not include property which normally would be attached or affixed to the buildings, improvements or land in such a way that it would become a part of the realty, regardless of whether such property is in fact so placed in or on or affixed to the buildings, improvements or land in such a way as to legally retain the characteristics of personal property. Lessee shall remove all removable personal property and trade fixtures prior to termination of this Lease. Should Lessee fail to remove said personal property and trade fixtures prior to termination of this Lease, said property shall thereupon become property of Lessor, and may be disposed of in any manner by Lessor.

~~2. At the expiration or termination of the lease, the Lessor has the first right of refusal to purchase any permanent improvements to the premises at fair market value.~~

F. COMPLETION OF DEVELOPMENT

~~3.~~ The Lessee shall complete the full improvement and development of the ~~leases~~leased premises in accordance with the general plan and architect's design. The date for ~~substantial~~ completion of financing and substantial completion of development shall be ___ months from the ~~date the Lease is~~

1. ~~executed by the Navajo Nation President.~~ Effective Date. If the Lessee fails to substantially complete development within such period, ***[select either:*** such failure shall constitute a default and may be cause for ~~termination,~~cancellation ***or*** *this Lease shall automatically be void without the need for any further action*], subject to this Section (F)(4) or unless otherwise agreed.

2. Prior to the commencement of construction of any new improvements on the leased premises, or prior to the beginning of any repair or alteration thereto, or work or labor thereon, Lessee shall post non-responsibility notices at the site on Lessor's behalf.

3. Upon completion of construction, the Lessee is required to submit any as built layout or general plans of the building or facility to the Navajo Nation Division of Economic Development~~.~~, Real Estate Department ("DED Real Estate Department").

4. Whenever under this Lease a time is stated within which or by which original construction, repairs, or reconstruction of improvements shall be made and during such period a general or sympathetic strike or ~~lock-out~~lockout occurs, war or rebellion ensues, or some event unquestionably beyond Lessee's power to control, the period of delay so caused shall be added to the period limited herein for the completion of such work.

G. CONSTRUCTION, MAINTENANCE, REPAIR, ALTERATION

1. All improvements placed on the leased premises shall be constructed in a good and workmanlike manner and in compliance with applicable laws and building codes. All parts of building visible to the public or from adjacent properties shall present a pleasant appearance as determined by Lessor and all service areas shall be screened from public view to the satisfaction of Lessor. Lessee shall~~, at all times during the term of this Lease and at Lessee's sole cost and expense,~~ maintain the premises and all improvements ~~thereon and any alterations, additions, or appurtenances thereto,~~ in good order and repair and in a safe, sanitary, neat and attractive condition, and shall otherwise comply with all applicable laws, ordinances and regulations ~~applicable to said premises~~.

~~4.~~ Lessee shall have the right during the term of this Lease to make alterations, additions or

repairs to improvements on the premises without the need for Lessor's prior consent unless the amount of the full completion of the alteration, addition or repair, will exceed $_____. Alterations, additions or repairs in

Initials:_____

2. excess of the above amount or any removal or demolition of an improvement can be made only with the written approval of ~~Lessor~~Navajo Nation Division of Economic Development Leasing Department, identified in Section L.

3. Lessee shall indemnify and hold harmless the Lessor and the United States against liability for all claims arising from Lessee's failure to maintain ~~said~~the premises and the improvements thereon as herein above provided, or from Lessee's non-observance of any law, ordinance or regulation applicable thereto.

H. RENTAL AND PERFORMANCE ~~BOND~~SECURITY DEPOSIT

1. Lessee agrees to post ~~[certificate of~~a cash deposit~~,~~ ***[or, if applicable, substitute*** letter of credit ***OR cash deposit***surety bond***]*** in the amount of $_____, which is percent of the Year to annual rental rate. The security shall remain in force for the full term of this Lease. ~~From time to time~~For good cause, the amount of such security may be increased or decreased by the DED Real Estate Department, ~~Division of Economic Development,~~ which shall be placed in writing and become an attachment to this ~~lease~~Lease. The purpose of ~~such~~the security is to guarantee performance on the ~~lease~~Lease.

2. Upon execution of the lease, the cash deposit ***[or if applicable,*** a copy of the security posted***]*** shall be submitted to the ~~Lessor~~DED Real Estate Department, unless granted a postponement by the Lessor. ~~The security~~

~~2.~~3. At the termination of the Lease, and upon completion of all compliance reviews and inspections to be performed on the premises, the Lessor shall ~~be posted within [days, months or year] of execution of the lease~~return any cash security deposited to the Lessee which was not spent to address defaults and non-compliance.

I. CONSTRUCTION BOND

1. At Lessor's option, prior to the commencement of construction of any improvement on the leasehold premises, the Lessee will cause his construction contractor to post a construction bond in favor of Lessor and Lessee. If the construction contractor cannot post such a bond, the Lessee shall post the construction bond. The purpose of the construction bond is to guarantee the completion of the improvements and payment in full of valid claims of all persons for work performed in or materials furnished for construction of the improvements. The construction contractor or the Lessee may provide security by either:

   a. Posting a corporate surety bond in an amount equal to the cost of each improvement, said bond to be deposited with the Lessor and to remain in effect until the improvement is satisfactorily completed. Said bond shall be conditioned upon faithful performance by Lessee or ~~his~~its construction contractor and shall give all claimants a right of action to recover upon said bond in any suit brought to foreclose on any mechanic's or materialmen's liens against the property. If United States Treasury Bonds are provided, Lessee, or ~~his~~its construction contractor, agrees to make up any deficiency in the value deposited that might occur due to a decrease in the value of the bonds. Interest on said bonds shall be paid to Lessee.

   b. Depositing cash with the Lessor or non-revocable letter of credit or ~~CD~~certificate of deposit at an institution acceptable to the Lessor satisfactory to Lessor in an amount sufficient to pay the entire cost of construction of each building or other improvement then to be erected on the premises. Interest on said security shall be paid to Lessee or ~~his~~its construction contractor. The funds so deposited may then be used, at the option of Lessor, to discharge any valid mechanic's or

materialmen's liens; if no such liens exist, the withheld funds shall be disbursed to Lessee or ~~his~~its construction contractor.

Initials:_____

2. If Lessee enters into a construction loan agreement with a financial institution, said loan agreement shall be subject to the approval of ~~Lessor.~~ the DED Approving Committee. Prior to such approval, Lessee shall perform all conditions precedent to the assumption of obligations under the agreement by the financial institution and Lessee shall deposit with the lending institution, or otherwise other security acceptable to the Lessor, the difference between the amount of the loan and the total cost of improvement.

J. INSURANCE

~~5. Lessee shall obtain Commercial General Liability Insurance within Thirty (30) days from the date of execution of the Lease, provided however it is explicitly understood and agreed the Lessee must submit a copy of the Certificate of Insurance before beginning operations of the leased premises. The Commercial General Liability Insurance shall be with an unimpaired minimum combined single limit not less than in the amount of $_____, including with each occurrence a General Aggregate Limit of $_____.~~

~~6. Lessee shall obtain Fire and Casualty Insurance with the minimum insurance coverage of not less than $_____. Upon execution of the Lease, a certificate of insurance shall be submitted to the Lessor, unless granted a postponement by the Lessor. The insurance shall be posted [*upon receipt of all approvals to commence with construction of the improvements or the first drawdown for financing is received.*] OR [*within (days, months or year).*]~~

1. Lessee shall, at its expense, maintain insurance as set forth in Part II, Sections 1.11 and 1.12 of this Lease ("Insurance Requirements").

2. Insurance shall be provided by insurance companies duly authorized and licensed, having a Best's Rating of A-VIII or better.

3. The insurance shall expressly identify the Navajo Nation and the United States as additional insured parties.

4. Lessee shall provide Navajo Nation Division of Economic Development, Real Estate Department with a Certificate of Insurance *[*upon execution of the Lease ***OR*** a different date if authorized and negotiated*]*.

5. The Insurance Requirements are minimum requirements and do not limit the indemnity covenants contained in this Lease. Lessor in no way warrants that the minimum requirements are sufficient to protect Lessee from liabilities that might arise from this Lease by Lessee, its agents, representatives, employees, or contractors. Lessee is free to purchase additional insurance as may be determined necessary.

6. Lessee is responsible for paying any deductibles or self-insurance retentions, and such deductibles and self-insurance retentions shall be disclosed on the Certificates of Insurance. Lessee must include all subcontractors (if any) as additional insureds under its policies or ensure each subcontractor meets the same minimum limits and coverages as required of Lessee.

K. SUBLEASES AND TENANT AGREEMENTS

Subleases and Tenant Agreements

Initials:_____

*[*must be approved by the Navajo Nation and with written consent from all sureties and are subject to the requirements as set forth in the Navajo Nation Business Site Lease Management Plan~~.~~] and Lease Part II, Section 1.5.*]*

OR

*[*do not require approval from the Lessor and are hereby explicitly authorized, pursuant to the Navajo Nation Business Site Lease Management Plan~~, the~~ and Lease Part II, Section 1.5. The Lessee shall ensure*:*

~~*7. Provide a copy of the sublease to the* Division of Economic Development; *and*~~

1. *Sublessee* ~~***must agree***~~*or Tenant agrees in writing to be bound by all terms and conditions of this Lease*~~*; and*~~*, including, expressly, the requirement in Lease Part II, Section 1.3(B);*
2. *The Sublease or Tenant Agreement must not change from the purposes* ~~***set forth***~~ *in Section B;* ~~***and***~~
3. *The term of the Sublease or Tenant Agreement must not extend beyond* ~~***the***~~*this Lease term and any renewals set forth in Section C.*~~]~~*;*
4. *The Sublease or Tenant Agreement must not be for the entire premises of this Lease;*
5. *The Lessee must conduct a separate operating business on the premises of this Lease;*
6. *The Sublease or Tenant Agreement must be consented to by the sureties of this Lease, if applicable;*
7. *A Sublease includes an updated survey; and*
8. *A copy of the Sublease or Tenant Agreement must be delivered to the Leasing Department with a copy to DED Real Estate Department, within seven (7) days of the Sublessor and Sublessee execution of the Sublease.*]*

L. NOTICES AND DEMANDS

1. All notices, demands, requests or other communications to or upon either party ~~provided for in this Lease, or given or made in connection with this Lease,~~ shall be in writing and ~~shall be~~ addressed as follows:

Initials:_____

To or upon Lessor: President
The Navajo Nation
Post Office Box
~~90007~~440
Window Rock, Navajo Nation (Arizona) 86515

~~Telefax: +1 (928) 871-7381~~

~~To or upon Lessee:~~ _____

_____

_____

_____

_____

~~Telefax:~~ _____

Copies to: Division Director
Division of Economic Development
P.O. Box 663
Window Rock, Navajo Nation (Arizona) 86515
~~Telefax: +1 (928) 871-7381~~

Leasing Department Manager
Division of Economic Development
[insert appropriate Department or RBDO]
[insert appropriate address]

Real Estate Department Manager
Division of Economic Development
P.O. Box 664
Window Rock, Navajo Nation (Arizona) 86515
nnred@navajo-nsn.gov

for legal notices, demands, and requests:
Attorney General
Navajo Department of Justice
Attn: Economic/Community Development Unit
P.O. Box 2010
Window Rock, Navajo Nation (Arizona) 86515
NNDOJ.General@navajo-nsn.gov

To or upon Lessee: _____

_____

_____

_____

_____

Phone: _____
Email: _____

2. All notices shall be given by personal delivery~~,~~ or sent by ~~registered or~~ certified or registered mail, ~~postage prepaid or by facsimile transmission, followed by surface mail.~~return receipt requested. Notices shall be effective and ~~shall be~~ deemed delivered ~~when dispatched and~~three (3) business days after deposit in the mail or on the date actually received, whichever occurs first. Notices may be ~~delivered~~sent by email, followed by personal delivery~~, registered~~ or certified or registered mail, ~~or by facsimile transmission, followed by surface mail~~return receipt requested.

 Initials:_____

Lessor and Lessee may at any time change its address for purposes of this Section by providing written notice in accordance with this Section L.

M. APPLICABLE TERMS AND CONDITIONS

The Standard Terms and Conditions for Economic Development Leases on Navajo Nation Trust Land in Part II of this Lease apply to this Lease and are incorporated herein in their entirety ~~(NOTE: The~~Part II, Section 1.0 Terms and Conditions for a Standard Business Site Lease apply to all Leases. ~~The~~Part II, Section 2.0 Terms and Conditions for Business Site Leases with ~~Underground~~ Storage Tanks are included and apply where they are appropriate. ~~If Underground~~ Storage Tanks are on the premises when the Lessee signs the Lease, or are installed after the Lessee signed the Lease, these Terms and Conditions will apply to the Lease as a matter of law. ~~Special Terms and Conditions for the Navajo Nation Business Site Leases Within Navajo Nation Shopping Centers, Inc. apply only to leases in Navajo Nation Shopping Centers, Inc.).~~As of the Effective Date, there **[insert** *are* **or** *are not***]** Storage Tanks on the premises.

The specific Version of Standard Terms and Conditions for Navajo Nation Economic Development Leases (Trust Land) is under Resolution No. ~~EDCO 48 07.~~RDC - .

N. EXCEPTIONS TO PART II STANDARD TERMS AND CONDITIONS: None. ***[Consult with NNDOJ if there are exceptions.]***

Initials:_____

[*signatures on following page*]

Initials:_____

IN WITNESS THEREOF,

[NAME], LESSEE

[*name*], [*title*] Date

[*name*], [*title*] Date

THE NAVAJO NATION, LESSOR

By: _____

[*name*], President, Navajo Nation or designee

Date: _____

PART II
STANDARD TERMS AND CONDITIONS FOR NAVAJO NATION ECONOMIC DEVELOPMENT LEASES (Navajo Nation Trust Land)

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Initials _____

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STANDARD TERMS AND CONDITIONS FOR NAVAJO NATION ECONOMIC DEVELOPMENT LEASES (Navajo Nation Trust Land)

1.0 STANDARD TERMS AND CONDITIONS FOR ~~ALL~~ NAVAJO NATION BUSINESS SITE LEASES

1.1 DEFINITIONS.

A. "Approved Encumbrance" means an encumbrance approved in writing by the Lessor, and sureties, if any, in accordance with the terms and conditions of this Lease.

B. "Condemnation" means the taking of any real property right thereof, in condemnation proceeding, by right of eminent domain, or by conveyance in lieu of or in settlement of a condemnation or eminent domain proceeding brought by any governmental authority having jurisdiction and power over the property.

C. "Encumbrancer" means the owner and holder of an Approved Encumbrance, including all successors and assigns.

D. "Federal Laws" means all applicable federal laws, including:

i) "CERCLA," the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601 *et. seq.*, and

ii) "RCRA," the Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et. seq.*

E. "Gross Receipts" means all income, including money and other things of value, received by or paid to Lessee or its affiliates, whether individuals, corporations, partnerships, or other legal entity, or received by or paid to others for Lessee's or its affiliates' use and benefit, derived from business done, sales made, or services rendered directly or indirectly ~~or~~ on the leased premises or any portion thereof. All income accruing from credit transactions will be treated as "gross receipts" as of the date credit is extended. Gross Receipts will not include amounts collected and paid out for a sales and excise tax imposed by any duly constituted governmental authority where such tax is billed to the purchaser as a separate item. Any taxes paid by the Lessee as a part of the cost of merchandise purchased by the Lessee are not to be excluded or deducted. It shall not include credits for the exchange of goods or merchandise between stores, if any, of Lessee or its affiliates where such exchange is made solely for the convenient operation of business and not for the purpose of consummating a sale previously made directly from or on the leased premises. It shall not include the amount of any refund where the merchandise sold, or some part thereof is returned by the purchaser and accepted by Lessee or its affiliates. It shall not include income from the sale of fixtures, or good will, or the sale of improvements~~, including, but not limited to, corrals, buildings, livestock scales and holding pens~~.

F. "Lessor" means the Navajo Nation who conveys property under a lease agreement.

G. "Secretary" means the Secretary of the Interior or his/her authorized representative, delegate, or successor.

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H. "Sublease" means a written agreement by which a lessee grants a person a right of possession no greater than that held by the lessee under the Lease. The term Sublease is generally applied to an agreement that conveys possessory interest in part of the land to a sublessee. A Tenant Agreement is a form of Sublease that conveys possessory interest in a defined area or space within the leasehold improvements to a tenant.

1.2 CONDITION OF LEASED PREMISES.

A. Lessee has examined and knows the leased premises and improvements thereon and accepts the same as-is. No representations as to the condition of the leased premises have been made by Lessor, any agent of Lessor or the United States prior to or at the time of execution of this Lease. Lessee warrants that it has not relied on any warranty or representation made by or on behalf of Lessor or the United States, but solely upon Lessee's independent investigation.

B. The independent investigation, which shall be conducted prior to entering into the Lease, shall include an environmental review which provides the Lessee with knowledge of the environmental status of the leased premises, including the status of the storage tanks and/or other regulated substances.

1.3 ACCOUNTING.

A. Lessee shall maintain full and adequate books of account and such other records as are necessary to reliably reflect the financial position and results of the operation in accordance with Generally Accepted Accounting Principles ("GAAP") ~~or other comprehensive basis of accounting deemed acceptable by the Navajo Nation Office of Auditor General.~~").

B. The Navajo Nation Office of Auditor General or any of its duly authorized representatives, shall at any time up until the expiration of five (5) years after the expiration of this Lease, have access to and the right to examine any of Lessee's books of account, documents, papers, and records, including Federal and State income tax returns, and such documents of any affiliated companies of Lessee, in connection with any transaction related to this Lease. Lessee shall insert a similar provision in all subleases and shall make available to said representative, agent, or agents, all books and records of Lessee's tenants which may be requested or may be necessary for completion of a full audit of all business conducted on the leased premises. The scope of documents deemed to be connected to the Lease may be further clarified in Part I of the Lease.

1.4 UTILITY SERVICE LINE AGREEMENTS.

A. Lessee will identify the rights-of-way necessary or appropriate for construction, operation and maintenance of any improvements. Lessee shall obtain approval from any third parties, Lessor, and Secretary as may be necessary or appropriate as required by 25 U.S.C. § 415 and 25 C.F.R. § 169.

B. Lessee is authorized to enter into appropriate service line agreements with utility companies for the provision of necessary or appropriate utility services to the leased premises, including gas, water, sewer, electricity, telephone, television, internet, and other utilities, without further consent by Lessor, on the condition that such agreements:

(1) ~~such agreements~~ are for the sole purpose of supplying utility services to the leased premises; and

(2) ~~such agreements~~ authorize utility service lines only within the leased premises; and

(3) ~~such agreements~~ do not extend beyond the term of this Lease, including any extensions thereof; and

(4) executed copies ~~of such agreements~~, together with plats or diagrams showing with particularity the location, size and extent of such service lines are filed by the utility companies with Lessor within thirty (30) days of their execution; and

(5) ~~such agreements~~ are in accordance with the provisions of 25 C.F.R. § 169.~~22~~51 *et seq.*, including any amendments or successors thereto.

C. Lessor reserves the right for Lessor's benefit or for the benefit of other land users, whether or not adjacent to the leased premises, to enter into service line agreements with utility companies for service lines across the leased premises, provided that, after consultation, Lessor and Lessee determine such service lines do not unreasonably interfere with Lessee's use of the leased premises nor otherwise affect any property rights reserved to Lessor.

1.5 SUBLEASE, ASSIGNMENT, AMENDMENT, TRANSFER.

A. Lessee shall not sublease, assign, amend, or in any manner ~~whatsoever~~ transfer this Lease or any right to or interest in this Lease or any of the improvements on the leased premises, or sell, assign or transfer more than forty-nine percent (49%) of the ~~corporate stock~~ownership interest of any ~~corporation~~business entity named as Lessee without the written consent of the Lessor and Lessee, as well as the sureties. ~~Lessor, however~~Lessor's consent shall be obtained from the DED Business Site Lease Approving Committee. Lessor, in its sole discretion may authorize the Lessee to enter into subleases without further consent from Lessor, which must be specifically provided for in Part I. Unless otherwise provided for in Part I, no such sublease, assignment, sale, amendment or transfer shall be valid or binding without such approval and then only upon the condition that the Sublessee, Assignee or other successor in interest, excepting an approved encumbrancer(s), shall agree in writing to be bound by each and all of the covenants and conditions of this Lease. Should Lessee attempt to ~~make any~~execute such sublease, assignment, sale, amendment, or transfer, except as, set forth herein, such action shall be deemed a breach of this Lease, excepting that an encumbrancer may enforce his rights in the manner hereinafter provided. Unless

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otherwise provided for in Part I, approval of one sublease, assignment, sale, amendment or transfer shall not validate a subsequent sublease, assignment, sale, amendment or transfer, and the restrictions of this Section shall be severally binding upon each and every Sublessee, Assignee, Transferee and other successor in interest of the Lessee, excepting an encumbrancer. For the purpose of this Section 1.5, the term sublease includes tenant agreements.

B. For purposes of this Section, the creation of a partnership, corporation, joint venture, management agreement or other arrangement under which any person or entity other than Lessee is entitled to share in profits derived directly or indirectly from the leased premises or activities carried out thereon, shall require the written consent of Lessor and Lessee, unless Lessee is the majority owner (i.e. majority shareholder, majority partner, etc.) of the business that is reorganized, then only written notice will be required. Lessor's consent shall be obtained from the DED Business Site Lease Approving Committee.

C. Approval or disapproval of any sublease, assignment, amendment or transfer for any purpose whatsoever by the Lessee shall be within the sole discretion of Lessor. Lessor reserves the right to adjust the rental provisions of this Lease upon any sublease, assignment, amendment, or transfer, unless the Lessee is pre-authorized to approve subleases.

D. For any sublease entered into by the Lessee, the Lessee shall remain liable for the terms and conditions of the sublease, including any outstanding rental owed by the Sublessee to Lessor. The Sublessor shall indemnify the Lessor for any liabilities or debts of the Sublessee to the Lessor and the United States.

1.6 ENCUMBRANCE.

A. This Lease, or any right to or interest in this Lease or any of the improvements on the leased premises, may be encumbered for the purposes of securing a line of credit to develop and improve the leased premises.

B. Any encumbrance will:

(1) be limited to the leasehold interest of the Lessee or subleasehold interest of the Sublessee; and

(2) not jeopardize in any way Lessor's interest in the land; and

(3) be subject to the written approval of the Lessor as well as the sureties. The Lessor shall not unreasonably withhold its approval to an encumbrance. Lessor's approval of the encumbrance shall be obtained from the DED Business Site Lease Approving Committee and may be in the form of an approved Collateral Assignment.

C. Lessee agrees to furnish as requested any financial statements or analysis pertinent to the encumbrance that the Lessor may deem necessary to justify the amount, purpose and terms of said encumbrance.

D. Lessor shall give each encumbrancer notice of, and the right to cure within a reasonable time, a default by Lessee or Sublessee under this Lease or Sublease, whichever is applicable. Lessor shall accept performance by the encumbrancer for covenants or other obligations under the Lease or Sublease, with the same force and effect as though performed by the Lessee or Sublessee.

E. In the event of default by Sublessee, an encumbrancer of any Sublease may exercise any rights provided in such approved encumbrance, provided that before any sale of subleasehold, whether under power of sale or foreclosure, the encumbrancer shall give to Lessor and Lessee notice of the same character and duration as is required to be given to the Sublessee by the encumbrancer. If notice of such sale is given and the Lessee fails to act, Lessor shall have the following rights which may be exercised at any time prior to the completion of sale proceedings.

(1) to pay the encumbrancer the full unpaid principal amount of the approved encumbrance, plus unpaid interest accrued to the date of such payment, plus foreclosure or sale costs incurred to the date of such payment; and

(2) To execute in favor of the encumbrancer a promissory note and a new encumbrance, which new encumbrance must be approved by the Lessor, for the full unpaid principal amount of the approved encumbrance, plus unpaid interest accrued to the date of such execution plus sale expenses incurred to the date of such execution, upon the same terms and conditions as originally provided by the approved encumbrance, and delivering to the encumbrancer a policy of title insurance in the face amount of such promissory note issued by a reputable title insurance company, and insuring that the new encumbrance is a first lien upon the subleasehold described in said sublease subject only to current taxes and to conditions, restrictions, and reservations of record at the time of recording the approved encumbrance.

F. Each encumbrancer must provide, if Lessee or Lessor exercises the foregoing rights, all of the right, title, and interest of the Sublessee in the Sublease shall automatically terminate on the same date the right is exercised and the Lessor or Lessee, as the case may be, shall, on the same date, acquire the subleasehold interest; provided however, the acquisition of the subleasehold by Lessee or Lessor under these circumstances shall not serve to extinguish the sublease by merger with the Lease or otherwise. As between the Lessor and Lessee, Lessee shall have the first right to exercise the right to pay the amounts due as described above and to obtain the subleasehold interest. The Sublease shall require that the Sublessee will have the duty to execute any documents and take any action needed to effectuate the termination and transfer of Sublessee's subleasehold interest.

G. In the event Lessor or Lessee does not avail itself of the above rights and a sale occurs,

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whether by power of sale or foreclosure, the purchaser at such sale shall succeed to all of the rights, title, and interest of the Sublessee in the subleasehold covered by said encumbrance. It is further agreed that if the purchaser at such a sale is the encumbrancer, the encumbrancer may assign the subleasehold without any further approval, provided that the assignee shall agree in writing to be bound by all the terms and conditions of the Sublease. If the encumbrancer is the purchaser, it shall be required to perform the Sublease only so long as it retains title thereto. If a sale~~,~~ of the subleasehold interest~~,~~ under the approved encumbrance occurs, and the purchaser is a party other than the encumbrancer, approval by Lessor will be required, and ~~said~~the purchaser, as successor in interest to the Sublessee, shall be bound by all the terms and conditions of the sublease and will assume in writing all the obligations thereunder. Lessor's approval of the sale shall be obtained from the DED Business Site Lease Approving Committee and may be in the form of an approved Assignment and Assumption Agreement.

H. In the event of default by the Lessee, the encumbrancer may exercise any rights provided for in such approved encumbrance, provided that before any sale of the leasehold, whether under power of sale or foreclosure, the encumbrancer shall give to Lessor notice of the same character and duration as is required to be given Lessee by such encumbrance and/or by applicable law. If notice of such sale be given, and the default of any of them upon which notice of sale is based shall then continue, Lessor shall have the following rights which may be exercised at any time prior to the completion of sale proceedings:

(1) To pay to the encumbrancer the full unpaid principal amount of the approved encumbrance, plus unpaid interest accrued to the date of such payment, plus sale costs incurred to the date of such payment.

(2) To execute in favor of the encumbrancer a promissory note and a new encumbrance, which new encumbrance must be approved by the Lessor, for the full unpaid principal amount of the approved encumbrance, plus unpaid interest accrued to the date of such execution, plus sale expenses incurred to the date of such execution, upon the same terms and conditions as originally provided by the approved encumbrance, and delivering to the encumbrancer a policy of title insurance in the face amount of such promissory note, issued by a reputable title insurance company, and insuring that the new encumbrance is a first lien upon the property described in this Lease subject only to current taxes and to conditions, restrictions and reservations of record at the time of recording the new encumbrance.

I. Each encumbrancer must provide, if Lessor exercises the foregoing rights, all right, title and interest of Lessee in the Lease shall terminate and Lessor shall acquire the Lease; provided, however, that such termination shall not relieve the Lessee from any obligation or liability which had accrued prior to the date of termination. Acquisition of the Lease by Lessor under these circumstances shall not serve to extinguish the Lease by merger or otherwise. The Lessee shall have the duty to execute any documents and take any action necessary to effectuate the termination and transfer of the Lessee's leasehold interest.

J. In the event Lessor does not avail itself of the rights set forth in this Section and any sale under the approved encumbrance occurs, whether by power of sale or foreclosure, the purchaser at such sale shall succeed to all of the rights, title, and interest of the Lessee in the leasehold estate covered by said approved encumbrance. It is further agreed that if the purchaser at such sale is the encumbrancer, the encumbrancer may assign the leasehold interest without any further approval, provided that the assignee shall agree in writing to be bound by all the terms and conditions of this Lease. If the encumbrancer is the purchaser, it shall be required to perform this Lease only so long as it retains title thereto. If a sale~~,~~ of the ~~subleasehold~~leasehold interest~~,~~ under the approved encumbrance occurs, and the purchaser is a party other than the encumbrancer, approval by Lessor of any assignment will be required, and ~~said~~the purchaser, as successor in interest to the Lessee, shall be bound by all the terms and conditions of this Lease and will assume in writing all the obligations thereunder. Lessor's approval of the sale shall be obtained from the DED Business Site Lease Approving Committee and may be in the form of an approved Assignment and Assumption Agreement.

1.7 LIENS, TAXES, ASSESSMENTS, UTILITY CHARGES.

Lessee shall not permit ~~to be enforced~~ any liens against the leased premises ~~or any part thereof, any liens~~ arising from any work performed, materials furnished, or obligations incurred by Lessee.

Lessee shall discharge all such liens before any action is brought to enforce same; further, Lessee shall pay before becoming delinquent, all taxes, assessments, licenses, fees, and other like charges levied during the term of this Lease upon or against the leased land and all interests therein and property thereon, for which either Lessee or Lessor may become liable.

Upon request Lessee shall furnish Lessor written evidence duly certified that any and all taxes required to be paid by Lessee have been paid, satisfied, or otherwise discharged. Lessee shall have the right to contest any claim, asserted tax, or assessment against the property, by posting bond to prevent enforcement of any lien resulting therefrom, and Lessee agrees to protect and hold harmless Lessor, United States and the leased premises and all interest therein and improvements thereon from any and all claims, taxes, assessments, and like charges and from any lien therefor, or sale or other proceedings to enforce payment thereof, and all costs in connection therewith. Lessor shall execute and file any appropriate documents with reference to real estate tax exemption of the land when requested by Lessee.

In addition to the rents, taxes and other charges herein described, Lessee shall pay charges for water, sewage, gas, electricity, telephone, trash, and other utility services

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as required for construction and/or operation and maintenance of any improvements or as necessary for said leased premises.

1.8 LESSOR'S PAYING CLAIMS.

Lessor shall have the option to pay any lien or charge payable by Lessee under this Lease, or settle any action therefor, if the Lessee after written notice from the Lessor fails to pay or to post bond against enforcement. All costs and other expenses incurred by Lessor in so doing shall be paid to Lessor by Lessee on demand, with interest at the rate of eighteen percent (18%) per annum from the date of Lessor's payment until repayment is made. Failure to make such repayment on demand shall constitute a breach of this Lease.

1.9 SANITATION.

A. Lessee hereby agrees to comply with all applicable sanitation codes, requirements, or laws which may be related to the purpose of this document as set forth in Section B(1). Such compliance shall specifically include, but not be limited to, the sanitary regulations of the U.S. Public Health Service. Lessee further agrees to at all times maintain the entire leased premises in a safe, sanitary condition, presenting a good appearance both inside and out in all buildings operated on the leased premises. ~~Non-compliance with Section 1.9 shall constitute a breach of this Lease.~~

B. Lessee further agrees to comply with applicable, state, Navajo Nation and local laws, statutes, ordinances, regulations, court and administrative orders and decrees pertaining to all sanitation matters including but not limited to the storage and disposal of refuse, rubbish, other non-hazardous trash and any other regulated substances. Lessee further agrees that all solid waste, including but not limited to refuse, rubbish, other non-hazardous trash and any other regulated substance generated by the Lessee or by any Sublessee shall be disposed of only at a state or tribally certified public or private landfills~~, and~~. Lessee ~~or~~and Sublessee~~, as~~, if applicable, shall maintain records to demonstrate compliance with this requirement.

C. Lessee agrees to maintain all records required by applicable law and regulations and to make such records available to appropriate officials of the Navajo Nation and federal government.

1.10 REGULATED SUBSTANCES.

Before Lessee ~~shall not cause~~, Sublessee, Assignee, or ~~permit~~Sub-Permittee permits or causes any regulated substance (as defined in 2.1(A)) to be used, stored, generated or disposed of~~,~~ on~~,~~ or in the leased premises ~~without first obtaining~~, Lessee, Sublessee, Assignee, or Sub-Permittee must obtain written consent from the Navajo Nation Environmental Protection Agency. If the Navajo Nation Environmental Protection Agency does not respond to a request for consent within ~~thirty (30)~~twenty (20) business days such consent shall be deemed given.

If regulated substances are used, stored, generated or disposed of~~,~~ on~~,~~ or in the leased premises, or if the leased premises become contaminated in any manner for which Lessee ~~or a~~, Sublessee, Assignee, or Sub-Permittee is legally liable, Lessee, Sublessee, Assignee, and Sub-Permittee shall indemnify and hold harmless the Lessor from any and all claims, damages, fines, judgments, penalties, costs, liabilities or losses (including, without limitation, a decrease in value of the leased premises, damages due to loss or restriction of rentable or usable space, or any damages due to adverse impact on marketing of the space, and any and all sums paid for settlement of claims, attorneys' fees, consultant and expert fees) arising during or after the Lease, Sublease, or Sub-Permit term and arising as a result of such contamination by Lessee, Sublessee, Assignee, or Sub-Permittee.

This indemnification includes, without limitation, any and all costs incurred due to any investigation of the site or any cleanup, removal, restoration or other costs of regulatory compliance mandated by the federal government or Navajo Nation. Without limitation of the foregoing, if Lessee, Sublessee, Assignee, or Sub-Permittee causes or permits the presence of any regulated substance on the leased premises and such results in any contamination of the leased premises or other property including, but not limited to the improvements, soil, surface water, or groundwater, Lessee shall promptly, at its sole expense, take any and all necessary actions to return the leased premises to the condition existing prior to the contamination by any such regulated substance on the leased premises. Prior to any remedial action, the Lessees ~~will first~~, Sublesses, Assignees or Sub-Permittees must obtain ~~Lessor's~~Navajo Nation Environmental Protection Agency's approval for any such remedial action. Any action taken must follow and comply with the Navajo Nation Storage Tank Act, 4 N.N.C. § 1501 *et seq*.

1.11 LIABILITY INSURANCE

~~Unless otherwise provided, without limiting any liabilities or any other obligations of Lessee,~~ Unless (i) Lessee is a Navajo Nation Enterprise covered by Navajo Nation Risk Management Program, or (ii) otherwise agreed to in writing by Navajo Nation Risk Management Program, Lessee will provide and maintain, from the date the lease is approved and continuing until the Lease is terminated or expired, the minimum insurance coverages listed below. Coverage will be provided with forms and insurers acceptable to the Lessor until all obligations under this Lease are satisfied. All insurers must be a Nationally Accredited Insurance Company with ~~a financial strength~~an AM Best rating of "A-, VIII" or higher, or the equivalent, and authorized to do business in the State where the leased premises are located. All policies required under this Lease, except for the Worker's Compensation policy and any Professional Liability policy, shall (i) name the Lessor and the United States as additional named insureds, and (ii) provide that the Lessee's policy shall be primary, with Lessor's policies being non-contributory, in the event of a loss. These coverages are as follows:

A. Workers' compensation insurance to cover obligations imposed by federal and state statutes of the entity having jurisdiction over the Lessee's employees working on the leasehold, and Employers' Liability insurance with ~~a minimum amount as is required and regulated by the state in which the leased premises is located~~ minimum limits of $1,000,000 per accident, Bodily Injury by Accident; $1,000,000 each employee, Bodily Injury by Disease; and $1,000,000 policy limit, Bodily Injury by Disease. In case of any contracted work on the leasehold, the Lessee will require the Contractor, and all subcontractors, to provide the same as above. Lessee's policy shall include a waiver of subrogation in favor of Lessor.

B. Commercial General Liability Insurance to cover:

(1) ~~the minimum single amount, including a General Aggregate Limit, sufficient for each occurrence, as provided for in Part I.~~

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~~(2) this policy shall cover property business interruption,~~ bodily injury, ~~broad form property damage,~~ death, personal injury, ~~death, blanket contract, independent contractor, product, completed operations coverage.~~ and damage to property based upon or arising out of the ownership, use, occupancy or maintenance of the premises and all areas appurtenant thereto. Lessee's policy shall include a waiver of subrogation in favor of Lessor. The policy shall also contain a ~~severability~~separation of ~~interests~~insureds provision.

~~(3) If the leased premise is~~ (2) Lessee shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a following form basis and it contains the required additional insured and waiver of subrogation wording.

- $1,000,000 each occurrence Bodily Injury and Property Damage,
- $1,000,000 each occurrence Personal and Advertising Injury,
- $1,000,000 each occurrence Products/Completed Operations,
- $2,000,000 Products/Completed Operations Aggregate, and
- $2,000,000 General Aggregate.

(3) If the Lessee will be manufacturing, distributing, selling, serving or furnishing alcoholic beverages, for the duration of this lease, Lessee shall maintain the following minimum liquor liability insurance coverages and limits:

- $1,000,000 each occurrence, and
- $1,000,000 annual aggregate.

(4) Whether the leased premises is developed or undeveloped, the Lessee must obtain the appropriate insurance, which shall, include the Lessor and the United States as additional ~~named insureds.~~ insureds. In the case of any contracted work on the leased premises, the Lessee shall require the contractor and all subcontractors to provide the same coverage as above.

C. Commercial Automobile liability insurance ~~with a combined single limit for~~to cover bodily injury and property damage for each occurrence with respect to Lessee's owned, hired, and non-owned vehicles assigned to or used in Lessee's business, ~~shall be based upon the~~ with a minimum ~~amount required and regulated under~~limit of $1,000,000 combined single limit per accident. Lessee's coverage shall include coverage for bodily injury or property damage arising out of the actual, alleged, or threatened discharge, dispersal, seepage, migration, release, or escape of pollutants arising out of ~~the State in which~~collision, upset, or overturn of an auto as a result of ~~the lease~~maintenance or use of a covered auto. Lessee's policy shall provide a waiver of subrogation in favor of Lessor.

In the case of any contracted work on the leased premises, the Lessee shall require the contractor and all subcontractors to provide the same coverage as above.

An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements, provided that the coverage is ~~located,~~ written on a following form basis and it contains the required waiver of subrogation wording.

D. If the Lessee is engaged in a profession, the Lessee shall carry Professional Liability insurance ~~in an amount as is required and regulated under the State or Association for which the professional is licensed~~with a minimum limit of $1,000,000 per claim and in the aggregate. The retro date on the policy shall be no later than the start date of the lease. The retro date shall be disclosed on the certificate of insurance. The policy must be kept in force during the life of the contract and for 2 years (either as a policy force or extended reporting period) after contract termination.

~~E. Lessee, at its cost, shall maintain insurance coverage for full replacement cost on all of Lessee's personal property, Lessee's alterations, Lessee's utility installations, and Lessee's trade fixtures in, or about the leased premises. The proceeds from any such insurance shall be used by Lessee for the replacement of Lessee's personal property, alterations, utility installations, or trade fixtures only if Lessor repairs or rebuilds the leased premises.~~

E. Pollution Liability (including Errors ~~F. The policies required by Sections B~~ and ~~C shall be endorsed to include the Navajo Nation, its agents, representatives, officers, directors, officials~~Omissions) coverage and ~~employees and the United States as additional insureds and shall require~~limits for losses caused by pollution conditions that ~~the insurance provided by~~ arise from the operations and completed operations of Lessee;

- $2,000,000 each occurrence, and
- $2,000,000 general aggregate.

Lessee's policy shall be written on an "occurrence" basis with no sunset clause or if written on a "claims-made" basis, it shall be ~~primary insurance and~~ maintained for a period of not less than 2 years with the retroactive date to be held constant with the effective date of this Lease. The Certificate of Insurance must provide clear evidence that ~~any~~Lessee's insurance ~~carried by~~policies contain the ~~Navajo Nation its agents, officials or employees~~minimum limits of coverage and the special provisions prescribed in this clause.

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Lessee's policy shall provide a waiver of subrogation in favor of Lessor.

Lessee's policy shall ~~be excess~~include the following coverages:

a. Bodily injury, sickness, disease, mental anguish, or shock sustained by any person, including death and ~~not contributory insurance~~medical monitoring costs.
b. Property damage including physical injury to or destruction of tangible property, including the resulting loss of use thereof, cleanup costs, and the loss of use of tangible property that ~~provided by~~ has not been physically injured or destroyed including diminution in value.
c. Environmental damage, including physical damage to soil, surface water, or groundwater, or plant or animal life, caused by pollution conditions and giving rise to clean-up costs.
d. Defense including costs, charges and expenses incurred in the investigation, adjustment, or defense of claims for such compensation damages.
e. Asbestos or lead – no exclusion.
f. Mold coverage.
g. Transportation cargo.
h. Non-Owned Disposal Site coverage.

Should Lessee's operations involve treatment, storage, or disposal of hazardous wastes, Lessee~~,~~ shall furnish an insurance certificate from the designated disposal facility establishing that the facility operator maintains current Pollution Legal Liability Insurance in the amount of $1,000,000 per occurrence / $2,000,000 general aggregate and will cover sudden and gradual pollution losses arising from the facility, associated with the operations of the Lessee

~~F.~~ ~~G.~~ ~~An~~Unless a later date is provided in writing by the Navajo Nation Risk Management Program, an acceptable certificate of insurance shall be issued to the Navajo Nation by the Lessee~~,~~ on the date the lease is approved ~~or unless granted a postponement, by the Division of Economic Development or successors,~~ as evidence that the required coverages are in full force and effect. The certificate shall ~~indemnify~~identify this Lease and indicate the policies will not be canceled~~, terminated or materially altered~~ unless at least thirty (30) days prior written notice is given to the Lessor.

Certificates of insurance shall be addressed as follows: Navajo Nation Division of Economic Development, Real Estate Department, P.O. Box 663, Window Rock, Arizona 86515.

~~G.~~ ~~H. The Lessee may request to postpone the insurance requirements until either (a) the receipt of all approvals to commence with construction of the improvements and/or (b) the first drawdown for financing is received; subject to Section 1.11 (B)(3). Such postponement shall be provided for in Part I and shall be at the sole discretion of the Division of Economic Development and shall not be unreasonably withheld.~~

~~I.~~ Failure on the part of the Lessee to procure or maintain required insurance shall constitute a material breach of contract upon which the Lessor may immediately terminate this Lease.

~~J.~~ H. Lessor reserves the right to request and receive certified copies of any or all of the above policies and/or endorsements.

~~K~~I. Lessee and its insurers providing the required coverages shall waive all rights of recovery against the Navajo Nation and its agents, officials and employees, and the United States.

~~L~~J. The insurance limits required under this Lease shall not limit the liability of the Lessee, nor relieve the Lessee of any obligation under this lease.

~~M~~K. The Lessee shall not do or commit to be done anything in or upon any portions of the leased premises or bring or keep anything there which would in any way conflict with the conditions of any insurance policy upon the leased premises or in any way increase the rate of insurance upon the leased premises or on property kept there.

~~N~~L. Lessor will not be responsible for any omissions or inadequacies of insurance coverage and amounts in the event the insurance purchased by Lessee proves to be inadequate or otherwise insufficient for any reason whatsoever.

1.12 ~~FIRE AND CASUALTY~~PROPERTY INSURANCE.

A. ~~A.~~ Unless (i) Lessee ~~shall carry from the date the lease is approved, the minimum insurance coverages, unless granted a postponement, which shall be provided for in Part I, for either (a) the receipt of all approvals~~Navajo Nation Enterprise covered by Navajo Nation Risk Management Program, or (ii) otherwise agreed to ~~commence with construction of the improvements and/or (b) the first drawdown for financing is received.~~ in writing by Navajo Nation Risk Management Program, Lessee shall carry ~~fire and casualty insurance with extended coverage endorsement~~"all risks" of loss OR risks of direct physical loss or damage OR causes of loss – special form, including the perils of Equipment Breakdown/Boiler & Machinery, Flood and Earth movement, covering not less than full ~~insurable~~replacement cost value of all improvements on the leased premises. Said policy shall be obtained from a Nationally Accredited Insurance Company, with a ~~financial~~an AM Best rating of "A-VIII" or higher or equivalent, licensed to do business in the State in which the leased premises are located and shall be written jointly to protect Lessee, Lessor, and the United States, and shall provide for notification to the Lessor prior to any ~~change in said policy or any~~ cancellation or non-renewal of ~~said~~the policy for any reason, including ~~non payment~~nonpayment of premiums.

A copy of ~~said~~the policy shall be sent to Lessor at the following address: Navajo Nation Division of Economic Development, Real Estate Department, P.O. Box ~~663~~664, Window Rock, AZ, 86515.

B. Lessee shall maintain business income insurance with limits not less than an amount equal to one year's annual rent.

C. If there is a coinsurance provision, it shall be waived by an Agreed Amount endorsement. Lessee's policy shall name Lessor as Loss Payee as their interest may appear. Lessee's

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policy shall provide a waiver of subrogation in favor of Lessor. The covered property shall be identified on the certificate of insurance.

D. Lessee, at its cost, shall maintain insurance coverage for full replacement cost on all of Lessee's personal property, Lessee's alterations, Lessee's utility installations, and Lessee's trade fixtures in or about the leased premises. The proceeds from any such insurance shall be used by Lessee for the replacement of Lessee's personal property, alterations, utility installations, or trade fixtures only if Lessor repairs or rebuilds the leased premises.

~~B~~E. In the event of damage to any improvement on the leased premises, Lessee shall rebuild, repair or otherwise reinstate the damaged improvement or building in a good and substantial manner according to the plan and elevation of the improvement or building so destroyed or damaged or in accordance with any modified plan approved in writing by the Lessor prior to commencement of repair or reconstruction. Lessor's approval shall be obtained from the appropriate DED Leasing Department Manager. Repair or reconstruction shall commence as soon as possible and, in any event, within one (1) year after the damage occurs and shall be pursued diligently. Insurance proceeds shall be deposited in an escrow account with an institution approved by Lessor. Lessee shall also deposit in said escrow account all additional funds required to reconstruct the damaged improvement. Escrow instructions shall include provisions that all funds so deposited shall be used to reconstruct the damaged improvements and that funds shall be disbursed during the progress of reconstruction on proper architect's, engineer's, or contractor's certificates. All money in escrow after reconstruction has been completed shall be paid to Lessee.

~~C~~F. In the event of damage to the extent of seventy-five percent (75%) or more of the total value of all improvements on the leased premises during the last five (5) years of the term of this Lease, Lessee shall have the option to reconstruct said improvements. Lessee shall provide Lessor with a written notice of the exercise of Lessee's reconstruction option within thirty (30) days of the event of damage giving rise to Lessee's reconstruction option. Should Lessee exercise its option to reconstruct, Lessee shall commence reconstruction of the damaged improvements within ninety (90) days of Lessee's exercise of its reconstruction option and shall diligently pursue the reconstruction to completion. Should Lessee not exercise its option to reconstruct, this Lease shall terminate one hundred and twenty (120) days after the event of damage giving rise to Lessee's reconstruction option. The leased premises shall be cleared of debris at Lessee's expense prior to termination of the Lease. Lessee shall not be charged rent during the period of debris removal unless Lessee occupies the leased premises beyond the Lease termination date, after which the Lessee will be charged hold over rental as provided herein. In the event Lessee does not reconstruct, all insurance proceeds shall be paid to Lessor.

~~D. Any encumbrancer shall be named as a beneficiary under all insurance policies required by this paragraph and in the event of loss or damage to the buildings on the leased property while an approved encumbrance remains unpaid, the amount of such loss or damage (but not exceeding the remaining balance of the approved encumbrance) shall be paid to the encumbrancer on the condition that the encumbrancer agrees to comply with the reconstruction obligations set forth herein. If such amount paid to the encumbrancer is sufficient to repair the loss or damage or if Lessor or Lessee shall within three (3) months after such payment by the insurer to the encumbrancer deposit with the encumbrancer enough money to completely repair the loss or damage, when added to the amount paid by the insurer to the encumbrancer, the encumbrancer shall, upon written order of Lessor or Lessee, pay such monies for such repair, and it shall not be deemed a payment or credit on the encumbrance; but otherwise, at the expiration of such three (3) months said sum so paid by the insurer to the encumbrancer shall be applied and credited upon the approved encumbrance. It is understood and agreed that nothing herein shall relieve Lessee of its obligation to repair and/or replace the damaged improvement to a condition as good or better than before the damage occurred.~~

1.13 INDEMNIFY, DEFEND AND HOLD HARMLESS.

Except for Lessor's sole Negligence, Lessee shall indemnify, protect, defend and hold harmless the Lessor and the United States from and against any and all claims, loss of rents, damages, costs, liens, judgments, penalties, permits, attorney's or consultant's fees, expenses and/or liabilities arising out of, involving, or dealing with, the occupancy of the leased premises by Lessee, the conduct of the Lessee's business, any act, omission, neglect or misconduct of Lessee, its agents, contractors, employees or invitees, and out of any Default or Breach by Lessee in the performance in a timely manner of any obligation on the Lessee's part to be performed under this Lease. The foregoing shall include, but not be limited to, the defense or pursuit of any claim or any action or proceeding involved therein, and whether or not litigated and/or reduced to judgment, and whether well-founded or not. In case any action or proceeding be brought against Lessor or the United States by reason of any of the foregoing matters, Lessee, upon notice from any Lessor or the United States, shall defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor and the United States, and the Lessor and the United States shall cooperate with Lessee in such defense. Lessee shall have the right to control such defense and to settle or compromise the claim in cooperation with Lessor and the United States as long as such defense, settlement, or compromise does not unduly prejudice Lessor and the United States.

1.14 EMINENT DOMAIN.

If, at any time during the term of this Lease, the leased premises or any part thereof is taken or condemned under the laws of eminent domain, then and in every such case, the leasehold estate and interest of the Lessee in said leased premises or part thereof taken shall forthwith cease and terminate. All compensation awarded by reason of any takings of the leased land and any taking of or injury to the buildings or improvements located thereon shall be awarded to the Lessee and the Lessor as their interests appear at the time of such taking provided that Lessee's right to such awards shall be subject to the rights of an encumbrancer to receive such awards as set out in an approved encumbrance.

If the condemnation is less than the entire leased premises and/or improvements, the lease shall continue as for the

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remainder of the term of the lease, however the rental shall be reduced proportionately. If the Lessee determines it is not economically feasible to continue business operations on the partially condemned leased premises, Lessee may negotiate a mutual termination of the Lease, provided, however, Lessee shall not be entitled to compensation award based on duration of the condemnation after the mutual termination effective date.

If a temporary condemnation of all or a portion of the leased premises and/or improvements, ~~lessee~~Lessee will be entitled to the entire amount of an award, whether paid by way of damages, rent or otherwise; however, if such condemnation extends beyond the term of the ~~lease~~Lease, such amounts will be apportioned among Lessor and Lessee based upon the duration of the term remaining following the condemnation and the duration of the condemnation following the end of the term of the ~~lease~~Lease.

1.15 DEFAULT.

A. Time is declared to be of the essence of this Lease. Where notice of default is given in this Section 1.15, it shall be deemed received three (3) business days after it was mailed by Lessor.

B. Lessor may determine the Lessee is in default for the following:

(1) Lessee fails to pay monies or any other amounts such as posting a bond or acquiring insurance when due and such failure continues for ten (10) business days after notice of default is ~~sent to~~deemed received by Lessee.

(2) Lessee fails to perform any of its material non-monetary obligations or duties under the lease when required and such failure continues for a period of ten (10) business days after notice of default ~~is sent to Lessee~~ that such obligation or duty has not been performed; provided that if ~~such failure is not reasonably susceptible to cure~~the default cannot be cured within ten (10) business days, ~~there is no default~~ for such longer period of time as is reasonably required to cure such failure provided that Lessee commences a cure within ten (10) business days after the notice of default is mailed and Lessee diligently pursues the cure.

(3) Lessee abandons or surrenders the leased premises and if the operations required hereunder are not operated for a period of sixty (60) consecutive calendar days for any reason other than a closure for major repairs or renovation, acts of god, casualty, war or insurrection, strikes or labor disputes or other matters beyond the reasonable control of Lessee after written notice thereof has been received by Lessee from Lessor.

C. Lessee shall, within ten (10) business days, from the mailing of the notice of default either:

(1) Notify in writing to the Lessor that the default has been cured and submit documentation necessary to indicate the default has indeed been cured; or

(2) Submit in writing to the Lessor a statement and explanation disputing the Lessor's determination that the Lease is in default and why the Lease should not be terminated; or

(3) Request in writing to be given an additional ten (10) business days to cure unless found not reasonably susceptible to cure within ten (10) business days there is no default for such longer period of time as is reasonably required to cure. Any additional time granted to cure shall be in the discretion of the Division of Economic Development Real Estate Department.

D. Should a default occur the Lessor may take any action in accordance with § 503 of the Navajo Nation Business Site Leasing Regulations of 2005. Additionally, Lessor may exercise the following options upon Lessee's default :

(1) Collect, by suit or otherwise, all monies as they become due hereunder, or enforce, by suit or otherwise, Lessee's compliance with all terms of this Lease; or

(2) Re-enter the leased premises if the Lessee has abandoned the leased premises or has failed to conduct business for a period of time without notice and remove all persons and property therefrom, excluding the property belonging to authorized Sublessees, and re-let the leased premises without terminating this Lease as the agent and for the account of Lessee, but without prejudice to the right to terminate the Lease thereafter, and without invalidating any right of Lessor or any obligations of Lessee hereunder. The terms and conditions of such re-letting shall be in the sole discretion of Lessor who shall have the right to alter and repair the leased premises as it deems advisable and to re-let with or without any equipment or fixtures situated thereon. Rents from any such re-letting shall be applied first to the expense of re-letting, collection, altering, and repairing, including attorney's fees and any real estate commissions actually paid, insurance, taxes and assessments and thereafter toward payment to liquidate the total liability of Lessee. Lessee shall pay to Lessor monthly when due, any deficiency and Lessor may sue thereafter as each monthly deficiency shall arise; or

(3) Take any other action deemed necessary to protect any interest of Lessor.

E. No waiver of any of the covenants of this Lease shall be construed to be a waiver of any succeeding breach of the same or any other covenant of this Lease.

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F. Exercise of any of the remedies outlined in this Section shall not exclude recourse as to any other remedies, by suit or otherwise, which may be exercised by Lessor or any other rights or remedies now held or which may be held by Lessor in the future.

G. If any approved encumbrancer shall give Lessor, before any default shall have occurred in this Lease, a written notice containing the name and address and the interest in the leased premises of such encumbrancer, Lessor shall thereafter give to such encumbrancer a copy of each notice of default by Lessee at the same time as such notice of default shall be given by Lessor to Lessee. Lessor shall accept such encumbrancer's performance of any of Lessee's covenants or other obligations under this Lease, with the same force and effect as though performed by Lessee. Upon providing such written notice, the encumbrancer shall have standing to pursue any appeals permitted by applicable statutes and regulations that Lessee would be entitled to pursue. Further, Lessor shall not terminate the Lease if an encumbrancer has commenced and is diligently pursuing a foreclosure action to terminate Lessee's interest in said Lease and has cured or is taking action to cure the breach that is the cause of the termination.

H. In the event of death of an individual Lessee, or the individual owner of an entity Lessee, the Lessor will communicate with the deceased's successor-in-interest or the administrator of the deceased's estate for all lease management purposes, including Lease collections, enforcement, and the exercise of any remedies available to Lessor. It is the responsibility of the successor-in-interest or administrator to provide the Lessor with updated contact information in accordance with the Lease's notice provision. Lessor may enforce this Lease in accordance with its terms by providing notice to a deceased Lessee's successor-in-interest or the administrator of the Lessee's estate in accordance with the notice provision in Part I of the Lease.

1.16 REMEDIES

A. If the Lessee fails to cure pursuant to Section 1.15 the Lessor may at its option pursue the following:

(1) terminate this Lease, as a matter of law; or

(2) grant an extension of time to cure the default; or

(3) pursue the execution on bonds or collection of insurance proceeds; or

(4) pursue any other remedy set forth in the business site lease management plan.

B. If the Lessor ~~terminates~~cancels the Lease, the Lessor shall send a ~~termination~~cancellation letter to Lessee within a reasonable time period from the date of determination by the Lessor to ~~terminate~~cancel, by certified mail, return receipt requested. Lessee shall vacate the premises within ~~thirty (30)~~ten (10) business days upon deemed receipt of the ~~termination~~cancellation letter, unless ~~a~~an appeal has been filed.

C. The ~~termination~~cancellation shall become effective ~~31~~ten (10) business days after ~~mailing~~deemed receipt of the letter. Any filing of an appeal shall not change the effective date of a cancellation. Pending the outcome of an appeal, the Lessee shall make all requisite payments, as well as comply with the terms of the Lease.

D. If a grant of extension for time to cure is given by DED Real Estate Department, the Lessee shall diligently perform and complete the corrective actions within a time frame agreed, in writing, between the Lessor and Lessee.

1.17 MUTUAL TERMINATION

The Lessee may terminate this Lease, without penalty, subject to approval from the Lessor, only during the development period, set forth in Part I of this Lease and conditioned upon compliance with the Navajo Business and Procurement Code, 15 §§ N.N.C. 1501 *et. seq.* Lessee must notify the Lessor in writing of its intention to terminate no later than thirty (30) days prior to the expiration of the development period. Lessor's approval of the mutual termination shall be obtained by the DED Business Site Lease Approving Committee.

1.18 ATTORNEY'S FEES.

Lessee agrees to pay and discharge all reasonable costs, attorney's fees and expenses that may be incurred by Lessor in enforcing provisions of this Lease.

1.19 NO PARTNERSHIP.

No term of this agreement shall be so construed as to provide that a partnership exists between Lessor and Lessee; the only relationship between the parties being that of Lessor and Lessee.

1.20 TERMINATION OF FEDERAL TRUST.

Nothing contained in this Lease shall operate to delay or prevent a termination of Federal Trust responsibility with respect to the land by the issuance of a fee patent or otherwise during the term of this Lease; however, such termination shall not serve to abrogate the Lease. The owners of the land and Lessee and their approved encumbrancers, surety or sureties, if any, shall be notified of any such change in the status of the land.

1.21 OBLIGATIONS OF LESSEE.

While the leased premises are in trust or restricted status, all of Lessee's obligations under this Lease, and the obligations of their approved encumbrancers and sureties, are to the United States as well as to the Lessor.

1.22 STATUS OF SUBLEASES.

Termination of this Lease, by cancellation or otherwise, shall not serve to cancel approved subleases and/or subtenancies, but shall operate as a temporary assignment to Lessor, without merger of the Lease and sublease or subtenancy, of any and all such subleases and/or subtenancies, until a lease can be obtained between the Sublessee, Assigneee, and the Lessor, which ~~such~~the parties shall diligently pursue.

1.23 INSPECTION.

A. Lessor and its authorized representatives, shall have the right, at any reasonable time during the term of this Lease, to enter upon the leased premises, or any part thereof, to inspect the

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same and all buildings and other improvements erected and placed thereon for purposes, including, but not limited to, conditions affecting the health, safety and welfare of those entering the leased premises, the protection of the leased premises, any improvements thereto or any adjoining property or uses, or compliance with applicable environmental health or safety laws and regulations. No showing of probable cause shall be required for such entry and inspection. If testing for environmental contamination reveals environmental contamination in violation of applicable law, Lessee shall pay the costs of such testing. Nothing in this paragraph shall limit Lessee's obligation under applicable law or this Lease to perform testing or remediation or otherwise limit Lessee's liability.

B. Lessor and its authorized representatives, shall have the right, during normal business hours, during the term of this Lease and if the Lease is terminated or expired, at any time, to enter upon the leased premises, or any part thereof, to inspect the same and all buildings and other improvements as is required under the Navajo Nation Lease Compliance Form, and the Lessor and its authorized Representatives shall notify the Lessee not less than three (3) business days before conducting the inspection. Such inspection shall not unreasonably interfere with the Lessee's business operations, unless the Lease has expired or is terminated.

1.24 HOLDING OVER.

Holding over by the Lessee after the termination of this Lease shall not constitute a renewal or extension thereof or give the Lessee any rights in or to the leased premises. In the event of a holding over by Lessee, the Lessee shall be subject to immediate removal and shall agree to pay as hold over rental an annual rental computed at double the rental amount charged during the twelve months immediately preceding the commencement of the holding over period. Accepting holdover rent from Lessee does not extend the Lease or constitute an election of remedies or adversely affect any of Lessor's other remedies.

The Division of Economic Development Real Estate Department, with written consent from Navajo Nation Department of Justice, may direct Navajo Nation Office of the Controller Accounts Receivable to not apply holdover rent pending good faith negotiation of a new lease if the Lessee is in the process of renewing an expired Lease, and the renewal is delayed by no fault of the Lessee.

1.25 LEASE REQUIREMENTS NOT EXCLUSIVE.

Nothing in this Lease shall be construed to relieve Lessee of any obligations pursuant to any Federal or Navajo Nation law for the protection of the environment or the public health, safety, or general welfare which is currently enacted or which may be enacted at a later date.

1.26 DELIVERY OF LEASED PREMISES.

A. At the termination or expiration of this Lease, Lessee will peaceably and without legal process deliver up the possession of the leased premises, in good condition, usual wear and tear excepted.

B. Lessee agrees to allow the Navajo Nation Environmental Protection Agency to conduct an environmental audit 360 days prior to the expiration or termination of such Lease. Such assessment shall be delivered to the Navajo Nation Division of Economic Development Real Estate Department sixty (60) days prior to the expiration or termination or the delivery of the leased premises, whichever occurs first. ~~in~~ In turn, the Division of Economic Development shall submit to the Lessee a copy of such audit within ten (10) business days of receipt.

1.27 NAVAJO PREFERENCE.

In connection with all employment and contracting opportunities arising out of Lessee's activities under this Lease, Lessee shall give preference in employment and contracting to qualified Navajo individuals and certified contractors in compliance with the Navajo Preference in Employment Act, 15 N.N.C. §§ 601 et seq. ("NPEA"), and the Navajo Nation Business Opportunity Act, 5 N.N.C. §§ 201 et seq. ("NBOA"). The terms and provisions of the NPEA and NBOA are specifically incorporated in, and become a part of this Lease. Violation of such laws by the Lessee shall constitute a breach of this Lease and provide grounds for suspension or termination of the Lease or any other remedy prescribed by the NPEA and NBOA, provided such compliance does not violate applicable federal laws.

1.28 MINERALS.

All minerals, including sand and gravel, contained in or on the lease premises are reserved for the use of Lessor, unless placed on the leased premises by the Lessee. Lessor also reserves the right to enter upon the leased premises and search for and remove minerals located thereon, paying just compensation for any damage or injury caused to Lessee's personal property or improvements constructed by Lessee.

1.29 SUCCESSORS AND ASSIGNS.

The terms and conditions contained herein shall extend to and be binding upon the successors, heirs, assigns, executors, employees and agents, including all contractors and subcontractors, of Lessee. Except as the context otherwise requires, the term "Lessee," as used in this Lease, shall be deemed to include all such successors, heirs, assigns, executors, administrators, employees and agents.

1.30 INTEREST OF MEMBER OF CONGRESS.

No member of, or delegate to Congress, or Resident Commissioner shall be admitted to any share or part of this Lease or to any benefit that may arise herefrom, but this provision shall not be construed to extend to this Lease if made with a corporation or company.

1.31 USE OF NAVAJO PRODUCED GOODS AND SERVICES.

Lessee agrees to make all purchases of materials, equipment, goods, services and transportation from Navajo-owned businesses, whenever such purchase is economically feasible, as required by Navajo law.

1.32 AGREEMENT TO ABIDE BY NAVAJO AND FEDERAL LAWS.

The Lessee and the Lessee's employees, agents, and sublessees and their employees and agents agree to abide by all laws, regulations, and ordinances of the Navajo Nation, and all applicable laws, regulations and ordinances of the United States, now in force and effect or as may be hereafter in force and effect.

1.33 GOVERNING LAW AND CHOICE OF FORUM.

Except as may be prohibited by ~~federal~~ applicable federal law, the laws of the Navajo Nation shall govern the construction, performance and enforcement of this Lease. All actions or proceedings brought by Lessee against the Navajo Nation in connection with or arising out of the terms

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and conditions of this Lease shall be brought only in the Courts of the Navajo Nation, and no action or proceeding shall be brought by Lessee against the Navajo Nation in any court or administrative body of any state.

1.34 CONSENT TO JURISDICTION.

Lessee hereby consents to the legislative, executive and judicial jurisdiction of the Navajo Nation in connection with all activities conducted by the Lessee within the Navajo Nation.

1.35 COVENANT NOT TO CONTEST JURISDICTION.

Lessee hereby covenants and agrees never to contest or challenge the legislative, executive or judicial jurisdiction of the Navajo Nation on the basis that such jurisdiction is inconsistent with the status of the Navajo Nation as an Indian nation, or that the Navajo Nation government is not a government of general jurisdiction, or that the Navajo Nation government does not possess full police power (i.e., the power to legislate and regulate for the general health and welfare) over all lands, persons and activities within its territorial boundaries, or on any other basis not generally applicable to similar challenges to the jurisdiction of a state government. Nothing in this Section shall be construed to negate or impair federal responsibilities with respect to the leased premises or to the Navajo Nation.

1.36 NO WAIVER OF SOVEREIGN IMMUNITY.

Nothing in this Lease shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.

1.37 SAVINGS CLAUSE.

It is agreed that if any provision of this Lease shall be determined to be void then such determination shall not affect any other provision of this Lease and all such other provisions shall remain in full force and effect; and it is the intention of the parties hereto that if any provision of this Lease is capable of two interpretations, one of which would render the provision void and the other of which would render the provisions valid, then the provision shall have the meaning which renders it valid.

1.38 QUALIFICATIONS OF BUSINESS.

In the event Lessee hereunder is a business entity, the person(s) executing this Lease on behalf of Lessee hereby covenant and warrant that Lessee is a duly qualified business entity and all steps have been taken prior to the date hereof to qualify the Lessee to do business in the Navajo Nation; all franchise and corporate taxes have been paid to date; and all future forms, reports, fees, and other documents necessary to comply with applicable laws will be filed when due.

1.39 COMPLIANCE WITH NAVAJO NATION BUSINESS SITE LEASING REGULATIONS ~~OF 2005~~.

Lessee, its sublessees and assignees and other successors in interest shall comply with the provisions of the Navajo Nation Business Site Leasing Regulations of 2005, which prescribe rules for the regulation of reservation business for the protection of Indian consumers on the Navajo Nation as required by 25 U.S.C. ~~§415(e)~~ 415(e), and Uniform Business Site Leasing Regulations of 2008, which prescribes uniform rules and regulations to delegate the authority of Resources and Development Committee.

1.40 NO ORAL AGREEMENTS.

It is understood that there are no oral agreements between the parties hereto affecting this Lease, and this Lease supersedes and cancels any and all previous negotiations, arrangements, brochures, agreements and understandings, if any, between the parties hereto or displayed by Lessor to Lessee with respect to the subject matter hereof, and none thereof shall be used to interpret or construe this Lease.

1.41 VALIDITY.

This Lease, and any modification of or amendment to this Lease, shall not be valid or binding upon either party hereto until approved by the ~~Economic~~Resources and Development Committee of the Navajo Nation Council and/or any other appropriate oversight committees and the President of the Navajo Nation, pursuant to Navajo Law.

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2.0 SPECIAL TERMS AND CONDITIONS FOR NAVAJO NATION BUSINESS SITE LEASES WITH STORAGE TANKS

2.1 DEFINITIONS.

A. "Regulated Substance" is defined in the Navajo Nation Storage Tank Act, Title 4, Section ~~9001(7)~~1502 of the Navajo Nation Code; Resources Conservation and Recovery Act, Section 9001(7); 42 U.S.C. 6991(7)~~,~~) which is any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation~~,~~ and Liability Act of 1990 (42 U.S.C. 9601(14)) (but not including any substances regulated as a hazardous waste under subtitle C of the Resource Conservation and Recovery Act (42 U.S.C. 6921 et seq.) and petroleum).

B. "Storage Tank" is any above or underground tank which is defined by ~~either~~;

(1) Title 4, Section 1502 of the ~~following subsections~~ Navajo Nation Code, as amended; and

(~~1~~2) An underground storage tank ~~as~~is defined at 42 U.S.C. 6991 (1), or any storage tank, regardless of the percentage of such tank which is located above or below ground, which is not excluded under 42 U.S.C 6991 (1) and which is used for the storage of regulated substances~~, or~~;.

~~(2) Any above ground storage tank as defined in the proposed Navajo Nation Above Ground Storage Tank Act or underground storage tank as defined in the proposed Navajo Nation Underground Storage Tank Act upon passage of each respective proposed Act.~~

2.2 REGULATED SUBSTANCES.

A. Before ~~Lessee shall not cause~~, Sublessee, Assignee, or ~~permit~~Sub-Permittee permits or causes any regulated substance (as defined in 2.1(A)) to be used, stored, generated or disposed of on or in the premises ~~without first obtaining~~, Lessee, Sublessee, Assignee, or Sub-Permittee must first obtain written consent of the Navajo Nation Environmental Protection Agency. If the Navajo Nation Environmental Protection Agency does not respond to a request for consent within ~~thirty (30)~~twenty (20) business days consent shall be deemed granted.

If regulated substances are used, stored, generated or disposed of on or in the premises, or if the premises become contaminated in any manner for which Lessee ~~or a~~, Sublessee, Assignee, or Sub-Permittee is legally liable, Lessee, Sublessee, Assignee, and Sub-Permittee shall indemnify and hold harmless the Lessor from any and all claims, damages, fines, judgments, penalties, costs, liabilities or losses (including, without limitation, a decrease in value of the premises, damages due to loss or restriction of rentable or usable space, or any damages due to adverse impact on marketing of the space, and any and all sums paid for settlement of claims, attorneys' fees, consultant and expert fees) arising during or after the Lease, Sublease, or Sub-Permit term and arising as a result of such contamination by Lessee, Sublessee, Assignee, or Sub-Permittee.

This indemnification includes, without limitation, any and all costs incurred due to any investigation of the site or any cleanup, removal, restoration, or other costs of regulatory compliance mandated by the federal government or Navajo Nation. Without limitation of the foregoing, if Lessee, Sublessee, Assignee, or Sub-Permittee causes or permits the presence of any hazardous or regulated substance on the premises and such results in any contamination of the leased premises or other property including~~,~~ but not limited to the improvements, soil, surface water, or groundwater, Lessee, Sublessee, Assignee, and Sub-Permittee shall promptly, at its sole expense, take any and all necessary actions to return the premises to the condition existing prior to the contamination by any such regulated substance on the premises. ~~Lessee shall first~~Prior to any remedial action, the Lessees, Sublessees, Assignees and Sub-Permittees must obtain ~~Lessor's~~Navajo Nation Environmental Protection Agency's approval for any such remedial action. Any action taken must follow and comply with the Navajo Nation Storage Tank Act.

B. Lessee, Sublessee, Assignee, and Sub-Permittee shall provide the Navajo Nation Environmental Protection Agency and the Navajo Nation Division of Economic Development with a clear and legible copy of all notices or reports concerning storage tank installation, testing, leakage, or remediation at the premises subject to this Lease which ~~Lessee is~~, Sublessee, Assignee, and Sub-Permittee are required by applicable law or regulation to provide to the United States Environmental Protection Agency, or which Lessee otherwise provides to the United States Environmental Protection Agency. Service of documents as required by this Lease upon the Navajo Nation Environmental Protection Agency shall be by first class mail to:

~~UST-AST~~Storage Tank Program
Navajo Nation Environmental Protection Agency
Post Office Box ~~3393~~089
Window Rock, Navajo Nation (Arizona) 86515

and~~,~~

Navajo Nation Division of Economic Development, Real Estate Department
Post Office Box 663
Window Rock, Navajo Nation (Arizona) 86515
~~or their respective institutional successors.~~

with copies to Lessor in accordance with the Notice provision of Part I of this Lease.

2.3 FINANCIAL RESPONSIBILITY FOR STORAGE TANKS.

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If Lessee~~or~~, Sublessee, Assignee or Sub-Permittee installs or operates storage tanks on the leased ~~property~~premises, the Lessee~~or~~, Sublessee, Assignee, and Sub-Permittee shall post a bond, obtain insurance, or provide ~~such~~ other evidence of financial responsibility that meets all the requirements of Navajo Nation Storage Tank Act and 40 C.F.R. Part 280, Subpart H regardless of whether the storage tank in question is an aboveground or underground storage tank. Lessee, Sublessee, Assignee, and Sub-Permittee shall provide proof of this bond, insurance, or other qualifying financial responsibility mechanism to the Real Estate Department, Division of Economic Development, and Navajo Nation Environmental Protection Agency. The bond, insurance or other qualifying financial responsibility mechanism shall not include a pollution liability exclusion, and shall remain in effect for the term of the base lease~~or~~, sublease, or permit and any renewals thereof, and shall not be released or terminated until such time as the ~~Division of Economic Development~~ Navajo Nation Environmental Protection Agency certifies that the facility is in compliance with all applicable law and regulations, or that the tanks have been removed and the site has been remediated, or that the base lease or sublease has been ~~transferred~~assigned and the new assignee-operator has has assumed all liability and provided proof of an adequate bond, insurance or otherwise satisfied the Navajo Nation Storage Tank Act and 40 C.F.R. Part 280, Subpart H financial responsibility requirements. It shall be the responsibility of the Lessee~~and the~~, Sublessee, Assignee, and Sub-Permittee to provide the Navajo Nation Environmental Protection Agency and Real Estate Department, Division of Economic Development with all ~~proof~~ required documentation or information for release of bond or termination of insurance coverage. In order to meet the requirements of this section, the insurance policy shall not contain a pollution liability exclusion policy.

2.4 ENVIRONMENTAL AUDITS AND COMPLIANCE DOCUMENTS.

A. Entry Audit: If storage tanks are located at the Lease site, the Lessee, Sublessee, Assignee, and Sub-Permittee will supply the Navajo Nation Environmental Protection Agency and the ~~Navajo Nation~~Real Estate Department, Division of Economic Development with a complete copy of the report and underlying data generated in preparation of a Phase Two environmental audit before Lessee, Sublessee, Assignee, or Sub-Permittee places any regulated substance in the storage tanks or releases any regulated substances from the storage tanks but no later than ninety (90) days after the Lease is approved by the Lessor.

The Lessee, Sublessee, Assignee, and Sub-Permittee shall notify the Navajo Nation Environmental Protection Agency and the Real Estate Department, Division of Economic Development~~, or any institutional successor~~, of the firm chosen to perform the Phase Two Environmental audit prior to the performance of such audit. ~~Lessor~~Navajo Nation Environmental Protection Agency may accept or decline the choice of environmental auditor within twenty (20) business days of written notice by Lessee. If Lessor does not respond within twenty (20) business days of receipt of the Lessee's written notice, the environmental auditor is deemed accepted. If, however, the most recent prior Lessee of the premises of the Navajo Nation has performed a Phase Two environmental audit on the premises at or after the termination of the prior tenancy, Lessee is not required to perform a Phase Two environmental audit if Lessee agrees to be conclusively legally bound by the findings of the above referenced Phase Two environmental audit.

B. Environmental Audit(s): Lessee, Sublessee, Assignee, and Sub-Permittee shall pay to the Navajo Nation the total amount of $15,000 ~~which~~in three installments, as set forth below for Environmental Audit Security. The Environmental Audit Security will be held by the Navajo Nation during the term of the Lease. One year after Lessee's rental obligation ~~commences~~begins, Lessee shall pay an initial installment of $5,000 toward ~~payment of the $15,000~~total Environmental Audit Security, and shall pay two additional installments of $5,000 at the end of second and third years ~~of~~after Lessee's rent payment obligation begins.

The amounts shall be deposited ~~at~~with the Real Estate Department, Navajo Nation Division of Economic Development:

P.O. Box ~~663~~664
Window Rock, Arizona 86515

This sum is in addition to any other rental obligations of Lessee. This sum shall be used to pay for a Phase Two environmental audit to be performed during the last year of the Lease and any other environmental audit(s) during the term of the Lease which Lessor determines, based on probable cause, to be reasonably necessary to ascertain whether environmental contamination by regulated substances has occurred. The Navajo Nation Environmental Protection Agency shall determine whether an audit shall be performed.

If the Navajo Nation Environmental Protection Agency determines an environmental audit should be performed at the leased premises prior to the Lessee's deposit of the entire $15,000 deposit and the amount deposited is insufficient to pay for the environmental audit, and the environmental audit determines regulated substances are unlawfully present, Lessee shall, upon written demand by Lessor, promptly deposit with Lessor an amount sufficient to pay for the environmental audit or to bring Lessee's deposit to $15,000, whichever is less. If Lessor performs an environmental audit pursuant to this article during the term of the Lease which finds regulated substances unlawfully present and which is financed by all or part of the above referenced sum, Lessee shall, at the end of the year in which the audit is completed, deposit funds with the Navajo Nation sufficient to reestablish the amount deposited prior to the audit and to reimburse the Navajo Nation for any amount the Navajo Nation spent on the environmental audit in excess of the $15,000 deposit.

The deposit shall be kept in an account by the Navajo Nation ~~Division~~Office of ~~Finance~~the Controller on behalf of the Lessee to meet the expenses of the obligations stated above. At the termination of the Lease and upon completion of all environmental audits, removal and remediation to be performed on the premises, the Navajo Nation shall return any of the money deposited to the Lessee which was not spent to conduct environmental audits of the leased premises or to remediate or remove regulated substances which were released on the leased premises.

Nothing stated herein shall be construed to limit Lessee's liability for costs associated with investigation, or remediation, of regulated substances located on the leased premises including Lessee's liability for litigation costs and ~~attorneys~~attorneys' fees.

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2.5 OWNERSHIP AND REMOVAL OF STORAGE TANKS

A. The ownership and removal responsibility for any regulated substances or petroleum product manufacturing, processing, storage, or conveyance facilities placed in or on the leased premises shall be the responsibility of the Lessee. All facilities or storage tanks must comply with applicable federal, state, Navajo Nation and local law including requirements for corrosion protection, spill and overfill protection and leak detection. Any repairs made to such facilities or storage tanks must comply with applicable repair standards. Lessee shall provide the ~~appropriate Division of Economic Development department~~Navajo Nation Environmental Protection Agency with complete and legible copies of all documents establishing Lessee's ownership of, lease of, or acquisition of any other use interest in any storage tanks installed on the leased premises.

B. Unless otherwise notified by the Lessor, regulated substances and storage tanks are the property of the Lessee who placed them on the property and do not become the property of the Lessor for ~~RCRA liability purposes unless~~under RCRA or ~~upon the expiration of the Lease. Lessee is the owner for RCRA, 42 U.S.C. 6991(3), purposes of any storage tanks placed on the leased premises~~Navajo Nation Storage Tank Act. Petroleum manufacturing, processing, storage, storage tanks, or conveyance facilities shall be removed by Lessee unless notified by Lessor in writing not to remove all ~~of~~or part of such property.

C. Prior to termination, cancellation, or expiration of the Lease and prior to vacancy of the property the Lessee shall remove those improvements that are subject to removal ~~as described above and below~~, assess the site for potential contamination, remediate any contamination discovered, and satisfy or actively and in good faith seek resolution of any third party damages which may have occurred. The ownership and obligation to remove storage tanks shall survive the termination, cancellation, or expiration of this Lease. Should any of the above activities extend past the termination, cancellation, or expiration date of the Lease, the Lease shall be extended and Lessee shall remain financially responsible for completing these activities. The bond, unless waived, or the insurance ~~of this~~covering the Lease shall not be released or terminated until these activities are completed.

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3.0 SPECIAL TERMS AND CONDITIONS FOR NAVAJO NATION BUSINESS SITE LEASES WITHIN THE NAVAJO NATION SHOPPING CENTERS

3.1 SPECIAL ACCOUNTING PROVISION FOR SHOPPING CENTERS.

When an accounting of Gross Receipts is required under the Lease in order to determine a percentage rent, the Lessee shall on a quarterly basis submit to Lessor, no later than , certified statements of gross receipts. Failure to submit aforementioned statements on a timely basis shall be considered a breach of the Lease and the Lease may be subject to cancellation. With said statements, Lessee shall tender payment of any balance due under the percentage rental fee as set forth in Section D. Said statement shall be prepared by a Certified Public Accountant, licensed in the State of Arizona, New Mexico or Utah, in conformity with GAAP. Any duly authorized representative of the United States Government, or any qualified accounting agent or agents appointed by the Lessor, shall have access to and the right to examine and audit any pertinent books, documents, papers, and records of Lessee's tenants, if any, relating to this Lease during the normal business hours of any working day. Lessee shall insert a similar provision in all subleases and shall make available to said representative, agent, or agents, all books and records of Lessee's tenants which may be requested or may be necessary for completion of a full audit of all business conducted on the leased premises. The acceptance by the Lessor of any monies paid to Lessor by Lessee as percentage rental for the leased premises as shown by any statement furnished by Lessee shall not be an admission of the accuracy of said statement, or of the sufficiency of the amount of said percentage rental payment, but the Lessor shall be entitled at any time within four (4) years after receipt of any such percentage rental payment to question the sufficiency of the amount thereof and/or the accuracy of the statements furnished by Lessee to justify the same and shall have the right to examine and/or audit as hereinbefore described. Therefore, Lessee shall for said period of four (4) years after submission to the Lessor any such statement keep safe and intact all of Lessee's records, books, accounts, and other data which in any way bears upon or are required to justify in detail any such statement, and Lessee shall insert a provision in all subleases requiring similar retention of records.

3.2 FIXTURES AND PERSONAL PROPERTY.

Any trade fixtures, signs, and other personal property of Lessee not permanently affixed to the premises shall remain the property of Lessee and Lessor agrees that Lessee shall have the right, provided that Lessee be not in default under the terms of this Lease, at any time, and from time to time, to remove any and all of its trade fixtures, signs, and other personal property which it may have stored or installed in the premises, including but not limited to counters, shelving, showcases, mirrors, and other movable personal property. Nothing contained in this Article shall be deemed or construed to permit or allow the Lessee to move such personal property, without the immediate replacement thereof with similar personal property or better quality, as to render the premises unsuitable for conducting the type of business specified in this Lease. Lessee, at its expense, shall immediately repair any damage occasioned to the premises by reason of the removal of any such trade fixtures, signs, and other personal property, and upon the last day of the Lease Term or a date of earlier termination of this Lease, shall leave the premises in a neat and clean condition, free of debris.

All improvements to the premises by Lessee including, but not limited to, light fixtures, floor coverings, and partitions, but excluding trade fixtures and signs, shall be considered as improvements and shall become the property of Lessor upon expiration or earlier termination of this Lease, unless Lessor by written notice given prior to the date of expiration or upon the date of earlier termination of this Lease shall require Lessee to remove such improvements in which case Lessee shall repair any damage caused to the premises by such removal so as to return the premises to its original condition, ordinary wear and tear excepted.

Lessee shall pay before delinquency all taxes, assessments, license fees, and public charges levied, assessed, or imposed upon its business operation, as well as upon its trade fixtures, leasehold improvements (including, but not limited to, those which Lessee is required to make in accordance with the provisions of this Lease), merchandise, and other personal property in, on, or upon the premises. In the event any such items of property are assessed within property of the Lessor, then, and in such event, such assessment shall be equitably divided between Lessor and Lessee to the end that Lessee shall pay only its equitable proportion of such assessments. Lessor shall determine the basis of prorating of any such assessments and such determination shall be binding upon both Lessor and Lessee.

3.3 REPAIRS AND MAINTENANCE.

Lessee agrees at all times, and at its own cost and expense, to repair, replace, and maintain in good condition the premises and every part thereof, except that portion of the premises to be maintained by Lessor as hereinafter provided, and including without limitation the utility meters, pipes, and conduits, all fixtures, the store fronts, all Lessee's signs, locks, and closing devices, and all window sash, cases, or frames, door and door frames, floor coverings, including carpeting, terrazzo, and other special flooring, and all such items or repair, maintenance, alteration and improvement or reconstruction as may at any time or from time to time be required by any governmental agency having jurisdiction thereof. All glass, both exterior and interior, is at the sole risk of Lessee, and any glass broken shall be promptly replaced by Lessee with glass of the same kind, size, and quality.

On default of Lessee in making such repairs, replacements, or maintenance work and upon reasonable written notice to Lessee, not less than 30 days, Lessor may, but shall not be required to make such repairs, replacements and other such work for Lessee's account and the expense thereof shall constitute and be collectible as additional rent.

A. Lessor shall keep and maintain in good and leasable condition the roof, exterior walls, structural parts of the premises, the fire protection system, structural floor, and pipes and conduits outside the premises for the furnishings to the premises of various utilities (except to the extent that the same are the obligations of the appropriate public utility company); provided, however, that Lessor shall not be required to make repairs necessitated by reason of the negligence of Lessee or anyone claiming under Lessee, or by reason of the failure of Lessee to perform or observe any conditions or agreements in this Lease contained, or caused by alterations, additions, or improvements made by Lessee or anyone claiming under Lessee. Anything to the contrary notwithstanding contained in this Lease, Lessor shall not in any way be liable to Lessee for failure to make repairs as herein specifically required unless the Lessee has previously notified Lessor in writing of the need of such repairs and Lessor has failed to commence and complete said repairs within a reasonable period of time following receipt of

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the Lessee's written notification. As used in this Section, the expression "exterior walls" shall not be deemed to include store fronts, plate glass, window cases, or window frames, door or door frames, security grills, or similar enclosures. It is understood and agreed that Lessor shall be under no obligation to make any repairs, alterations, renewals, replacements, or improvements to and upon the premises of property installed or kept thereon by Lessee.

B. Lessee agrees to permit Lessor and any of their authorized representatives to enter the premises at all times during usual business hours for the purpose of inspecting the same. Lessee further covenants and agrees that Lessor may go upon the premises and make any necessary repairs to the premises and perform any work thereon (i) which may be necessary to comply with any laws, ordinances, rules, or regulations of any public authority or terms of any insurance policy or policies or (ii) that Lessor may deem necessary to prevent waste or deterioration in connection with the premises if Lessee does not make or cause such repairs to be made or performed or cause such work to be performed promptly after receipt of written demand from Lessor or (iii) that Lessor may deem necessary to perform construction work incidental to any portion of the Shopping Center adjacent to, above, or below the premises. Nothing herein contained shall imply any duty on the part of Lessor to do any such work which, under any provisions of this Lease, Lessee may be required to do, nor shall it constitute a waiver of Lessee's default in failing to do the same. No exercise by Lessor of any rights herein reserved shall entitle Lessee to any damage for any injury or inconvenience occasioned thereby nor to any abatement of rent.

3.4 LESSEE'S RIGHT TO MAKE ALTERATIONS.

Lessor agrees that Lessee may, at its own expense and after giving Lessor notice in writing of its intention to do so, from time to time during the term hereof, make alterations, additions, and changes in and to the interior of the premises (except those of a structural nature) as it may find necessary or convenient for its purposes, provided that the value of the premises is not thereby diminished, and provided, however, that no alterations, additions, or changes costing in excess of those allowed under the terms of the lease may be made without first procuring the approval in writing of Lessor. In addition, no alterations, additions, or changes shall be made to any store front, mechanical systems, the exterior walls, or roof of the premises, nor shall Lessee erect any mezzanine or increase the size of same, if one be initially constructed, unless and until the written consent and approval of Lessor shall first have been obtained. In no event shall Lessee make or cause to be made any penetration through the roof of the premises without the prior written approval of Lessor. Lessee shall be directly responsible for any and all damages resulting from any violation of the provisions of this Article. All alterations, additions, or changes to be made to the premises which require the approval of Lessor shall be under the supervision of a competent architect, competent licensed structural engineer, or competent licensed and bonded contractor and made in accordance with plans and specifications with respect thereto, approved in writing by Lessor before the commencement of work, where such approval is required pursuant to the provisions of this Article. All work with respect to any alterations, additions, and changes must be done in a good and workmanlike manner and diligently prosecuted to completion to the end that the premises shall at all times be a complete unit except during the period of work. Upon termination of Lessee's leasehold estate such alterations, additions, or changes shall be considered as improvements and shall not be removed by Lessee, but shall become a part of the premises, unless Lessor by written notice given prior to the date of expiration or upon the date of earlier termination of this lease shall require Lessee to remove such improvements in which case Lessee shall repair any damage caused to the premises by such removal so as to return the premises to its original condition, ordinary wear and tear excepted. Any such changes, alterations, and improvements shall be performed and shall have the work performed in such a manner as not to obstruct the access to the premises of any other Lessee in the Shopping Center.

In the event that Lessee shall make any permitted alterations, additions, or improvements to the premises under the terms and provisions of this Article, Lessee agrees to carry insurance covering any such alteration, addition, or improvement; it being expressly understood and agreed that none of such alterations, additions, or improvements shall be insured by Lessor under such insurance it may carry upon the building of which the premises are a part, nor shall Lessor be required under any provisions for reconstruction of the premises to reinstall any such alterations, improvements, or additions.

3.5 POSSESSION AND USE.

Possession of the premises shall be delivered to Lessee free and clear of all tenants and occupants and the rights of either. Lessee shall use the premises solely for the purposes and under the trade names specified in Article 6 hereof. Lessee shall not use or permit the premises to be used for any other purpose or purposes or under any other trade name whatsoever without the written consent of the Lessor. Lessee shall not, without the prior written consent of Lessor, sell merchandise from vending machines or allow any coin operated vending machines on the premises without the written consent of the Lessor. Lessee further covenants and agrees that it will not use or suffer or permit any person or persons to use the premises or any part thereof for conducting therein a secondhand store, auction, distress or fire sale or bankruptcy or going out of business sale, or for any use or purpose in violation of the laws of the United States of America, or the laws, ordinances, regulations, and requirements of the Navajo Nation, and where applicable, the state, county, and city wherein the Shopping Center is situated, or of other lawful authorities, and that during said term the premises, and every part thereof, shall be kept by the Lessee in a clean condition, free of any objectionable noises, odors, or nuisances, and that all health, fire, and police regulations shall, in all respects and at all times be fully complied with by Lessee.

Lessee may not display or sell merchandise or allow carts, portable signs, devices or any other object to be stored or to remain outside the defined exterior walls or roof, permanent doorways of the premises, or in hallways. No aerial or antenna shall be erected on the roof or exterior walls of the premises without first obtaining, in each instance, the written consent of Lessor. Any aerial or antenna so installed without such written consent shall be subject to removal without notice at any time. In addition, Lessee will not solicit in any manner in any of the automobile parking lots and common areas of the enclosed mall of the Shopping Center without having first obtained the written approval of Lessor. Lessor reserves the right to further regulate the activities of Lessee in regard to deliveries and servicing of the premises, and Lessee agrees to abide by such further regulations of Lessor.

3.6 LESSEE'S CONDUCT OF BUSINESS.

Lessee covenants and agrees that, continuously and uninterrupted from and after its initial opening for business, it will operate and conduct the business for which it is permitted except while the premises are uninhabitable by reason of fire or other casualty or condemnation. Lessee

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agrees that it will keep the premises in neat, clean and orderly condition. Lessee agrees that all trash and rubbish of the said Lessee shall only be deposited within receptacles as provided by Lessor and that there shall be no other trash receptacles permitted to remain outside of the building. Lessor agrees to cause such receptacles to be emptied and trash removed at Lessee's cost and expense as set out in Article 11 hereof.

Lessee agrees that commencing with the opening for business by Lessee in the premises and for the remainder of the term of this Lease, Lessee shall remain open for business those hours and days which are regular and customary for such business. Lessee further agrees to have its window displays, exterior signs and exterior advertising displays adequately illuminated continuously during such hours. It is agreed, however, that the foregoing provision shall be subject to any governmental regulations or labor union contracts in its hours of operation so prescribed by such governmental regulations or labor union contracts, as the case may be.

Lessee will not allow the premises to be used for any organized political or religious meetings or activity. Lessee shall, at all times during the term hereof, comply with all laws and regulations of the United States and the Navajo Nation applicable to Lessee's conduct of business on the premises. Lessee shall employ its best efforts to operate the business conducted on the premises in a manner that will produce the maximum volume of gross sales. Lessee shall use only such space in the premises for office, clerical and other non selling purposes as is reasonably required for Lessee's business on the premises.

If Lessee sells Franchise Products or Services, and where it is so required by the Franchisor, Lessor agrees throughout the term of this Lease not to lease any other space in the Shopping Center to any Lessee whose primary business is the sale of the same Franchise Products or Services. Lessee must inform Lessor in writing, and provide written documentation, of this Franchise Requirement.

3.7 ADVERTISING MEDIA.

Lessee shall not affix or maintain upon the glass panes and supports of the show windows (and within 24 inches of any window), doors and the exterior walls of the premises, any signs, advertising placards, names, insignia, trademarks, descriptive material or any other such like item or items unless Lessee shall have first received the written approval of Lessor as to size, type, color, location, copy, nature and display qualities. Anything to the contrary of this Lease notwithstanding, Lessee shall not affix any sign to the roof of the premises. In addition, no advertising medium shall be utilized by Lessee which can be heard or experienced outside Lessee's premises, including without limiting the generality of the foregoing: flash lights, searchlights, loudspeakers, phonographs, radios or televisions; nor shall Lessee display, paint or place or cause to be displayed, painted or placed, any handbills, bumper stickers or other advertising devices on any vehicle parked in the parking area of the Shopping Center, whether belonging to Lessee, or to Lessee's agent or to any other person; nor shall Lessee distribute, or cause to be distributed, in the Shopping Center, any handbills or other advertising devices without having first obtained the written approval of Lessor.

3.8 COMMON AREAS.

The term "common areas" refers to all areas within the exterior boundaries of the Shopping Center which are now or hereafter made available for general use, convenience and benefit of Lessor and other persons entitled to occupy Floor Area in the Shopping Center, including, but not limited to, automobile parking areas, parking structures, driveways, sidewalks, walkways, and landscaped and planted areas.

Lessee and its employees, agents, patrons and invitees are, except as otherwise specifically provided in this Lease, authorized, empowered and privileged to use the common areas in common with other persons during the term of this Lease. The Lessor agrees, without cost or expense to Lessee, to construct or cause to be constructed, such common areas generally as are necessary for the successful operation of the Shopping Center and to maintain and operate, or cause to be maintained and operated (except as hereinafter provided with reference to cost of maintenance), said common areas at all times following completion thereof, for the benefit and use of the customers and patrons of Lessee, and other Lessees, owners and occupants of the Land constituting the Shopping Center of which the premises are a part.

Lessor shall keep or cause to be kept said common areas in a neat, clean and orderly condition, properly lighted and landscaped, and shall repair any damage to the facilities thereof, but all expense in connection with said common areas shall be charged to the Lessee and prorated in the manner hereinafter set forth. It is understood and agreed that the phrase "expenses in connection with said common areas" as used herein shall be construed to include, but not be limited to, all expenses in connection with said common areas for (i) a management fee (not to exceed five percent (5%) of minimum annual and percentage rent collections), (ii) bookkeeping and accounting; (iii) legal services; (iv) all general maintenance and repairs, or painting, restriping, cleaning, sweeping and janitorial services; maintenance and repair of sidewalks, curbs, and Shopping Center signs; maintenance and repair of sprinkler systems, planting and landscaping; (v) lighting and other utilities; (vi) directional signs and other markers and bumpers; (vii) personnel to implement such services including, if Lessor deems necessary, the cost of security guards; (viii) applicable real and personal property taxes and assessments on the improvements and land comprising said common areas; (ix) any governmental imposition or surcharge imposed upon Lessor or assessed against any portion of the common areas; (x) a security alarm system for the Lessees in the Shopping Center; (xi) depreciation on maintenance and operating machinery and equipment (if owned) and rental paid for such machinery and equipment (if rented); and (xii) adequate public liability and property damage insurance on the Shopping Center building and common areas; Lessor may cause any or all of said services to be provided by any independent contractor or contractors. Anything to the contrary contained hereinabove notwithstanding, all expenses in connection with the original construction and installments of the common areas shall be at the sole cost and expense of Lessor of the Shopping Center and shall not in any event be charged to Lessee.

Should Lessor add to or make available additional common areas not originally contemplated as part of the Shopping Center, then said expenses in connection with maintenance of said common areas shall also include all of the aforementioned expenses incurred and paid in connection with said additional common areas.

Lessor shall at all times have the right and privilege of determining the nature and extent of the common areas and of making such changes therein and thereto which in its opinion are deemed to be desirable and for the best interest of all persons using said common areas, including but not limited to the location and relocation of driveways, entrances, exits, automobile parking spaces, the direction and flow of traffic, and all other facilities thereof. Nothing contained herein shall be deemed to create any liability upon Lessor or the United States for any damage to motor vehicles of customers or employees, or for loss of property within such motor vehicles.

Lessor shall also have the right to establish, change, alter and amend, and to enforce against Lessee and the other users of said common areas such reasonable rules and

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regulations (including the exclusion of employee's parking therefrom) as may be deemed necessary or advisable for the proper and efficient operation and maintenance of said common areas. The rules and regulations herein provided may include without limitation, the hours during which the common areas shall be open for use. Lessor may establish a system or systems of validation or other type of operation, including a system of charges against nonvalidated parking checks of users, and the Lessee agrees to conform to and abide by all such rules and regulations in its use and the use of its customers and patrons with respect to the automobile parking areas of the common areas; provided, however, that all such rules and regulations and such types of operation or validation of parking checks and other matters affecting the customers and patrons of Lessee shall apply equally and without discrimination to all parties entitled to the use of said automobile parking facilities.

Lessor reserves the right, to utilize portions of the common areas for carnival type shows and entertainment, outdoor shows, displays, product shows, advertising purposes, community activities and other uses which, in Lessor's reasonable judgment, serve the interest of the Shopping Center or provide a community service to the Navajo community. The above shall not include any prolonged activity which directly competes with or interferes with Lessee's business or any portion of Lessee's business.

Lessor shall at all times during the term of this Lease have the sole and exclusive control of the common areas, and may at anytime during the term exclude and restrain any person from use or occupancy thereof, excepting, however, bona fide customers, patrons and service suppliers of Lessee, and other Lessees of Lessor who make use of said areas in accordance with the rules and regulations established by Lessor from time to time with respect thereto. In addition to the rights of Lessee hereunder in and to the areas in this Article referred to, it shall at all times be the duty of Lessee to keep all of said areas free and clear of any obstructions created or permitted by Lessee or resulting from Lessee's operation and to permit the use of any said areas only for normal parking and ingress and egress by the said customers, patrons, employees and agents.

If in the opinion of Lessor, unauthorized persons are using any of said areas by reason of the presence of Lessee in the premises, Lessee, upon demand of Lessor, shall enforce Lessor's rights against all such unauthorized persons by appropriate proceedings. Nothing herein shall affect the rights of Lessor at any time to remove any such unauthorized persons from said areas or to restrain the use of any said areas by unauthorized persons.

It is understood that the employees of Lessee and the other Lessees of Lessor within the Shopping Center and the employees of other businesses within the Shopping Center shall not be permitted to park their automobile in the automobile parking areas of the common areas which may be designated for patrons of the Shopping Center. Lessor agrees to furnish and/or cause to be furnished either within the Shopping Center parking area, or reasonably close thereto, space for employee parking. Lessor at all times shall have the right to designate the particular parking area to be used by any or all of such employees and any such designation may be changed. Lessee and its employees shall park their cars only in those portions of the common areas, if any, designated by Lessor.

Lessee's share of common area expenses shall be equal to Lessee's proportionate percentage. The term "Lessee's proportionate percentage" as used through this Lease shall be equal to a fraction the numerator of which is the Floor Area of the premises and the denominator of which shall be the Floor Area of all the areas available for exclusive use and occupancy by the Lessees of the Shopping Center.

The term "Floor Area" as used throughout this Lease shall be deemed to mean and include all areas for the exclusive use and occupancy by the Lessees of the Shopping Center measured for each Lessee from the exterior surface of exterior walls (and from the extensions therefore, in the case of openings) and from the center of interior partitions, including mezzanines, warehousing or storage areas, clerical or office areas, employee areas and restrooms.

Within thirty (30) days following the end of each calendar quarter or, at Lessor's option, each calendar year, Lessor shall furnish Lessee a statement covering the calendar quarter or year just expired, certified as correct by a certified public accountant or an authorized representative of the Lessor, showing the total of such common area expenses, the amount of Lessee's share of such common area expense for such calendar quarter or year and the payments made by Lessee with respect to such period as set forth in (i) through (xii) of this Article. If Lessee's share of such common area expenses exceed Lessee's payments made, Lessee shall pay Lessor the deficiency within ten (10) days after receipt of such statement. If said payments exceed Lessee's share of such common area expenses, Lessee shall be entitled to offset the excess against payments next thereafter to become due Lessor.

Failure of Lessee to pay any of the charges required to be paid under this Article 11 shall constitute a default under the terms hereof in like manner as failure to pay rental when due.

3.9 SPECIAL SUBLEASE REQUIREMENT FOR SHOPPING CENTERS.

The Lessee may enter into subleases, in whole or in part, without the approval of the Lessor, provided:

A. Lessee provides a copy of the sublease to the Lessor; and

B. Lessor receives a portion of the rent from the subleasing, as agreed between the Lessor and Lessee; and

C. the purposes set forth in the sublease is legitimate and for lawful purposes.

3.10 SPECIAL INSURANCE REQUIREMENT FOR SHOPPING CENTERS.

Certificates of insurance shall be addressed as follows: Navajo Nation Shopping Centers, P.O. Box 478, Window Rock, Arizona 86515

3.11 SPECIAL RECONSTRUCTION PROVISION FOR SHOPPING CENTERS.

In the event the premises be damaged by fire or other perils, covered by Lessor's Fire and Extended Coverage Insurance, Lessor shall:

A. Within a period of one hundred and eighty (180) days thereafter, commence repairs, reconstruction and restoration of said premises and prosecute the same diligently to completion, in which event this Lease shall continue in full force and effect; or

B. In the event of a partial or total destruction of the premises, only during the last three (3) years of the term hereof, Lessor and Lessee shall each have the option to terminate this Lease upon giving written notice to the other of exercise thereof within thirty (30) days after such destruction. For the purposes of this paragraph, "partial destruction" shall be a destruction of an extent of at least thirty three and one third percent (33 1/3%) of the then full

Initials:_____

replacement cost of the premises as of the date of destruction. All insurance proceeds, in the case of reconstruction shall be held in trust and applied to the payment of such reconstruction, as such reconstruction progresses.

C. In the event the premises shall be damaged as a result of any flood, earthquake, act of war, nuclear reaction, nuclear radiation or radioactive contamination, or from any other casualty not covered by Lessor's Fire and Extended Coverage Insurance, to any extent whatsoever, the Lessor may, within one hundred and eighty (180) days following the date of such damage, commence repair, reconstruction or restoration of said premises and prosecute the same diligently to completion, in which event this Lease shall continue in full force and effect, or within said period elect not to so repair, reconstruct or restore said premises in which event this Lease shall cease and terminate. In either such event, Lessor shall give the Lessee written notice of its intention within said period.

D. In the event of any reconstruction of the premises under this Article said reconstruction shall be in strict conformity with the provisions of this Lease set forth as "Description of Lessor's Work" and "Description of Lessee's Work." Notwithstanding that all reconstruction work shall be performed by Lessor's contractor, unless Lessor shall otherwise agree in writing, Lessor's obligation to reconstruct the premises shall be only to the extent of the work as described in "Description of Lessor's Work"; Lessee, at its sole cost and expense, shall be responsible for the repairs and restorations of all items set forth in "Description of Lessee's Work" and the replacement of its stock in trade, trade fixtures, furniture, furnishings and equipment. Lessee shall commence such installation of fixtures, equipment and merchandise promptly, upon delivery to it of possession of the premises and shall diligently prosecute such installation to completion.

E. Upon any termination of this Lease under any of the provisions of this Article, the parties shall be released thereby without further obligations to the other party coincident with the surrender of possession of the premises to the Lessor, except for items which have theretofore accrued and be then unpaid. In the event of termination, all proceeds from Lessor's Fire and Extended Coverage Insurance covering items set forth in "Description of Lessor's Work" and Lessor's premises shall go to Lessor.

F. All items of rent must abate for any period of time that Lessee is prevented from operating in the Premises due to such damage and destruction.

3.12 SIGNS.

Subject to specific requirements for each shopping center included as an attachment to each shopping center lease, and incorporated therein as a material term, Lessee shall, at its own cost and expense, install a suitable identification sign of such size, design and character as Lessor shall first approve in writing at a place or places designated by Lessor. Lessee shall maintain any such sign or other installation in good condition and repair. Other than such permitted signs, Lessee shall not place or install or suffer to be placed or installed or maintain any sign upon or outside the Premises or in the Shopping Center. Lessee shall not place or install or suffer to be placed or installed on the exterior of the Premises any awning, canopy, banner, flag, pennant, aerial, antenna or the like; nor shall Lessee place or maintain on the glass of any window or door of the Premises any sign, decoration, lettering, advertising matter, shade or blind or other thing of any kind. Lessor shall have the right, without liability and with or without notice to Lessee, to remove any signs installed by Lessee in violation of this Paragraph and to charge Lessee for the cost of such removal and/or any repairs necessitated thereby.

3.13 ADDITIONAL NOTICE REQUIREMENT FOR SHOPPING CENTERS.

In addition to all other Notice requirements in the Lease, Notices relating to Navajo Nation Shopping Centers shall be sent to:

General Manager
Navajo Nation Shopping Centers
P.O. Box 478
Window Rock, (Navajo Nation) Arizona 86515

3.14 LESSOR'S RESERVATIONS AND RIGHTS

Lessor reserves the absolute right to effect such other tenancies in the Shopping Center as Lessor, in the exercise of its sole business judgment, shall determine to best promote the interests of the Shopping Center, subject to the terms of this Lease. Lessee does not rely on the fact, nor does Lessor represent, that any specific Lessee or number of Lessees shall during the term of this Lease occupy any space in the Shopping Center. This Lease is and shall be considered to be the only agreement between the parties hereto and their representatives and agents. All negotiations and oral agreements acceptable to both parties have been merged into and are included herein. There are no other representations and warranties between the parties and all reliance with respect to representations is solely upon the representations and agreements contained in this document.

**** END OF PART II ****

Initials:_____

03-D

Lease Fee: $~~100~~150.00

SUBLEASE
UNDER *[INSERT* BASE LEASE NO.*]*

THIS ~~INDENTURE~~ SUBLEASE is made and entered this _____ day of _____, 20____, by and between _____ whose address is: _____ hereinafter called "Sublessor" and _____ whose address is: _____ hereinafter called "Sublessee."

RECITALS

A. Sublessor and the Navajo Nation entered into Lease No. _____, effective on ***[insert*** *effective date*] [as modified by **(list all modifications and assignments, if applicable)]** (the "Base Lease").

B. Pursuant to Section ___ of the Base Lease, Subleases [**select:** must be approved by the Navajo Nation and have written consent from all sureties ***or*** do not require approval from the Navajo Nation, provided the Sublessee agrees in writing to be bound by all terms and conditions of the Base Lease].

C. As required by the Navajo Nation Business Site Leasing Administrative Plan, Sublessor, by executing this Sublease, acknowledges and agrees that the Sublessor must continue operating a separate business on the Base Lease premises, and the Sublease will in no way relieve Sublessor from carrying out its duties under the Base Lease.

D. Sublessor and Sublessee further acknowledge that within seven (7) days of executing this Sublease, a copy of the Sublease must be provided to the Navajo Nation Division of Economic Development Leasing Department with a copy to the Division of Economic Development Real Estate Department.

E. **[Add recitals as needed for background or context.]**

~~WITNESSETH~~AGREEMENT:

1. PROPERTY SUBLEASED

For and in consideration of rents and covenants hereinafter specified to be paid or performed by the Sublessee, the Sublessor hereby subleases and lets to the Sublessee ~~his~~ its interests in the following described ~~tract of land~~part of the Base Lease premises ("Sublease Premises") within the Navajo Nation, County of _____, State of _____ _____ and appurtenances thereto, and more particularly described as follows:

[*LEGAL DESCRIPTION OF*
~~BUSINESS SITE TRACT~~SUBLEASED PREMISES]

The Sublease Premises is shown on the attached survey plat marked as Exhibit A, which by reference is made part hereof.

2. AUTHORIZED PURPOSES

During the term of this Sublease, the Sublessee may ~~provide the following facilities and services and engage in those enterprises~~ [develop, use, and operate **(select as applicable)]** the Sublease Premises for the following purposes only, which are ~~specified in the~~authorized in the Base Lease ~~to~~:

[INSERT AUTHORIZED PURPOSES]

3. TERM

This Sublease shall be for the term of _____ years commencing _____, 20____, except as it may be terminated or extended as provided in ~~Business Site Lease No. _____~~ _____the Base Lease. The term shall not exceed the Base Lease term.

4. RENTAL

The Sublessee shall pay $_____ monthly rent to the Sublessor. ***[Add detail if applicable.]***

[Insert if applicable.] The Sublessee shall pay $_____ monthly rent to the Navajo Nation. The rent shall be due on the first day of ~~the~~ each month. ~~, and if rental is not received on the tenth day of the month a late charge of 10% of the rental shall be applied.~~ If rental is unpaid ten (10) days after the due date, the Sublessee shall be subject to a late charge of 10% of the monthly amount due. Should the Sublessee not pay rent within thirty (30) days after the due date, the Sublessee shall be subject to a continuing late charge of 10% of the monthly amount due until the Sublessee has paid the full amount due. If the Sublessee has not paid the full amount due after (90) days, the Sublease shall be subject to cancellation by the Navajo Nation. ~~If rental is not received on the 30th day after the day rent is charged, the Sublease shall be subject to termination. Upon the _____ anniversary of the Lease, the rental shall be reviewed and adjusted by the Lessor in the following manner:~~

5. SECURITY

~~Lessee~~ Sublessee agrees to post a cash deposit **[or if applicable:** *letter of credit* **or** *performance bond***]** with the Sublessor ~~[*certificate of deposit, surety bond, letter of credit or cash deposit*]~~ in the amount of $_____.

[Insert if applicable: Sublessee agrees to further post a cash deposit in the amount of $_____ ("Navajo Nation Deposit") with the Navajo Nation, Division of Economic Development, Real Estate Department, at the address provided for in the Notice section of the Base Lease. ~~, which~~The Navajo Nation Deposit shall remain in full force for the term of this Sublease. This security shall be posted _____30 days ~~[*days or months*]~~ from ~~execution~~ approval signature of the ~~Lease~~Sublease by the Navajo Nation President or designee.**]**

6. ASSIGNMENT

The Sublessee may assign or transfer the ~~sublease~~ Sublease during the term of this Sublease, subject to the written approval of the Sublessor **[insert if applicable:** and the Navajo Nation]. In the event an assignment or transfer is completed the rent may be subject to re-negotiation. **[Insert if applicable:** Within seven (7) days of executing an Assignment that does not require Navajo Nation approval, a copy of the Assignment must be provided to the Navajo Nation Division of Economic Development Leasing Department with a copy to the Division of Economic Development Real Estate Department.**]**

7. IMPROVEMENTS, REPAIRS, ALTERATIONS, CONSTRUCTION

Improvements as used herein shall be deemed to mean buildings, structures, fixtures, equipment and other improvements affixed to or resting upon the lands leased hereunder in such a manner as to be a part of the realty. It shall include all present improvements, and all improvements hereafter constructed upon or affixed to the land by Sublessee as approved in compliance accordance with the Base Lease and applicable Navajo law. Sublessee is authorized to make any renovations, repairs or alterations unless these exceed $_____, then it shall require the consent of the Sublessor and the Navajo Nation, Division of Economic Development Leasing Department. Any demolition or removal of the improvements shall require written approval from the Navajo Nation, Division of Economic Development Leasing Department, with environmental review by the Real Estate Department, if applicable. Sublessee and the Sublessor shall indemnify and hold harmless the Lessor and the United States against liability for all claims arising from Lessee's failure to maintain said premises and the improvements thereon as herein above provided, or from Lessee's non-observance of any law, ordinance or regulations applicable thereto.

8. TERMINATION

This Sublease and all rights hereunder may be terminated in one of the following ways:

a. Upon the expiration of the original term of the Base Lease.

b. Expiration of Sublease term or any renewal or extension thereof.

c. For cause: This Sublease may be terminated for default or breach of any of its terms. In the event of default or breach of any of the terms hereof by the Sublessee, the Sublessor shall give written notice of such default. Within thirty (30) days after receipt of such notice, the Sublessee shall correct the default. Failure to correct the default shall terminate the Sublease.

d. Mutual termination.

9. INSURANCE

The Sublessee shall, during the full term of this Sublease, and at its expense~~, keep the fixtures, equipment and buildings of the Sublessor and/or those constructed by Sublessee, adequately insured~~, maintain insurance in accordance with all requirements set forth in Parts I and II of the Base Lease, including the requirement to include the Navajo Nation and the United States as additional insureds, and to provide Navajo Nation Division of Economic Development, Real Estate Department with a Certificate of Insurance upon execution of this Sublease~~against loss or damage by fire. The Sublessee shall, during the full term of this Sublease, and at their own cost and expense, carry appropriate general liability insurance. Said policy to be written jointly to protect the Navajo Nation, Sublessor, Sublessee and the United States. A copy of said policies shall be provided to Lessor or his authorized representative. Any changes or termination to the policy shall be communicated to the Lessor, before any actions are taken~~.

10. SOVEREIGN IMMUNITY

Nothing herein shall be deemed a waiver of the sovereign immunity, expressed or implied, of the Navajo Nation.

~~12.~~11. INCORPORATION OF BASE LEASE

This Sublease is expressly made subject to all of the terms, conditions, and limitations contained in the Base Lease ~~between the Sublessor and the Navajo Nation~~, including, without limitation, the consent to legislative, executive, and judicial jurisdiction of the Navajo Nation. ~~.~~ In case of conflict between this Sublease and the Base Lease, the provisions of the Base Lease ~~or~~ and any amendments thereto shall govern.

12. ACCOUNTING

In accordance with Base Lease Part II, Section 1.3(B), Sublessee shall provide the Navajo Nation Office of Auditor General or any of its duly authorized representatives access to and the right to examine any of Sublessee's books of account, documents, papers, and records in connection with any transaction related to this Sublease which may be requested or necessary for completion of a full audit of all business conducted on the leased premises.

13. NOTICES AND DEMANDS

a. All notices, demands, requests or other communications shall be given in writing by personal delivery, or sent by certified or registered mail, return receipt requested, to the addresses below. Notices shall be effective and deemed delivered three (3) business days after deposit in the mail or on the date actually received, whichever occurs first. Notices may be sent by email, followed by personal delivery or certified or registered mail, return receipt requested.

~~a. All notices, demands, requests or other communications to or upon either party provided for in this Lease, or given or made in connection with this Lease, shall be in writing and shall be addressed as follows:~~

To or upon Sublessee: _____

_____

_____

_____

_____

To or upon Sublessor: _____

_____

_____

_____

_____

To or upon the Navajo Nation (Lessor): President
The Navajo Nation
Post Office Box ~~90007~~440
Window Rock, Navajo Nation (Arizona) 86515
~~Telefax: 1-928-871-7381~~

Copies to: Division Director
Division of Economic Development
P.O. Box 663

Window Rock, Navajo Nation (Arizona) 86515

Leasing Department Manager
Division of Economic Development
[insert appropriate Department or RBDO]
[insert appropriate address]
Window Rock, Navajo Nation (Arizona) 86515

Real Estate Department Manager
Division of Economic Development
P.O. Box 664
Window Rock, Navajo Nation (Arizona) 86515
nnred@navajo-nsn.gov

b. ~~All notices shall be given by personal delivery, registered or certified mail, postage, prepaid or by facsimile transmission, followed by surface mail.~~ Sublessee, Sublessor, or the Lessor may at any time change its address for purposes of this Section by written notice to the Base Lease and Sublease parties listed above.

~~b.~~ *[signatures on following page]*

IN WITNESS WHEREOF, the parties have ~~set their hands and seals this _____ day of _____, 20____~~ entered into this Sublease, which shall be effective on **[*insert*** the date approved by the Lessor **or** _____, 20__].

SUBLESSOR

_____

[***Name, Title***] Date

SUBLESSEE

_____

[***Name, Title***] Date

[SURETY CONSENT [if applicable]

The foregoing Sublease is consented to by

_____

[***Name, Title***]
[Surety Company Name]

Date: _____]

[LESSOR APPROVAL [if applicable]

The foregoing Sublease is consented to and approved by

_____

President, Navajo Nation

Date: _____]

_____

~~[*Name*], Surety~~ ~~Date~~

_____

~~[*Name*], Sublessor~~ ~~Date~~

_____

~~[*Name*], Sublessor~~ ~~Date~~

_____

~~[*Name*], Sublessee~~ ~~Date~~

~~[*Name*], Sublessee~~ ~~Date~~

~~The foregoing Sublease agreement is hereby approved.~~

~~NAVAJO NATION, LESSOR~~

~~By:~~ _____

~~President/Vice President~~

~~Date:~~ _____

3F1

Assignment Fee: ~~$100~~150.00

ASSIGNMENT AND ASSUMPTION AGREEMENT
~~OF~~ FOR BUSINESS SITE LEASE NO. _____

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT is made and entered into this _____ day of _____, 20____ **[Insert the date of the latest party signature after signature by both Assignor and Assignee]** ("Execution Date"), by and between the Assignor named in the Assignment below and the Assignee named in the Assumption below. This Assignment and Assumption Agreement shall be effective on the date it is signed by the Navajo Nation President ("Effective Date").

ASSIGNMENT OF LEASE

Assignor ~~the Assignor(s) and named below and the Assignee below,~~ hereby assigns to ~~the said~~ Assignee all of Assignor's rights, title, interest, and liabilities in that certain Navajo Nation Business Site Lease No. _____, ~~described below~~attached as Exhibit A, TO HAVE AND TO HOLD the same unto the Assignee from and after the date of approval of this Assignment by the Navajo Nation. ~~for portion of the term mentioned in said lease, together with all~~This Assignment includes Assignor's right, title, and interest in the security deposit(s), if any, being held by the Navajo Nation, as Lessor, in connection with the Lease ~~the rights, duties and liabilities therein granted.~~ ~~I~~Assignor understands and agrees that this ~~assumption~~ Assignment and Assumption Agreement shall not be valid or binding upon either party hereto~~,~~ until approved by the Navajo Nation and signed by the Navajo Nation President, but otherwise shall be of full force and effect irrevocable by ~~me~~Assignor upon the Execution Date.

Name(s) of Assignor~~(s)~~:

_____ _____
Signature of Assignor Date

Address of Assignor~~(s)~~:

_____
_____
_____

_____
Signature of Assignor Date

STATE OF _____)
) §
COUNTY OF _____)

This instrument was acknowledged before me this ____ day of _____ ~~2009~~, _____
_____.

In witness whereof, I have hereunto set my hand and seal.

MY COMMISSION EXPIRES:

_____ _____
Notary Public

ASSUMPTION OF LEASE

~~I, the Assignee named below, f~~For and in consideration of the approval ~~of the above Assignment~~ by the Navajo Nation~~, Lessor, acting by and through its duly authorized agents~~ of this Assignment and Assumption Agreement, Assignee hereby assumes and agree to pay and be bound by all the rents, covenants, ~~liabilities,~~ terms, and ~~and~~ conditions of that certain Navajo Nation Business Site Lease No. _____, including all of the Lessor's liabilities, to the same extent as if I were the Lessee originally named therein. ~~I~~ Assignee understands and agree that this ~~assumption~~ Assignment and Assumption Agreement shall not be valid or binding upon either party hereto~~,~~ until approved by the Navajo Nation and signed by the Navajo Nation President but otherwise shall be of full force and effect irrevocable by ~~me~~Assignee upon the Execution Date.

~~DATED this _____ day of _____, 20____.~~

Name(s) of Assignee~~(s)~~:

_____ _____
Signature of Assignee Date

Address of Assignee~~(s)~~:

_____
_____ _____
_____ Signature of Assignee Date

STATE OF _____)
) §
COUNTY OF _____)

This instrument was acknowledged before me this _____day of _____2009, by_____
_____.

In witness whereof, I have hereunto set my hand and seal.

MY COMMISSION EXPIRES:

_____ _____
Notary Public

Effective Date of Original Lease Being Assigned: _____
Business Site Lease No.: _____

DESCRIPTION OF PREMISES
(Must agree exactly with description appearing in Lease)

The above assignment and assumption are hereby approved.

NAVAJO NATION, LESSOR

By: _____
President/Vice-President

Date: _____

EXHIBIT A
to
ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENT
FOR BUSINESS SITE LEASE NO. _____

[*Insert on this page a chronological list of all Lease Transactions for this Lease, including any and all modifications, renewals, prior assignments, collateral assignments, collateral releases, and subleases, if any.*]

[*Attach all Lease Transaction documents in chronological order behind this Exhibit A cover page.*]

Assignment Fee: ~~$100~~150.00

ASSIGNMENT AND ASSUMPTION AGREEMENT
~~OF~~ FOR BUSINESS SITE LEASE NO. _____

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT is made and entered into this _____ day of _____, 20____ **[Insert the date of the latest party signature after signature by both Assignor and Assignee]** ("Execution Date"), by and between the Assignor~~(s)~~ ~~and~~ named in the Assignment below and the Assignee named in the Assumption below~~,~~. This Assignment and Assumption Agreement shall be effective on the date it is signed by the Navajo Nation President ("Effective Date").

ASSIGNMENT OF LEASE

Assignor hereby assigns to ~~the said~~ Assignee all of Assignor's rights, title and interest in that certain Navajo Nation Business Site Lease No. _____, ~~describe below~~ attached as Exhibit A, TO HAVE AND TO HOLD the same unto the Assignee from and after the date of approval of this Assignment by the Navajo Nation. This Assignment includes Assignor's right, title, and interest in the security deposit(s), if any, being held by the Navajo Nation, as Lessor, in connection with the Lease ~~for portion of the term mentioned in said lease, together with all the rights therein granted~~. ~~I~~ Assignor understands and agrees that this ~~assumption~~ Assignment and Assumption Agreement shall not be valid or binding upon either party hereto~~,~~ until approved by the Navajo Nation and signed by the Navajo Nation President but otherwise shall be of full force and effect irrevocable by ~~me~~Assignor upon the Execution Date.

Name(s) of Assignor~~(s)~~:

_____ _____
Signature of Assignor Date

Address of Assignor~~(s)~~:

_____
_____
_____

_____
Signature of Assignor Date

STATE OF _____)
) §
COUNTY OF _____)

This instrument was acknowledged before me this _____ day of _____ 20__, by _____
_____.

In witness whereof, I have hereunto set my hand and seal.

MY COMMISSION EXPIRES:

_____ _____
Notary Public

ASSUMPTION OF LEASE

~~I, the Assignee named below, f~~For and in consideration of the approval by the Navajo Nation of ~~the~~ this ~~above~~ Assignment and Assumption Agreement, ~~by the Navajo Nation, Lessor, acting by and through its duly authorized agents,~~ Assignee hereby assumes and agrees to pay and be bound by all the rents, covenants, terms, and conditions of that certain Navajo Nation Business Site Lease No. _____, attached as Exhibit A, to the same extent as if ~~I~~ Assignoree were the Lessee originally named therein. ~~I~~Assignoree understands and agrees that this ~~assumption~~ Assignment and Assumption Agreement shall not be valid or binding upon either party hereto~~,~~ until approved by the Navajo Nation and signed by the Navajo Nation President but otherwise shall be of full force and effect irrevocable by ~~me~~Assignee upon the Execution Date.

~~DATED this _____ day of _____, 20____.~~

Name(s) of Assignee~~(s)~~:

_____ _____
Signature of Assignee Date

Address of Assignee~~(s)~~:

_____
_____ _____
_____ Signature of Assignee Date

STATE OF)
) §
COUNTY OF _____)

This instrument was acknowledged before me _____day of _____~~2009~~20__, _____
_____.

In witness whereof, I have hereunto set my hand and seal.

MY COMMISSION EXPIRES:

_____ _____
Notary Public

Effective Date of Original Lease Being Assigned: _____
Business Site Lease No.: _____

DESCRIPTION OF PREMISES
(Must agree exactly with description appearing in Lease)

~~The above assignment and assumption~~This Assignment and Assumption Agreement is ~~are~~ hereby approved.

NAVAJO NATION, LESSOR

By: _____
President~~/Vice President~~, or designee

Date: _____

EXHIBIT A
to
ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENT
FOR BUSINESS SITE LEASE NO. _____

[*Insert on this page a chronological list of all Lease Transactions for this Lease, including any and all modifications, renewals, prior assignments, collateral assignments, collateral releases, and subleases, if any.*]

[*Attach all Lease Transaction documents in chronological order behind this Exhibit A cover page.*]

O-3-6

Modification Fee: $150.00

LEASE MODIFICATION *[insert modification #]*
BUSINESS SITE LEASE NO. _____

It is hereby agreed by and between the Navajo Nation, Lessor, and _____ _____, Lessee, ~~and _____, Surety,~~ that Business Site Lease No. _____, be modified ~~this _____ day of _____, 20___~~ as follows. This Modification shall be effective on the date it is signed by the Navajo Nation President or an authorized designee ("Effective Date").

RECITALS:

A. Lessee and the Lessor entered into Lease No. _____, effective on **[*insert* *effective date*]** **[as previously modified by (list all modifications and assignments, if applicable)]** (the "Lease").

B. **[Add recitals as needed for background or context.]**

C. Lessee and Lessor desire to modify the Lease as follows.

~~WHEREAS~~ _____

~~WHEREAS~~ _____

~~WHEREAS~~ _____

AGREEMENT:

~~NOW THEREFORE~~

An amendment to Paragraph _____; ___, to **[select** read, delete, **etc.]**:

Paragraph ___ shall be deleted in its entirety and replaced with: **[insert replacement provision]**

Paragraph ___ shall be added to read: **[insert added provision]**

This ~~modification~~ Modification does not change any of the terms and conditions of the ~~base lease or stipulations~~Lease except as specifically set forth herein. All other terms and conditions shall remain in force and effect.

[signatures on the following page]

~~Modification Fee: $100~~150.00~~~~

~~Modification Fee: $100~~150.00

~~Surety-in-fact~~ ~~Date~~

~~Lessee(s)~~ ~~Date~~

~~Lessee(s)~~ ~~Date~~

~~Navajo Nation, Lessor~~

~~By:~~ _____
~~President/Vice-President~~

~~Date:~~ _____
[INSERT ENTITY NAME], LESSEE

_____
[Name, Title]

_____
Date

THE NAVAJO NATION, LESSOR

_____
President, Navajo Nation or designee

_____
Date

SURETY CONSENT [if applicable]

The foregoing Sublease is consented to by

_____
[Name, Title]
[Surety Company Name]

Date: _____

VERSION / /2025
~~VERSION 8/05/09~~
~~EDCAU-39-09~~

Termination Fee: ~~$100~~150.00

MUTUAL TERMINATION
BUSINESS SITE LEASE NO. _____

THIS TERMINATION of Business Site Lease No. _____, ~~in sextuplicate,~~ is made and entered into ~~this _____ day of _____, 20____,~~ by and between THE NAVAJO NATION, ~~hereinafter called~~ Lessor, whose address is: P.O. Box 663, Window Rock, Navajo Nation (Arizona) 86515, ~~and, hereinafter called the Lessee,~~ _____ _____, Lessee, whose address is: _____ _____. This Termination shall be effective on the date it is signed by the Navajo Nation President or an authorized designee ("Effective Date"), ~~in accordance with the provisions of 25 U.S.C. §§ 415(e) as amended, and as implemented by the regulations contained in the Navajo Nation Business Site Leasing Regulations of 2005, hereinafter called the Tribal Regulations~~.

~~WHEREAS~~**RECITALS:**

~~A. The Navajo Nation ("Lessor") and _____ ("Lessees") made and entered into Business Site Lease No. _____ ("Lease") effective _____, 20____.~~

A. ~~Reason(s) for mutual termination:~~ Lessee and the Lessor entered into Lease No. _____, effective on **[*insert* *effective date*]** [as previously modified by **(list all modifications and assignments, if applicable)]** (the "Lease").

B. **[*Add recitals to explain reason for termination*]**

NOW THEREFORE:

1. The Lessees and the Lessor mutually agree that it is in the best interest of all parties to terminate Business Site Lease No. _____.

2. The ~~lease~~ Lease is terminated under the following terms and conditions.
   a. This mutual termination shall not be valid until approved by the Navajo Nation and signed by the Navajo Nation President, or designee.
   b. This mutual termination shall not relieve the Lessee of their environmental cleanup obligation, if any, to the Navajo Nation incurred prior to the termination.
   c. This mutual termination shall not relieve the Lessee of any financial obligation to the Navajo Nation.

~~c.~~

3. Nothing herein shall be deemed a waiver, express or implied, of the sovereign immunity of the Navajo Nation.

IN WITNESS WHEREOF, the parties ~~hereto~~ have ~~set their hands~~entered into this Termination, which shall be effective on the Effective Date, as defined in the preamble.

[signatures on following page]

[INSERT ENTITY NAME], LESSEE

_____

[Name, Title]

_____

Date

THE NAVAJO NATION, LESSOR

_____

President, Navajo Nation or designee

_____

Date

SURETY CONSENT [if applicable]

The foregoing Mutual Termination is consented to by:

_____

[Name, Title]
[Surety Company Name]

Date: _____

_____

~~Surety in fact~~ ~~Date~~

_____

~~Lessee(s)~~ ~~Date~~

_____

~~Lessee(s)~~ ~~Date~~

~~Navajo Nation, Lessor~~

~~By:~~ _____

~~President/Vice President~~

Termination Fee: ~~$100~~150.00

~~Date:~~ _____

Assignment Fee: ~~$100~~150.00

COLLATERAL ASSIGNMENT OF LEASE
FOR BUSINESS SITE LEASE NO. _____

This **Collateral Assignment of Lease** is made ~~this _____ day of _____, 20____~~ by and between the _____, whose address is: _____ _____, hereinafter called Assignee and _____ whose address is _____ hereinafter called the Assignor or Lessee. ~~The Business Site Lease has been previously approved by the Navajo Nation as Lease No. _____~~ This Collateral Assignment of Lease is subject to approval of the Navajo Nation, as Lessor, and shall be effective on the date it is signed by the Navajo Nation President.

~~**WITNESS**~~

~~**SECTION I.** **RECITALS**~~

A. Lessor and Lessee entered into Lease No. _____, effective on ***[insert** effective date]* [as previously modified by **(list all modifications and assignments, if applicable)]** (the "Lease"), a copy of which is attached as Exhibit A.

~~A. The Assignor, also the Lessee, under a certain Lease Agreement Number _____, a copy of which is attached as Exhibit "A", has been approved by the Navajo Nation and has been issued for a period of _____ commencing on the date the Lease was approved by the Navajo Nation. The Lessor under this Lease was the Navajo Nation ("Lessor") and the Lease was approved on, _____, 20____.~~

B. Assignee has agreed to make a ~~pre-development l~~loan to Lessee in the amount of $_____ to ~~finance planning and pre-development of _____~~ develop or improve the Lease premises ("Loan"), which ~~and~~ Loan ~~is an~~ amount is sufficient to assure completion of the project. The ~~pre-development loan~~ Loan ~~will be made pursuant to a Loan Agreement dated _____, 20____, and~~ is evidenced by a Promissory Note ("Note") and related loan documents ("Loan Documents") ~~as evidence of its repayment obligation in connection with the Loan Agreement. The Loan Agreement and Promissory Note will be amended at such time as the financing needs for the entire project have been determined by the pre-development study~~.

C. ~~The~~ To secure the Loan, Lessee ~~Assignor has~~ agreed to assign to Assignee, and Assignee has agreed to take from Lessee, an assignment of the Lease for collateral purposes, on the terms and conditions set forth herein. ~~make a Collateral Assignment of the Lease ("Assignment") to secure the Note under the terms of the Loan Agreement as originally made and as it may be amended.~~

AGREEMENT

SECTION II. ASSIGNMENT

A. ~~As security for the payment of the Note~~ In consideration of the Loan, the ~~Assignor~~ Lessee, as Assignor, hereby assigns and transfers to Assignee all of the Lessee's rights, title, and interest in the Lease ~~its interest in, rights, and right to continued possession, under, Lease No. _____, subject to the terms~~

~~and conditions herein, to Assignee~~in accordance with the encumbrance provisions in Lease Part II, Section 1.6.

SECTION III. WARRANTIES AND COVENANTS

A. Assignor shall pay all applicable rents and other charges as they fall due under the terms of the Lease.

B. Assignor shall not surrender its Lease and interest in the Lease, nor terminate or cancel the Lease. The Assignor shall not modify, change, supplement, alter or amend the Lease~~, either orally or in writing,~~ without the express written consent of the Assignee. Any such termination, cancellation, modification, change, supplement, alteration, or amendment~~,~~ of the Lease without the prior written consent of Assignee shall be null and void and have no force ~~and/~~or effect. However, Assignee shall not unreasonably withhold or delay approval of any requested changes or amendments to the Lease which do not impair Assignee's~~its~~ security interest.

SECTION ~~IV~~III. PERFORMANCE OF LEASE OBLIGATIONS AND RIGHT TO CURE

A. The Assignor shall ~~at all times fully~~ perform and comply with all covenants, terms and conditions of~~imposed on or assumed under~~ the Lease.

B. If Assignor fails to ~~fully~~ perform and comply with the Lease and the Lessor notifies the Assignee in writing of the default ~~under the terms provided for in Lease No. _____~~, Assignee shall not take action ~~against the~~that would jeopardize in any way the Navajo Nation's interests in the land ~~in the event of such a default~~, ~~but~~ and shall have the option, in its sole discretion, but not the obligation, to take any actions it deems necessary or desirable to cure the default by the Assignor. ~~On receipt by Assignee of any written notice of default of the Lease by the Lessor,~~ Assignee may rely on the notice and take any reasonable action to cure the default, including taking possession of the leased premises, even though the existence of such a default, or the nature thereof, is questioned or denied by the Assignor, or by any party on behalf of the Assignor~~, including taking possession of the leased premises~~. If Assignee takes possession of the premises it shall have the right ~~to enforce~~ under the the Lease to the same extent as if it were the ~~original~~ Lessee ~~under the Lease~~.

C. The Assignor hereby expressly grants to Assignee, and agrees that Assignee shall have the absolute and immediate right to enter in and on the leased premises, or any part thereof, in the event that Assignee deems it necessary or desirable to prevent or cure any default on the Lease by the Assignor.

D. Assignee may pay and expend reasonable sums of money that are necessary to prevent or cure any default on the Lease by the Assignor, and the Assignor in turn~~,~~ agrees to pay to Assignee, immediately and without demand, all sums paid and expended by Assignee in preventing or curing a default of the Lease by the Assignor together with interest thereon from the date of each such payment by Assignee at the rate of the Wall Street Journal Prime Rate plus two percent adjusted daily from the date of Assignee payment. All sums so paid and expended by Assignee and the interest thereon shall be secured by this assignment.

SECTION IV. RELEASE OR FORBEARANCE

No release or forbearance by Assignee of any of the Assignor obligations under the Loan ~~Agreement or Note~~Documents shall release the Assignor from any of its obligations under the Lease, including the Assignor's obligation to perform all of the terms, covenants and conditions contained in the Lease.

SECTION VI. ACCELERATION AND RIGHT OF POSSESSION OR SALE

Upon ~~the~~ an event of default, as defined in the Loan ~~Agreement and Note~~ Documents, and upon the Assignor's failure to cure within the period provided in the Loan ~~Agreement and Note~~Documents, Assignee shall be entitled to immediate possession of the leased premises, subject to the terms and conditions of the Lease, to which Assignee expressly agrees. Assignee further expressly agrees to furnish to Lessor, as requested, any financial statements or analysis pertinent to the encumbrance that the Lessor may deem necessary to justify the ~~amount,~~ purpose, ~~and~~ terms, or exercise of Assignee's rights under ~~of~~ this Assignment.

SECTION VII. DEFAULT AND SALE

A. In the event of default under the Loan ~~Agreement and Note~~Documents, and if the Assignor fails to cure the default, Assignee may exercise the rights provided for in the Loan ~~Agreement, Note,~~Documents and this Assignment. However, before any subsequent assignment, transfer, or sale~~,~~ of the Lease, whether under power of sale or foreclosure, Assignee shall give written notice of the event of default and the Assignor's failure to cure the default to the Lessor. Before any notice of sale, subsequent assignment, transfer or any other form of alienation, the Lessor with first priority shall be given the right to pay Assignee the full unpaid principal, accrued interest due under the Loan ~~Agreement and Note~~Documents, plus reasonable sale and enforcement costs incurred by Assignee through the date~~y~~ of such payment by the Lessor. This right may be exercised at any time before the completion of the sale proceedings.

B. If the Lessor exercises its right to pay Assignee the full unpaid amount and interest due under the Loan ~~Agreement and Note~~Documents, plus reasonable sale and enforcement costs incurred through the date of payment, this Assignment shall automatically terminate on the date such right is exercised, and shall have no further force or effect. However, the termination of this Assignment shall not relieve Assignee from any obligation or liability which has accrued before the date of termination. Upon payment by the Lessor in accordance with this paragraph, Assignee shall ~~file~~ execute and distribute a~~the appropriate~~ termination statement and/or ~~/or~~ release ~~with the Lessor~~in accordance with Sections VII and IX below.

C. In the event that the Lessor~~,~~ does not avail itself of the rights set forth above, Assignee shall have the right to either 1) remain in possession of the Lease, assume the position of the Lessee and perform the terms and conditions of the Lease so long as Assignee retains title thereto, or 2) sell its interest in the Lease by either public or private sale on terms that are commercially reasonable. If a sale occurs resulting in a purchase by a party other than Assignee, the Assignee shall obtain the Lessor's approval, and the purchaser shall be bound by all of the terms and conditions of the Lease and shall expressly assume those ~~terms and conditions~~obligations in writing as a condition of the sale. Any purported sale where the purchaser does not expressly assume in writing the terms and conditions of the Lease shall be null and void and without effect.

SECTION VIII. TERMINATION UPON PAYMENT IN FULL

In the event that the Assignor pays the amount specified in the Loan ~~Agreement and Note~~Documents in full plus interest thereon, this Assignment shall cease to have effect and Assignor shall file such termination statement and/or releases ~~as reasonably necessary~~in a form reasonably acceptable to Lessor within ten (10) days after the Assignor ~~pays the full amount of the Loan Agreement and Note and interest thereon~~makes the payment, or at such time as the Assignor requests that such termination statements and/or releases be filed.

SECTION ~~IX~~VIII. CHOICE OF LAW

The laws of the Navajo Nation shall govern this Assignment. If there is Navajo or applicable federal law, the court shall apply such law. ~~In~~ Any dispute arising under, or related to, this Assignment shall be decided exclusively in the Courts of the Navajo Nation.

SECTION IX. NO WAIVER OF SOVEREIGN IMMUNITY

Nothing in this Collateral Assignment of Lease shall be construed as a waiver, either express or implied, of the Sovereign Immunity of the Navajo Nation.

SECTION IX. COPY OF RELEASE TO LESSOR

Upon termination and/or release of this Assignment, the Assignor and Assignee shall deliver a copy of the termination and/or release to the Navajo Nation, Division of Economic Development, Real Estate Department, P.O. Box 664, Window Rock, Navajo Nation (Arizona) 86515 for Lessor's records and recording in the Land Title and Records Office. A copy shall be delivered to the Leasing Department [insert appropriate Department/Program and address.]

[signatures on the following page]

IN WITNESS WHEREOF, the parties have executed this Collateral Assignment on the day and year first above written.

~~FOR THE ASSIGNOR:~~

_____ ~~DATE:~~ _____

~~[*name*], [*title*]~~
~~[*name of business*]~~

~~FOR THE ASSIGNEE:~~

_____ ~~DATE:~~ _____

~~[*name*], [*title*]~~
~~[*name of business*]~~

~~APPROVED~~

~~By:~~ _____
~~President/Vice President~~

~~Date:~~ _____

[INSERT ENTITY NAME], ASSIGNOR AND LESSEE

_____
[Name, Title]

_____
Date

[INSERT ENTITY NAME], ASSIGNEE

_____
[Name, Title]

_____
Date

SURETY CONSENT [if applicable]

The foregoing Collateral Assignment is consented to by

_____

[Name, Title]
[Surety Company Name]

Date: _____

APPROVAL BY

THE NAVAJO NATION, LESSOR

_____

President, Navajo Nation or designee

_____

Date

0-3-J

Tracking No._____
Permit Fee ~~$100.00~~150.00

REVOCABLE USE PERMIT
~~Division of Economic Development~~THE NAVAJO NATION AND [PERMITTEE NAME]

This Revocable Use Permit ("Permit") is entered into by and between the Navajo Nation, hereinafter called the Permitter, whose address is Division of Economic Development ("DED"), P.O. Box 663, Window Rock, Arizona 86515, and _____, hereinafter called Permittee, whose address is _____, under the provision of the Navajo Nation Business Site Leasing Regulations of 2005, hereinafter referred to as the "~~Tribal~~ Navajo Regulations." This Permit shall be effective on the date it is signed by the DED **[Leasing Department or Program]** Manager ("Effective Date").

1. The Permittee hereby permits the Permittee to use a tract of tribal trust land that has been withdrawn for commercial purposes and is ~~being~~ more particularly described and shown ~~at~~on Exhibit "A" A, attached hereto and made a part hereof, for the purpose of **[short term business, events, fundraising, government operations, or political events, OR short term sale of goods or services OR continuing from an expired lease]**, _____ specifically:

_____
_____.

2. TERM. The term of this Permit shall be for a period of _____ **[~~days~~, weeks, months, or years]**, beginning on the Effective Date, with an ~~one~~ option to renew ~~of~~ for _____ **[days, weeks, months, or year]**, ~~beginning on the date of approval by the Navajo Nation~~. To exercise an option, the Permittee must be in good standing, and must notify the Permitter ~~five~~ ten (510) days before the Permit expires, otherwise, the Permitter may select another Permittee.

3. RENTAL. The Permittee shall pay to the Permitter $_____ per **[days, week, month, or year]** for the use of the premises described above for the term of the permit, unless otherwise agreed in writing. Payments shall be made ~~payable~~ to the Controller of the Navajo Nation ~~by cashiers check or money order~~. Rental shall be paid to the Controller without prior notice or demand.

4. UTILITY SERVICE LINE AGREEMENT. Permittee specifically is authorized to enter into appropriate service agreement with utility companies for the provision of utility services to the permitted area, including gas, water, sewer, electricity, telephone, television, internet, and other utilities, without further consent by Permitter. Fees and monthly utility charges by these utility companies ~~is~~ are solely the responsibility of the Permittee.

5. DELIVERY OF PREMISES. The premises shall be given and accepted by the Permittee "as is" and Permitter shall not be responsible for any latent defects. ~~Upon~~ By signing this~~e agreement~~ Permit, the Permittee agrees that it has had sufficient opportunity to examine and inspect the condition of the premises. Upon termination of this ~~permit~~Permit, the Permittee will clean up all refuse in the permitted areas, reseed denuded areas, and leave it in a neat and presentable condition satisfactory to the Permitter. The DED Real Estate Department and the Navajo Environmental Protection Agency will be responsible for inspection of the areas and determining that the Permittee has complied with provisions of the Permit to the satisfaction of the Permitter, if applicable.

6. UNLAWFUL CONDUCT/ACTIVITIES. The Permittee further agrees not to use or allow any part of said property and/or premises to be used for any unlawful conduct/activities. Violation of this clause by the Permittee shall void the Permit.

7. LIABILITY FOR USE. **[Upon approval of the Permit, Permittee shall obtain ~~General Liability Insurance, Fire and Casualty Insurance coverage~~insurance with ~~the minimum coverage acceptable to the Division of Economic Development~~ Navajo Nation and maintain such insurance until the Permit expires, ~~upon approval of the Permit. All insurers must be from a Nationally Accredited Insurance Company with a financial strength rating of "A" or equivalent, and authorized to do business in the state where the premises are locat~~Standard insurance requirements are attached as Exhibit B**

(Insurance) ed. All policies required under this Permit shall name the Navajo Nation and United States as an additional named insureds. and certificatesCertificates of Insurance shall be sent to the Division of Economic DevelopmentDED Real Estate Department.] *OR* **[Permittee shall agree to fully indemnify the Navajo Nation and the United States and agree to the terms and conditions of the Indemnification Form, attached hereto as Exhibit "B"B (Indemnification Form)]** It is further understood and agreed that the ~~Permitter~~ Permittee shall hold the Permitter harmless from any and all loss, claims, ~~or~~ and liability of any kind~~ies~~ arising out of the use, occupancy, or possession of said property and premises by the Permittee, ~~or~~ including, without limitation, injury sustained by the Permittee, or any other person, and ~~or~~ damage to property, on or about ~~said~~ the premises during the term of this Permit.

8. **[Intentionally Omitted *OR:* IMPROVEMENTS. All improvements placed on the permitted premises shall be constructed in a good and workmanlike manner and in compliance with applicable laws and building codes. All parts of building visible to the public or from adjacent properties shall present a pleasant appearance as determined by Permitter and all service areas shall be screened from public view to the satisfaction of Permitter. Permittee shall, at all times during the term of this Permit, and at Permittee's sole cost and expense, maintain the premises and all improvements thereon and any alterations, additions, or appurtenances thereto, in good order and repair and in a safe, sanitary, neat and attractive condition, and shall otherwise comply with all laws, ordinances and regulations applicable to said premises.]**

9. OBLIGATIONS OF PERMITTEE. While the permitted premises are in trust or restricted status, all of the Permittee's obligations under this Permit and the obligations of his surety or sureties, are to the United States as well as to the Permitter.

10. ~~TERMINATION OF FEDERAL TRUST~~REVOCABLE AT WILL. ~~Nothing contained in this Permit shall operate to delay or prevent a termination of Federal trust responsibilities with respect to the land by the issuance of a fee patent or otherwise during the term of this permit; however, such termination shall not serve to abrogate the permit. The owners of the land and the Permittee and his surety shall be notified of any such changes in the status of the land~~This Permit conveys no possessory interest and may be revoked at will upon written notice by the Permitter to the Permittee. If Permitter revokes or terminates the Permit before a pre-paid rental term has ended, the Permitter will refund a pro rata share of the rental for the period of time after the Permit is terminated.

11. EARLY TERMINATION BY PERMITTEE: A Permittee in good standing may terminate ~~T~~this Permit at will ~~shall be terminated by either party~~ by giving written ~~a thirty (30) days~~ notice to Permitter of the termination date by certified mail ~~in writing to the other party by certified mail~~. If Permittee terminates the Permit before a pre-paid rental term has ended, Permittee will forfeit the advance payment of rent.

12. AUTOMATIC TERMINATION UPON ISSUANCE OF LEASE. If Permittee enters a business site lease for the Permit premises, this Permit shall automatically terminate and be superseded by the lease.

~~11.~~13. TERMINATION BY EXPIRATION. The ~~P~~permit shall terminate automatically when the Permit expires. Upon termination ~~or is terminat~~under Paragraph 10 or 11 above or by expiration~~ed~~, ~~and~~ the Permittee shall have no rights including holdover on any portion of the premises unless Permitter gives express written consent. Except as otherwise provided in this Permit, ~~all~~ any buildings and improvements, excluding removable personal property and trade fixtures, on the ~~leased property~~Permit premises shall remain on ~~said property~~the premises after termination ~~of this Permit~~ and shall thereupon become the property of Permitter. However, Permitter may require Permittee, at Permittee's expense, to remove improvements and restore the premises to the original state, within reason, upon termination of this Permit. Any removal of property by Permittee must be completed within ninety (90) days after termination ~~of this Permit~~, and ~~such~~ the Permittee's presence on the property shall not be deemed a holdover or trespass, provided Permittee is ~~acting in a~~ diligent ~~manner~~ into removing~~e such~~ the property. Upon the expiration of the ninety (90) day extension, the Permitter ~~has the right to~~ may grant another extension or re-enter the premises, and at such time the Permittee shall have no ~~right or interest to~~ further permission to enter the premises or use any remaining improvements.

~~12.~~14. INTEREST OF MEMBER OF CONGRESS. No member of Congress~~,~~ shall be admitted to any share or part of this Permit or to any benefit that may arise ~~there~~from. This provision shall not be constructed to extend to this Permit if made with a corporation or company for its general benefit.

~~13.~~15. ENVIRONMENT. Permittee shall ~~take all necessary measures to assure compliance~~comply with applicable Federal and Tribal laws~~,~~ including the Navajo Nation Environmental Review~~,~~ in accordance with the Navajo Nation Business Site Leasing ~~Rules and~~ Regulations of 2005, the Uniform Business Leasing Regulations of 2008, and the DED Business Site Leasing Management Plan now in force and effect~~,~~ and any amendments ~~thereto~~ which by this reference are made a part hereof. This shall include, but ~~shall~~ not be limited to, aesthetics, erosion control~~,s~~ and protection of timber or other vegetation.

~~14.~~16. PERFORMANCE SECURITY. If the term of this Permit is more than six (6) months, ~~Except when prohibited by law or regulations,~~ Permittee shall provide a cash deposit as performance S~~s~~ecurity to the ~~Navajo Nation or its authorized representative~~ DED Real Estate Department~~for the faithful performance of this Permit as described in the terms and conditions~~. At the termination of the Permit, and upon completion of all compliance reviews and inspections to be performed on the premises, the Permitter shall return any cash security deposited to the Permittee which was not spent to address non-compliance. The ~~Security amount~~security deposit for this Permit shall be **[equal to three (3) months rental, which is $ _____ *OR* waived pursuant to the written justification approved by the Leasing Department, attached as Exhibit C *OR* zero ($0) because the term is six (6) months or less~~[months,days, annual] rent]~~.**

~~15.~~17. TRANSFER, SUBLEASING. The ~~leased premises~~permit premises shall not be ~~subleased~~sub-permitted, assigned~~,~~ ~~n~~or transferred~~,~~ by the ~~Permitter~~Permittee, and such action shall be a material violation of the Permit.

~~16.~~18. EMPLOYMENT OF QUALIFIED NAVAJOS. In connection with all employment and contracting opportunities arising out of Permittee's activities under this Permit, Permittee shall give preference in employment and contracting to qualified Navajo individuals and certified contractors in compliance with the Navajo Preference in Employment Act, 15 N.N.C. §§ 601 et seq. ("NPEA"), and the Navajo Business Opportunity Act, 5 N.N.C. §§ 201 et seq. ("NBOA"). The terms and provisions of the NPEA and NBOA are specifically incorporated in, and become a part of this Permit. Violation of such laws by the Permittee shall constitute a breach of this Permit and provide grounds for suspension or termination of the Permit or any other remedy prescribed by the NPEA and NBOA.

~~17.~~19. AGREEMENT TO ABIDE BY NAVAJO AND FEDERAL LAWS. The Permittee and its employees and agents ~~agree to~~ shall abide by all laws, regulations, and ordinances of the Navajo Nation~~,~~ and all applicable laws, regulations~~,~~ and ordinances of the United States now and hereafter in force and effect ~~or which may hereafter be in force and effect. This agreement to abide by Navajo laws shall not forfeit rights, which the Permittee and its employees and agents enjoy under the federal laws of the United States Government.~~

~~18.~~20. PERMIT REQUIREMENTS NOT EXCLUSIVE. Nothing in this Permit shall be construed to relieve Permittee of any obligations pursuant to any Federal or Navajo Nation law for the protection of the environment or ~~the~~ public health, safety, or general welfare which ~~is currently enacted or which may be enacted at a later date~~now and hereafter in force and effect.

~~19.~~21. GOVERNING LAW AND CHOICE OF FORUM; CONSENT TO JURISDICTION. Except as may be prohibited by applicable federal law, the laws of the Navajo Nation shall govern the construction, performance and enforcement of this Permit. Any action or proceeding brought by Permittee against the Navajo Nation in connection with or arising out of the terms and conditions of this Permit ~~Lease~~ shall be brought only in the Courts of the Navajo Nation, and no action or proceeding shall be brought by ~~Permit~~ Permittee against the Navajo Nation~~,~~ in any court or administrative body of any state. Permittee consents to the legislative, executive, and judicial jurisdiction of the Navajo Nation in connection with all activities conducted by the Permittee within the Navajo Nation. Permittee agrees to be governed by the Navajo Nation Business Leasing Regulations of 2005, the Uniform Business Leasing Regulations of 2008, and the Navajo Nation Business Site Lease Management Plan, as amended.

~~20.~~22. NO WAIVER OF SOVEREIGN IMMUNITY. Nothing in this Permit shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.

~~21.~~23. VALIDITY. Any modification thereof or amendment to this Permit shall not be valid or binding upon either party hereto~~,~~ until approved ~~by the Navajo Nation~~and executed by the DED **[Leasing Department or Program]** Manager. A sub-permit, assignment, modification or amendments may not be entered into without the written ~~consent~~ approval of ~~Division of Economic Development~~ DED.

24. SUCCESSORS~~,~~ ~~AND~~ ASSIGNS, ETC. The terms and conditions contained herein shall extend to and be binding upon ~~the~~ Permittee's successors, heirs, assigns, executors, administrators, employees, and agents.

~~22.~~25. COUNTERPARTS AND ELECTRONIC SIGNATURES VALID. This Permit may be executed in counterparts, which together shall be one instrument. Electronic signatures shall be legal, binding, and enforceable.

~~23.~~26. NOTICES. All notices, requests, demands, or other communications hereunder shall be in writing, and shall be deemed to have been duly given if delivered in person, or within three (3) days after deposited in the United States mail, postage prepaid, certified, with return receipt requested, or otherwise actually delivered to: ~~All notices, demands, requests, changes in information or other communications to or upon either party provided for in this Permit, or given or made in connection with this Permit, shall be in writing and shall be addressed as follows:~~

Permitter:_____

Leasing Department Manager, DED
[insert appropriate Department or RBDO]
[insert appropriate address]

Real Estate Department Manager, DED
P.O. Box 664
Window Rock, Navajo Nation (Arizona) 86515
nnred@navajo-nsn.gov

for legal notices, demands, and requests:
Attorney General, Navajo Department of Justice
Attn: Economic/Community Development Unit
P.O. Box 2010
Window Rock, Navajo Nation (Arizona) 86515
NNDOJ.General@navajo-nsn.gov

Permittee:_____
[Insert Title, Address, and Email Address]

Any party may change the address at which it receives written notices by so notifying the other party hereto in writing.

[signatures on following page]

~~THE NAVAJO NATION~~
~~[name]~~
~~[address]~~
~~[Telefax/phone]~~.

~~Permittee:~~
~~[address]~~
~~[phone]~~
~~[telefax]~~

Tracking No._____
Permit Fee ~~$100.00~~150.00

IN WITNESS WHEREOF, the parties hereto have executed this~~e~~ Permit ~~this _____ day of _____~~, to be effective on the date signed by the Permitter~~ 20__~~.

~~Name of Permittee:~~

~~Address of Permittee:~~

~~Signature of Permittee Date~~

~~Signature of Permittee Date~~

~~DATE:~~

~~NAVAJO NATION, PERMITTER~~

~~By:~~
~~Executive Director~~
~~Division of Economic Development~~

~~DATE:~~

~~[NAME], PERMITTEE~~

[*name*], [*title*] Date

THE NAVAJO NATION, PERMITTER

[*name*], [*Leasing Department or RBDO*] Manager

Date:

Tracking No._____
Permit Fee ~~$100.00~~150.00

EXHIBIT A

[Insert GPS Center Point Coordinates, or Legal Description and Survey, if available]

EXHIBIT B

Insurance Requirements

[OR replace with Indemnification Form, if applicable]

General Requirements

1. Permittee shall, at its expense, maintain insurance as set forth in this Exhibit.
2. Insurance shall be provided by insurance companies duly authorized and licensed, having a Best's Rating of A-VIII or better.
3. The insurance shall expressly identify the Navajo Nation and the United States as additional insured parties.
4. Permittee shall provide Navajo Nation Division of Economic Development, Real Estate Department with a Certificate of Insurance *[*upon execution of the Permit ***OR*** a different date if authorized and negotiated*]*.
5. Permitter in no way warrants that the minimum requirements are sufficient to protect Permittee from liabilities that might arise from this Permit by Permittee, its agents, representatives, employees, or contractors. Permittee is free to purchase additional insurance as may be determined necessary.
6. Permittee is responsible for paying any deductibles or self-insurance retentions, and such deductibles and self-insurance retentions shall be disclosed on the Certificates of Insurance. Permittees must include all subcontractors (if any) as additional insureds under its policies or ensure each subcontractor meets the same minimum limits and coverages as required of Permittee

Particular Requirements

LIABILITY INSURANCE

Unless (i) Permittee is a Navajo Nation Enterprise covered by Navajo Nation Risk Management Program, or (ii) otherwise agreed to in writing by Navajo Nation Risk Management Program, Permittee will provide and maintain, from the date the Permit is approved and continuing until the Permit is terminated or expired, the minimum insurance coverages listed below. Coverage will be provided with forms and insurers acceptable to the Permitter until all obligations under this Permit are satisfied. All insurers must be a Nationally Accredited Insurance Company with an AM Best rating of "A-VIII" or higher, or the equivalent, and authorized to do business in the State where the permit premises are located. All policies required under this Permit, except for the Worker's Compensation policy and any Professional Liability policy, shall (i) name the Permitter and the United States as additional named insureds, and (ii) provide that the Permittee's policy shall be primary, with Permitter's policies being non-contributory, in the event of a loss. These coverages are as follows:

A. Workers' compensation insurance to cover obligations imposed by federal and state statutes of the entity having jurisdiction over the Permittee's employees working on the permit premises, and Employers' Liability insurance with minimum limits of $1,000,000 per accident, Bodily Injury by Accident; $1,000,000 each employee, Bodily Injury by Disease; and $1,000,000 policy limit, Bodily Injury by Disease. In case of any contracted work on the permit premises, the Permittee will require the Contractor, and all subcontractors, to provide the same as above. Permittee's policy shall include a waiver of subrogation in favor of Permitter.

B. Commercial General Liability Insurance to cover:

(1) bodily injury, death, personal injury, and damage to property based upon or arising out of the ownership, use, occupancy or maintenance of the premises and all areas appurtenant thereto. Permittee's policy shall include a waiver of subrogation in favor of Permitter. The policy shall also contain a separation of insureds provision.

(2) Permittee shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a following form basis and it contains the required additional insured and waiver of subrogation wording.

- $1,000,000 each occurrence Bodily Injury and Property Damage,
- $1,000,000 each occurrence Personal and Advertising Injury,
- $1,000,000 each occurrence Products/Completed Operations,
- $2,000,000 Products/Completed Operations Aggregate, and
- $2,000,000 General Aggregate.

(3) If the Permittee will be manufacturing, distributing, selling, serving or furnishing alcoholic beverages, for the duration of this Permit, Permittee shall maintain the following minimum liquor liability insurance coverages and limits:

- $1,000,000 each occurrence, and
- $1,000,000 annual aggregate.

(4) Whether the permit premises is developed or undeveloped, the Permittee must obtain the appropriate insurance, which shall, include the Permitter and the United States as additional insureds. In the case of any contracted work on the permit premises, the Permittee shall require the contractor and all subcontractors to provide the same coverage as above.

C. Commercial Automobile liability insurance to cover bodily injury and property damage for each occurrence with respect to Permittee's owned, hired, and non-owned vehicles assigned to or used in Permittee's business, with a minimum limit of $1,000,000 combined single limit per accident. Permittee's coverage shall include coverage for bodily injury or property damage arising out of the actual, alleged, or threatened discharge, dispersal, seepage, migration, release, or escape of pollutants arising out of the collision, upset, or overturn of an auto as a result of the maintenance or use of a covered auto. Permittee's policy shall provide a waiver of subrogation in favor of Permitter.

In the case of any contracted work on the permit premises, the Permittee shall require the contractor and all subcontractors to provide the same coverage as above.

An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements, provided that the coverage is written on a following form basis and it contains the required waiver of subrogation wording.

D. If the Permittee is engaged in a profession, the Permittee shall carry Professional Liability insurance with a minimum limit of $1,000,000 per claim and in the aggregate. The retro date on the policy shall be no later than the start date of the Permit. The retro date shall be disclosed on the certificate of insurance. The policy must be kept in force during the life of the contract and for 2 years (either as a policy force or extended reporting period) after contract termination.

E. Pollution Liability (including Errors and Omissions) coverage and limits for losses caused by pollution conditions that arise from the operations and completed operations of Permittee:

- $2,000,000 each occurrence, and
- $2,000,000 general aggregate.

Permittee's policy shall be written on an "occurrence" basis with no sunset clause or if written on a "claims-made" basis, it shall be maintained for a period of not less than 2 years with the retroactive date to be held constant with the effective date of this Permit. The Certificate of Insurance must provide clear evidence that Permittee's insurance policies contain the minimum limits of coverage and the special provisions prescribed in this clause. Permittee's policy shall provide a waiver of subrogation in favor of Permitter.

Permittee's policy shall include the following coverages:

a. Bodily injury, sickness, disease, mental anguish, or shock sustained by any person, including death and medical monitoring costs.
b. Property damage including physical injury to or destruction of tangible property, including the resulting loss of use thereof, cleanup costs, and the loss of use of tangible property that has not been physically injured or destroyed including diminution in value.
c. Environmental damage, including physical damage to soil, surface water, or groundwater, or plant or animal life, caused by pollution conditions and giving rise to clean-up costs.
d. Defense including costs, charges and expenses incurred in the investigation, adjustment, or defense of claims for such compensation damages.
e. Asbestos or lead – no exclusion.
f. Mold coverage.
g. Transportation cargo.
h. Non-Owned Disposal Site coverage.

Should Permittee's operations involve treatment, storage, or disposal of hazardous wastes, Permittee shall furnish an insurance certificate from the designated disposal facility establishing that the facility operator maintains current Pollution Legal Liability Insurance in the amount of $1,000,000 per occurrence / $2,000,000 general aggregate and will cover sudden and gradual pollution losses arising from the facility, associated with the operations of the Permittee

F. Unless a later date is provided in writing by the Navajo Nation Risk Management Program, an acceptable certificate of insurance shall be issued to the Navajo Nation by the Permittee on the date the Permit is approved as evidence that the required coverages are in full force and effect. The certificate shall identify this Permit and indicate the policies will not be canceled unless at least thirty (30) days prior written notice is given to the Permitter. Certificates of insurance shall be addressed as follows: Navajo Nation Division of Economic Development, Real Estate Department, P.O. Box 663, Window Rock, Arizona 86515.

G. Failure on the part of the Permittee to procure or maintain required insurance shall constitute a material breach of contract upon which the Permitter may immediately terminate this Permit.

H. Permitter reserves the right to request and receive certified copies of any or all of the above policies and/or endorsements.

I. Permittee and its insurers providing the required coverages shall waive all rights of recovery against the Navajo Nation and its agents, officials and employees, and the United States.

J. The insurance limits required under this Permit shall not limit the liability of the Permittee, nor relieve the Permittee of any obligation under this Permit.

K. The Permittee shall not do or commit to be done anything in or upon any portions of the permit premises or bring or keep anything there which would in any way conflict with the conditions of any insurance policy upon the permit premises or in any way increase the rate of insurance upon the permit premises or on property kept there.

L. Permitter will not be responsible for any omissions or inadequacies of insurance coverage and amounts in the event the insurance purchased by Permittee proves to be inadequate or otherwise insufficient for any reason whatsoever.

PROPERTY INSURANCE

A. Unless (i) Permittee is a Navajo Nation Enterprise covered by Navajo Nation Risk Management Program, or (ii) otherwise agreed to in writing by Navajo Nation Risk Management Program, Permittee shall

carry "all risks" of loss OR risks of direct physical loss or damage OR causes of loss – special form, including the perils of Equipment Breakdown/Boiler & Machinery, Flood and Earth movement, covering not less than full replacement cost value of all improvements on the permit premises. Said policy shall be obtained from a Nationally Accredited Insurance Company, with an AM Best rating of "A-VIII" or higher or equivalent, licensed to do business in the State in which the permit premises are located and shall be written jointly to protect Permittee, Permitter, and the United States, and shall provide for notification to the Permitter prior to any cancellation or non-renewal of the policy for any reason, including nonpayment of premiums.

A copy of the policy shall be sent to Permitter at the following address: Navajo Nation Division of Economic Development, Real Estate Department, P.O. Box 664, Window Rock, AZ, 86515.

B. Permittee shall maintain business income insurance with limits not less than an amount equal to one year's annual rent.

C. If there is a coinsurance provision, it shall be waived by an Agreed Amount endorsement. Permittee's policy shall name Permitter as Loss Payee as their interest may appear. Permittee's policy shall provide a waiver of subrogation in favor of Permitter. The covered property shall be identified on the certificate of insurance.

D. Permittee, at its cost, shall maintain insurance coverage for full replacement cost on all of Permittee's personal property, Permittee's alterations, Permittee's utility installations, and Permittee's trade fixtures in or about the permit premises. The proceeds from any such insurance shall be used by Permittee for the replacement of Permittee's personal property, alterations, utility installations, or trade fixtures only if Permitter repairs or rebuilds the permit premises.

E. In the event of damage to any improvement on the permit premises, Permittee shall rebuild, repair or otherwise reinstate the damaged improvement or building in a good and substantial manner according to the plan and elevation of the improvement or building so destroyed or damaged or in accordance with any modified plan approved in writing by the Permitter prior to commencement of repair or reconstruction. Permitter's approval shall be obtained from the appropriate DED Leasing Department Manager. Repair or reconstruction shall commence as soon as possible and, in any event, within one (1) year after the damage occurs and shall be pursued diligently. Insurance proceeds shall be deposited in an escrow account with an institution approved by Permitter. Permittee shall also deposit in said escrow account all additional funds required to reconstruct the damaged improvement. Escrow instructions shall include provisions that all funds so deposited shall be used to reconstruct the damaged improvements and that funds shall be disbursed during the progress of reconstruction on proper architect's, engineer's, or contractor's certificates. All money in escrow after reconstruction has been completed shall be paid to Permittee.

F. In the event of damage to the extent of seventy-five percent (75%) or more of the total value of all improvements on the permit premises during the last five (5) years of the term of this Permit, Permittee shall have the option to reconstruct said improvements. Permittee shall provide Permitter with a written notice of the exercise of Permittee's reconstruction option within thirty (30) days of the event of damage giving rise to Permittee's reconstruction option. Should Permittee exercise its option to reconstruct, Permittee shall commence reconstruction of the damaged improvements within ninety (90) days of Permittee's exercise of its reconstruction option and shall diligently pursue the reconstruction to completion. Should Permittee not exercise its option to reconstruct, this Permit shall terminate one hundred and twenty (120) days after the event of damage giving rise to Permittee's reconstruction option. The permit premises shall be cleared of debris at Permittee's expense prior to termination of the Permit. Permittee shall not be charged rent during the period of debris removal unless Permittee occupies the permit premises beyond the Permit termination date, after which the Permittee will be charged hold over rental as provided herein. In the event Permittee does not reconstruct, all insurance proceeds shall be paid to Permitter.

Tracking No._____
Permit Fee ~~$100.00~~150.00

(insert if applicable)

EXHIBIT C

JUSTIFICATION TO WAIVE SECURITY

0-3-12

Tracking No. _____

Permit Fee: $~~100~~150.00

CONDITIONAL USE PERMIT

~~BY AND BETWEEN~~

THE NAVAJO NATION AND [PERMITTEE NAME] _____

This Conditional Use Permit ("Permit") is entered into by and between the Navajo Nation, hereinafter called the Permitter, whose address is Division of Economic Development, P.O. Box 663, Window Rock, Navajo Nation (AZ) 86515, and _____, hereinafter called Permittee, whose address is _____, under the provision of the Navajo Nation Business Site Leasing Regulations of 2005, hereinafter referred to as the "Navajo Regulations." This Permit shall be effective on the date it is signed by the DED [Leasing Department or Program] Manager ("Effective Date"). ~~This Conditional Use Permit ("Permit") is entered into between _____ and the Navajo Nation ("Nation")~~

WHEREAS _____ is a current Holder of a business site lease in _____, Navajo Nation, [***New Mexico, Arizona, Utah***]; and

WHEREAS _____ is in [***e.g. need of additional space for the purpose of expansion of the business***] for purposes set forth in the business site lease between the Navajo Nation and _____; and

WHEREAS a _____ acre lot, more particularly described at Exhibit A ("Permit Site"), is located immediately _____ and is vacant and unused; and

WHEREAS this vacant lot is in need of security and maintenance for the develop of the land for business purposes and to prevent vandalism; and

WHEREAS ~~this _____ acre lot~~the Permit Site is currently designated as for [***residential, grazing, etc.***] purposes under the _____ Chapter and has not been withdrawn for business purposes; and

WHEREAS the _____ Chapter pursuant to Resolution No. _____ _____ supports this Permit as in the best interest of the Nation to allow _____ _____ to [***e.g. expand its business***] onto this lot to increase the number of jobs for the _____ _____ residents and for other surrounding communities; and

WHEREAS the ~~Division of Economic Development ("DED")~~ Permittee is ~~currently withdrawing the land~~diligently pursuing a land designation withdrawal for business purposes and in negotiations with Division of Economic Development ("DED") _____ to enter into a business site lease for this lot, but requires a temporary permit in place until the business site lease is completed, approved, and executed by the Navajo Nation's President.

NOW, THEREFORE, the parties under this Permit agree to the following:

1. ~~_____~~ Permittee agrees:

   a. to use the ~~_____ acre lot~~Permit Site only for the purposes of _____ _____; and

b. **[to maintain ~~liability, fire and casualty~~appropriate Insurance at all times while occupying the ~~_____~~acre lotPermit Site, ~~up to an aggregate amount of $1,000,000 with limits of $300,000 per occurrence. This Insurance must include the Nation and the United States as additional insured parties. A copy of the certificates must be provided to the DED prior to entering on the site~~ as set forth in Exhibit B (Insurance);]** *OR* **[Permittee shall agree to fully indemnify the Navajo Nation and the United States and agree to the terms and conditions of the Indemnification Form, attached hereto as Exhibit B (Indemnification)];** it is further understood and agreed that the Permittee shall hold the Permitter harmless from any and all claims or liabilities arising out of the use, occupancy, or possession of said property and premises by the Permittee, including, without limitation, injury sustained by the Permittee or any other person, and damage to property on or about the premises during the term of this Permit; and

c. to provide security and routine maintenance on the ~~_____~~ ~~acre lot~~Permit Site, and ~~will~~ to be responsible for any and all costs associated with occupation of this lot, including but not limited to utilities.

2. RENTAL. The Permittee shall pay to the Permitter $_____ per **[day, week, month, or year (be specific in accordance with Navajo Nation Business Site Lease Administrative Plan 14.1(B))]** for the use of the premises described above for the term of the permit, unless otherwise agreed in writing. Payments shall be made to the Controller of the Navajo Nation. Rental shall be paid to the Controller without prior notice or demand.

~~2. The Nation agrees:~~

~~a. [*that no rent will be charged to for use of the _____ acre lot, under this Permit, only; nor assumes rent will not be charged once a business site lease for this lot is obtained*]~~ ~~or~~

~~a. [*Rent will be charged (BE SPECIFIC, IN ACCORDANCE WITH THE NAVAJO NATION BUSINESS SITE LEASE MANAGEMENT PLAN) rental per (day, month, year, etc.):*]~~

3. The Term of this Permit shall be for _____ [***days, months, or years***] from the date this Permit is signed by the Navajo Nation, ~~however, this term may be extended f~~with one option to renew for ____ or another _____ [***days, months, or year***], only if _____Permittee is not in default, and is diligently ~~acquiring~~ pursuing a business site lease. Notice of intent to exercise the option to renew must be given at least ten (10) working days prior to the expiration of the primary term.

4. If the term of this Permit is more than six (6) months, Permittee shall provide a cash deposit as performance security to the Division of Economic Development Real Estate Department. At the termination of the Permit, and upon completion of all compliance reviews and inspections to be performed on the premises, the Permitter shall return any cash security deposited to the Permittee which was not spent to address non-compliance. The security deposit for this Permit shall be **[equal to three (3) months rental, which is $_____** *OR* **waived pursuant to the written justification approved by the Leasing Department, attached as Exhibit C** *OR* **zero ($0) because the term is six (6) months or less].**

5. This Permit conveys no possessory interest and may be revoked at will upon written notice by Permitter. If Permitter revokes or terminates the Permit before a pre-paid rental term has ended, the Permitter will refund a pro rata share of the rental for the period of time after the Permit is terminated.

6. A Lessee in good standing under this Permit may terminate this Permit at will by giving written notice to Permitter of the termination date by certified mail. If Permittee terminates the Permit before a pre-paid rental term has ended, Permittee will forfeit the advance payment of rent~~may be terminated for any breach of the terms and conditions set forth in this Permit or in the current business site lease by giving a 30 day notice to vacate, from the DED~~.

~~4.~~ If Permittee enters a business site lease for the Permit premises, this Permit shall automatically terminate and be superseded by the lease

7.

~~It is explicitly understood, that the _____ is the primary candidate for a business site lease on this _____ acre lot, however should negotiations fail or lease is not approved the Nation may seek another tenant for the site.~~

~~5.~~8. The Permit shall terminate automatically when the Permit expires. Upon termination by expiration or under Paragraph 5 or 6 above, the Permittee shall have no rights including holdover on any portion of the premises unless Permitter gives express written consent.

9. It is explicitly understood that the Permittee is the primary candidate for a business site lease on the Permit Site, however should negotiations fail or if the lease is not approved, the Nation may seek another tenant for the site.

~~6.~~10. This Permit constitutes a complete, final, and fully integrated document, and supersedes any previous agreements, whether written or oral, on this subject matter.

~~7.~~11. The parties agree that this Permit may be specifically enforced by the Navajo Nation through recourse to the Courts of the Navajo Nation, whose laws shall govern the course of dealing between the parties. Any disputes under this Agreement which cannot be informally resolved between the parties may be settled by way of lawsuit filed by the Navajo Nation in the [***Alamo/Tó'hajilee, Chinle, Crownpoint, Dilkon, Kayenta, Aneth, Ramah, Shiprock, Tuba City*** **or** ***Window Rock***] District Court of the Navajo Nation and may, at the discretion of the District Court, be settled by means of referral to the Peacemaker Court. The parties to such a dispute are to bear their own attorney's fees and costs.

~~8.~~12. Should any term of this Permit be found to be invalid under Navajo Nation law by a Court of the Navajo Nation, the remainder of the ~~Agreement~~ Permit will remain in full force and effect, and shall be construed as an entire document without the offending clause.

13. Nothing in this Permit shall ~~constitute~~ be interpreted as constituting a waiver, express or implied, of the ~~sovereignty and/or the~~ sovereign immunity of the Navajo Nation.

14. Nothing in this Permit shall be construed to relieve Permittee of any obligations pursuant to any Federal or Navajo Nation law for the protection of the environment or the public health, safety, or general welfare which is currently enacted or which may be enacted at a later date.

15. COUNTERPART AND ELECTRONIC SIGNATURES VALID. This Permit may be executed in counterparts. Electronic signatures shall be legal and binding and of full force in effect.

16. All notices, demands, requests, changes in information or other communications to or upon either party provided for in this Permit, or given or made in connection with this Permit, shall be in writing and shall be addressed as follows:

To or upon Permitter:

Leasing Department Manager
Division of Economic Development
[insert appropriate Department or RBDO]
[insert appropriate address]

Real Estate Department Manager
Division of Economic Development
P.O. Box 664
Window Rock, Navajo Nation (Arizona) 86515
nnred@navajo-nsn.gov

for legal notices, demands, and requests:
Attorney General, Navajo Department of Justice
Attn: Economic/Community Development Unit
P.O. Box 2010
Window Rock, Navajo Nation (Arizona) 86515
NNDOJ.General@navajo-nsn.gov

To or upon Permittee:
[Insert Title, Address, and Email Address]

Either party may change the address at which it receives written notices by so notifying the other party hereto in writing.

~~9.~~ *[signatures on the following page]*

IN WITNESS WHEREOF, the parties hereto have executed this Permit to be effective on the date signed by the Pemitter.
~~IN WITNESS THEREOF,~~

[NAME], PERMITTEE

[*name*], [*title*] Date

THE NAVAJO NATION, PERMITTER

[*name*], [*Leasing Department or RBDO*] Manager

Date:

EXHIBIT A

Description of Permit Premises

~~PERMITEE:~~

_____ ~~DATE:~~ _____

[*name*], [*title*]
[*name of business*]

~~DIVISION OF ECONOMIC DEVELOPMENT:~~

_____ _____

[*name*], Division Director ~~DATE:~~

[insert GPS center point coordinates OR legal description and survey if available]

EXHIBIT B

Insurance Requirements

[OR replace with Indemnification Form, if applicable]

General Requirements

1. Permittee shall, at its expense, maintain insurance as set forth in this Exhibit.
2. Insurance shall be provided by insurance companies duly authorized and licensed, having a Best's Rating of A-VIII or better.
3. The insurance shall expressly identify the Navajo Nation and the United States as additional insured parties.
4. Permittee shall provide Navajo Nation Division of Economic Development, Real Estate Department with a Certificate of Insurance *[*upon execution of the Permit ***OR*** a different date if authorized and negotiated*]*.
5. Permitter in no way warrants that the minimum requirements are sufficient to protect Permittee from liabilities that might arise from this Permit by Permittee, its agents, representatives, employees, or contractors. Permittee is free to purchase additional insurance as may be determined necessary.
6. Permittee is responsible for paying any deductibles or self-insurance retentions, and such deductibles and self-insurance retentions shall be disclosed on the Certificates of Insurance. Permittees must include all subcontractors (if any) as additional insureds under its policies or ensure each subcontractor meets the same minimum limits and coverages as required of Permittee

Particular Requirements

LIABILITY INSURANCE

Unless (i) Permittee is a Navajo Nation Enterprise covered by Navajo Nation Risk Management Program, or (ii) otherwise agreed to in writing by Navajo Nation Risk Management Program, Permittee will provide and maintain, from the date the Permit is approved and continuing until the Permit is terminated or expired, the minimum insurance coverages listed below. Coverage will be provided with forms and insurers acceptable to the Permitter until all obligations under this Permit are satisfied. All insurers must be a Nationally Accredited Insurance Company with an AM Best rating of "A-VIII" or higher, or the equivalent, and authorized to do business in the State where the permit premises are located. All policies required under this Permit, except for the Worker's Compensation policy and any Professional Liability policy, shall (i) name the Permitter and the United States as additional named insureds, and (ii) provide that the Permittee's policy shall be primary, with Permitter's policies being non-contributory, in the event of a loss. These coverages are as follows:

A. Workers' compensation insurance to cover obligations imposed by federal and state statutes of the entity having jurisdiction over the Permittee's employees working on the permit premises, and Employers' Liability insurance with minimum limits of $1,000,000 per accident, Bodily Injury by Accident; $1,000,000 each employee, Bodily Injury by Disease; and $1,000,000 policy limit, Bodily Injury by Disease. In case of any contracted work on the permit premises, the Permittee will require the Contractor, and all subcontractors, to provide the same as above. Permittee's policy shall include a waiver of subrogation in favor of Permitter.

B. Commercial General Liability Insurance to cover:

(1) bodily injury, death, personal injury, and damage to property based upon or arising out of the ownership, use, occupancy or maintenance of the premises and all areas appurtenant thereto. Permittee's policy shall include a waiver of subrogation in favor of Permitter. The policy shall also contain a separation of insureds provision.

(2) Permittee shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a following form basis and it contains the required additional insured and waiver of subrogation wording.

- $1,000,000 each occurrence Bodily Injury and Property Damage,
- $1,000,000 each occurrence Personal and Advertising Injury,
- $1,000,000 each occurrence Products/Completed Operations,
- $2,000,000 Products/Completed Operations Aggregate, and
- $2,000,000 General Aggregate.

(3) If the Permittee will be manufacturing, distributing, selling, serving or furnishing alcoholic beverages, for the duration of this Permit, Permittee shall maintain the following minimum liquor liability insurance coverages and limits:

- $1,000,000 each occurrence, and
- $1,000,000 annual aggregate.

(4) Whether the permit premises is developed or undeveloped, the Permittee must obtain the appropriate insurance, which shall, include the Permitter and the United States as additional insureds. In the case of any contracted work on the permit premises, the Permittee shall require the contractor and all subcontractors to provide the same coverage as above.

C. Commercial Automobile liability insurance to cover bodily injury and property damage for each occurrence with respect to Permittee's owned, hired, and non-owned vehicles assigned to or used in Permittee's business, with a minimum limit of $1,000,000 combined single limit per accident. Permittee's coverage shall include coverage for bodily injury or property damage arising out of the actual, alleged, or threatened discharge, dispersal, seepage, migration, release, or escape of pollutants arising out of the collision, upset, or overturn of an auto as a result of the maintenance or use of a covered auto. Permittee's policy shall provide a waiver of subrogation in favor of Permitter.

In the case of any contracted work on the permit premises, the Permittee shall require the contractor and all subcontractors to provide the same coverage as above.

An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements, provided that the coverage is written on a following form basis and it contains the required waiver of subrogation wording.

D. If the Permittee is engaged in a profession, the Permittee shall carry Professional Liability insurance with a minimum limit of $1,000,000 per claim and in the aggregate. The retro date on the policy shall be no later than the start date of the Permit. The retro date shall be disclosed on the certificate of insurance. The policy must be kept in force during the life of the contract and for 2 years (either as a policy force or extended reporting period) after contract termination.

E. Pollution Liability (including Errors and Omissions) coverage and limits for losses caused by pollution conditions that arise from the operations and completed operations of Permittee:

- $2,000,000 each occurrence, and
- $2,000,000 general aggregate.

Permittee's policy shall be written on an "occurrence" basis with no sunset clause or if written on a "claims-made" basis, it shall be maintained for a period of not less than 2 years with the retroactive date to be held constant with the effective date of this Permit. The Certificate of Insurance must provide clear evidence that Permittee's insurance policies contain the minimum limits of coverage and the special provisions prescribed in this clause. Permittee's policy shall provide a waiver of subrogation in favor of Permitter.

Permittee's policy shall include the following coverages:

a. Bodily injury, sickness, disease, mental anguish, or shock sustained by any person, including death and medical monitoring costs.
b. Property damage including physical injury to or destruction of tangible property, including the resulting loss of use thereof, cleanup costs, and the loss of use of tangible property that has not been physically injured or destroyed including diminution in value.
c. Environmental damage, including physical damage to soil, surface water, or groundwater, or plant or animal life, caused by pollution conditions and giving rise to clean-up costs.
d. Defense including costs, charges and expenses incurred in the investigation, adjustment, or defense of claims for such compensation damages.
e. Asbestos or lead – no exclusion.
f. Mold coverage.
g. Transportation cargo.
h. Non-Owned Disposal Site coverage.

Should Permittee's operations involve treatment, storage, or disposal of hazardous wastes, Permittee shall furnish an insurance certificate from the designated disposal facility establishing that the facility operator maintains current Pollution Legal Liability Insurance in the amount of $1,000,000 per occurrence / $2,000,000 general aggregate and will cover sudden and gradual pollution losses arising from the facility, associated with the operations of the Permittee

F. Unless a later date is provided in writing by the Navajo Nation Risk Management Program, an acceptable certificate of insurance shall be issued to the Navajo Nation by the Permittee on the date the Permit is approved as evidence that the required coverages are in full force and effect. The certificate shall identify this Permit and indicate the policies will not be canceled unless at least thirty (30) days prior written notice is given to the Permitter. Certificates of insurance shall be addressed as follows: Navajo Nation Division of Economic Development, Real Estate Department, P.O. Box 663, Window Rock, Arizona 86515.

G. Failure on the part of the Permittee to procure or maintain required insurance shall constitute a material breach of contract upon which the Permitter may immediately terminate this Permit.

H. Permitter reserves the right to request and receive certified copies of any or all of the above policies and/or endorsements.

I. Permittee and its insurers providing the required coverages shall waive all rights of recovery against the Navajo Nation and its agents, officials and employees, and the United States.

J. The insurance limits required under this Permit shall not limit the liability of the Permittee, nor relieve the Permittee of any obligation under this Permit.

K. The Permittee shall not do or commit to be done anything in or upon any portions of the permit premises or bring or keep anything there which would in any way conflict with the conditions of any insurance policy upon the permit premises or in any way increase the rate of insurance upon the permit premises or on property kept there.

L. Permitter will not be responsible for any omissions or inadequacies of insurance coverage and amounts in the event the insurance purchased by Permittee proves to be inadequate or otherwise insufficient for any reason whatsoever.

PROPERTY INSURANCE.

A. Unless (i) Permittee is a Navajo Nation Enterprise covered by Navajo Nation Risk Management Program, or (ii) otherwise agreed to in writing by Navajo Nation Risk Management Program, Permittee shall carry "all risks" of loss OR risks of direct physical loss or damage OR causes of loss – special form, including the perils of Equipment Breakdown/Boiler & Machinery, Flood and Earth movement, covering not less than full replacement cost value of all improvements on the permit premises. Said policy shall be obtained from a Nationally Accredited Insurance Company, with an AM Best rating of "A-VIII" or higher or equivalent, licensed to do business in the State in which the permit premises are located and shall be written jointly to protect Permittee, Permitter, and the United States, and shall provide for notification to the Permitter prior to any cancellation or non-renewal of the policy for any reason, including nonpayment of premiums.

A copy of the policy shall be sent to Permitter at the following address: Navajo Nation Division of Economic Development, Real Estate Department, P.O. Box 664, Window Rock, AZ, 86515.

B. Permittee shall maintain business income insurance with limits not less than an amount equal to one year's annual rent.

C. If there is a coinsurance provision, it shall be waived by an Agreed Amount endorsement. Permittee's policy shall name Permitter as Loss Payee as their interest may appear. Permittee's policy shall provide a waiver of subrogation in favor of Permitter. The covered property shall be identified on the certificate of insurance.

D. Permittee, at its cost, shall maintain insurance coverage for full replacement cost on all of Permittee's personal property, Permittee's alterations, Permittee's utility installations, and Permittee's trade fixtures in or about the permit premises. The proceeds from any such insurance shall be used by Permittee for the replacement of Permittee's personal property, alterations, utility installations, or trade fixtures only if Permitter repairs or rebuilds the permit premises.

E. In the event of damage to any improvement on the permit premises, Permittee shall rebuild, repair or otherwise reinstate the damaged improvement or building in a good and substantial manner according to the plan and elevation of the improvement or building so destroyed or damaged or in accordance with any modified plan approved in writing by the Permitter prior to commencement of repair or reconstruction. Permitter's approval shall be obtained from the appropriate DED Leasing Department Manager. Repair or reconstruction shall commence as soon as possible and, in any event, within one (1) year after the damage occurs and shall be pursued diligently. Insurance proceeds shall be deposited in an escrow account with an institution approved by Permitter. Permittee shall also deposit in said escrow

account all additional funds required to reconstruct the damaged improvement. Escrow instructions shall include provisions that all funds so deposited shall be used to reconstruct the damaged improvements and that funds shall be disbursed during the progress of reconstruction on proper architect's, engineer's, or contractor's certificates. All money in escrow after reconstruction has been completed shall be paid to Permittee.

F. In the event of damage to the extent of seventy-five percent (75%) or more of the total value of all improvements on the permit premises during the last five (5) years of the term of this Permit, Permittee shall have the option to reconstruct said improvements. Permittee shall provide Permitter with a written notice of the exercise of Permittee's reconstruction option within thirty (30) days of the event of damage giving rise to Permittee's reconstruction option. Should Permittee exercise its option to reconstruct, Permittee shall commence reconstruction of the damaged improvements within ninety (90) days of Permittee's exercise of its reconstruction option and shall diligently pursue the reconstruction to completion. Should Permittee not exercise its option to reconstruct, this Permit shall terminate one hundred and twenty (120) days after the event of damage giving rise to Permittee's reconstruction option. The permit premises shall be cleared of debris at Permittee's expense prior to termination of the Permit. Permittee shall not be charged rent during the period of debris removal unless Permittee occupies the permit premises beyond the Permit termination date, after which the Permittee will be charged hold over rental as provided herein. In the event Permittee does not reconstruct, all insurance proceeds shall be paid to Permitter.

EXHIBIT C

JUSTIFICATION TO WAIVE SECURITY
(insert if applicable)

0.3.2

Tracking No. _____

Agreement Fee: ~~$75~~150.00

EMERGENCY OPERATING AGREEMENT
NAVAJO NATION DIVISION OF ECONOMIC DEVELOPMENT AND [OPERATOR NAME]

This EMERGENCY OPERATING AGREEMENT ("Agreement") is made and ~~this _____ day of _____, 20____,~~ entered into by and between the NAVAJO NATION DIVISION OF ECONOMIC DEVELOPMENT, hereinafter referred to as "DED," ~~,~~ whose address is P.O. Box 663, Window Rock, Navajo Nation (AZ) 86515, and, _____, hereinafter referred to as "Operator," whose address is _____, under the provisions of the Navajo Nation Business Site Leasing Regulations of 2005, hereinafter referred to as the "Navajo Regulations." ~~,~~ This Permit shall be effective on the date it is signed by the DED [Leasing Department or Program] Manager ("Effective Date").

Recitals

WHEREAS _____ **[Business Site is not currently being used and existing structures are subject to vandalism *or* Operator's Lease or Permit for the Business Site has expired, the process to obtain a new lease is delayed for reasons beyond the control of Lessee, and Lessee is diligently pursuing a new Lease]**;

WHEREAS _____ Business Site is within the jurisdiction of the Navajo Nation;

WHEREAS _____ Business Site includes approximately _____ acres, more particularly described and shown at Exhibit A;

WHEREAS the property is available as a business site lease, and it needs to be occupied for security and maintenance of the business so that the Navajo Nation continues to benefit from the business opportunities.

WHEREAS Navajo Nation desires to engage the services of the Operator to manage and operate this site, on a temporary and emergency basis, until a Business Site Lease can be issued, which may be incumbent upon the operator being able to exercise the development efforts and/~~-~~or related interest of the Navajo Nation. Operator desires to provide such services on the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. EMPLOYMENT OF OPERATOR: Operator shall act as the exclusive operator to manage, operate, and maintain Business Site until a ~~formal~~ business site lease from the Navajo Nation for the premises is ~~executed and~~ approved and executed.

2. TERM ~~AND RENTAL~~: The use of this Agreement will be limited to a term of _____ [***days, months, or years***] following the date this Agreement is signed by DED; however, it may be renewed for an additional term of one (1) year. Operator must give the DED ~~Division Director~~ notice at least ~~five~~ ten (~~5~~10) days before expiration of the Agreement ~~[~~, so long as the Operator is diligently working on obtaining a business site lease~~]~~.

3. RENTAL: Rental shall be **[be specific, in accordance with the Navajo Nation Business Site Lease Administrative Plan *OR* based on the rental rate of the Operator's expired or terminated Lease, Permit, or EOA, which is $ _____ per year, payable monthly in**

advance to the Controller of the Navajo Nation]. Rent ~~shall be waived, but~~ shall not be construed to be the annual rental for a future Business Site Lease or Permit.

~~3.~~4. MAINTENANCE, REPAIRS, AND OPERATIONS: Operator shall not be responsible for, and shall have no liability for any past due or unpaid Lease payments accrued by ~~the~~ a former third party operator prior to the execution of this Agreement. Operator shall be responsible for all maintenance, repair and operations on the building and premises and shall maintain in a pleasant appearance as determined by the Nation.

~~4.~~5. EMPLOYEES AND CONTRACTING: In connection with all employment and contracting opportunities arising out of Operator's activities under this Agreement, Operator shall give preference in employment and contracting to qualified Navajo individuals and certified contractors in compliance with the Navajo Preference in Employment Act, 15 N.N.C. §§ 601 et seq. ("NPEA"), and the Navajo Business Opportunity Act, 5 N.N.C. §§ 201 et seq. ("NBOA"). The terms and provisions of the NPEA and NBOA are specifically incorporated in, and become a part of this Agreement. Violation of such laws by the Operator shall constitute a breach of this Agreement and provide grounds for suspension or termination of the Agreement or any other remedy prescribed by the NPEA and NBOA~~Operator shall employ, discharge, and supervise all on-site employees or contractors required for the efficient operation and maintenance of _____ Business Site. All on-site personnel, except independent contractors and employees of independent contractors, shall be the employees of the Operator. Operator shall comply with all applicable Navajo Nation preference in employment laws in hiring, supervising, and discharging the on-site personnel at Business Site~~.

~~5.~~ INSURANCE: ~~.~~ **[Upon approval of the Agreement, Operator shall obtain insurance with coverage acceptable to the Navajo Nation and maintain such insurance until the Agreement expires. Standard insurance requirements are attached as Exhibit B (Insurance) . All policies required under this Agreement shall name the Navajo Nation and United States as additional named insureds. Certificates of Insurance shall be sent to the Division of Economic Development.]** *OR* **[Operator shall agree to fully indemnify the Navajo Nation and the United States and agree to the terms and conditions of the Indemnification Form, attached hereto as Exhibit B (Indemnification].** It is further understood and agreed that the Operator shall hold the Navajo Nation harmless from any and all claims or liabilities arising out of the use, occupancy, or possession of said property and premises by the Operator, including, without limitation, injury sustained by the Operator or any other person, and damage to property on or about the premises during the term of this Agreement.~~Operator may obtain the following insurance, and such insurance shall be maintained in force during the full term of this Agreement:~~

~~6.~~

~~7. Comprehensive general liability insurance for bodily injury, death and property damage which must include the Navajo Nation and the United States as additional named insureds.~~

~~8.~~

~~9.~~6. ~~Workers compensation and employer liability insurance to cover the Operator, the employees of the Operator~~.

7. ~~TERMINATION~~REVOCABLE AT WILL: This Permit conveys no possessory interest and may be revoked at will upon written notice by Permitter. If Permitter revokes or terminates the Permit before a pre-paid rental term has ended, the Permitter will refund a pro rata share of the rental for the period of time after the Permit is terminated.

~~10.~~8. A Permittee in good standing may terminate this Permit at will by giving written notice to Permitter of the termination date by certified mail. If Permittee terminates the Permit before a pre-paid rental term has ended, Permittee will forfeit the advance payment of rent. ~~This Agreement may be terminated by either party by giving not less than thirty (30) day notice in writing to the other party.~~

9. If Permittee enters a business site lease for the Permit premises, this Permit shall automatically terminate and be superseded by the lease.

10. The Permit shall terminate automatically when the Permit expires. Upon termination by expiration or under Paragraph 5 or 6 above, the Permittee shall have no rights including holdover on any portion of the premises unless Permitter gives express written consent

11. CONDEMNATION: This Agreement shall terminate in the event of a total condemnation of Business Site. If a partial condemnation of the property reduces the compensation of Operator by more than ten per cent (10%), Operator may terminate this Agreement.

~~12. NO PROPERTY INTEREST CREATED: Nothing contained in this Agreement shall be deemed to create or shall be construed as creating in Operator any property interest in the land.~~

~~13.~~12. LICENSING OF OPERATOR: Operator shall at all times during the term of this Agreement maintain such licenses and permits as are required for any of the various services to be performed by Operator.

~~14.~~13. OPERATOR AS INDEPENDENT CONTRACTOR: Operator is an independent contractor and not an employee of the Navajo Nation for any purpose.

~~15.~~14. COVENANTS AND CONDITIONS: All of the terms and conditions of this Agreement are expressly intended to be construed as covenants as well as conditions.

~~16.~~15. NOTICE: All notices, requests, demands, or other communications hereunder shall be in writing, and shall be deemed to have been duly given if delivered in person, or within ~~five~~ three (~~5~~3) days after deposited in the United States mail, postage prepaid, certified, with return receipt requested, or otherwise actually delivered to:

DED / NAVAJO NATION:

Leasing Department Manager
Division of Economic Development
[insert appropriate Department or RBDO]
[insert address]

Real Estate Department Manager
Division of Economic Development
P.O. Box 664
Window Rock, Navajo Nation (Arizona) 86515
nnred@navajo-nsn.gov

for legal notices, demands, and requests:
Attorney General, Navajo Department of Justice
Attn: Economic/Community Development Unit
P.O. Box 2010
Window Rock, Navajo Nation (Arizona) 86515
NNDOJ.General@navajo-nsn.gov

Operator: _____
[Insert Title, Address, and Email Address]~~Navajo Nation, Division of Economic Development at P. O. Box 663, Window Rock, Arizona 86515 or to Operator at _____~~.

Either party ~~hereto~~ may change the address at which it receives written notices by so notifying the other party hereto in writing.

~~17.~~16. PARTIES BOUND; ASSIGNMENT: This Agreement shall be binding on and inure to the benefit of the successors and assigns to the parties hereto, and their respective successors and assigns; provided, however, that this Agreement may not be assigned by Operator without prior written consent of the Navajo Nation.

Anything in the foregoing to the contrary notwithstanding, Operator may, without the consent of the Navajo Nation, delegate the performance of (but not responsibility for) any duties and obligations of Operator to any independent contractor or entity.

~~18.~~17. CONSENT TO JURISDICTION: Except as may be prohibited by applicable federal law, the laws of the Navajo Nation shall govern the construction, performance, and enforcement of this Agreement. Any action or proceeding brought by Operator against the Navajo Nation in connection with or arising out of the terms and conditions of this Agreement shall be brought only in the Courts of the Navajo Nation, and no action or proceeding shall be brought by Operator against the Navajo Nation in any court or administrative body of any state. Operator ~~hereby~~ consents to the legislative, executive and judicial jurisdiction of the Navajo Nation in connection with all activities conducted by the Operator within the Navajo Nation. Operator ~~shall also~~ agrees to be governed by the Navajo Nation Business Leasing Regulations of 2005 and the Navajo Nation Business Site Lease Management Plan, as amended.

~~19.~~18. SOVEREIGN IMMUNITY: Nothing herein shall be interpreted as constituting~~construed to~~ a waiver, express or implied, of the sovereign immunity of the Navajo Nation~~, explicitly or implicitly~~.

~~20.~~19. EFFECT OF PARTIAL INVALIDITY: Should any section or any part of any section of this Agreement be rendered void, invalid or unenforceable for any reason by the appropriate Navajo Nation Court, such a determination shall not render void, invalid or unenforceable any other section or any part of any section in this Agreement.

20. INTEGRATION: The drafting, execution and delivery of this Agreement by the parties have been induced~~s~~ by no representations, statements, warranties or agreements other than those expressed in this Agreement. This Agreement embodies the entire understanding of the parties, and there are no further or other agreements or understandings, written or oral, in effect

between the parties relating to the subject matter hereof unless expressly referred to in this Agreement.

21. COUNTERPART AND ELECTRONIC SIGNATURES VALID. This Permit may be executed in counterparts. Electronic signatures shall be legal and binding and of full force in effect

22. MODIFICATION: This Agreement may not be modified unless such modification is in writing and signed by both parties in this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement ~~on the day and year first above written~~to be effective on the date signed by the DED.

OPERATOR:

_____ DATE: _____

[*name*], [*title*]
[*name of business*]

DIVISION OF ECONOMIC DEVELOPMENT:

_____ DATE: _____

[*name*], Department Manager

_____ _____

[*name*], Division Director DATE:

EXHIBIT A

Description of Agreement Premises

[insert GPS center point coordinates OR legal description and survey if available]

EXHIBIT B

Insurance Requirements

[OR replace with Indemnification Form, if applicable]

General Requirements

1. Operator shall, at its expense, maintain insurance as set forth in this Exhibit.
2. Insurance shall be provided by insurance companies duly authorized and licensed, having a Best's Rating of A-VIII or better.
3. The insurance shall expressly identify the Navajo Nation and the United States as additional insured parties.
4. Operator shall provide Navajo Nation Division of Economic Development, Real Estate Department with a Certificate of Insurance *[*upon execution of the Agreement ***OR*** a different date if authorized and negotiated*]*.
5. DED in no way warrants that the minimum requirements are sufficient to protect Operator from liabilities that might arise from this Agreement by Operator, its agents, representatives, employees, or contractors. Operator is free to purchase additional insurance as may be determined necessary.
6. Operator is responsible for paying any deductibles or self-insurance retentions, and such deductibles and self-insurance retentions shall be disclosed on the Certificates of Insurance. Operators must include all subcontractors (if any) as additional insureds under its policies or ensure each subcontractor meets the same minimum limits and coverages as required of Operator

Particular Requirements

LIABILITY INSURANCE

Unless (i) Operator is a Navajo Nation Enterprise covered by Navajo Nation Risk Management Program, or (ii) otherwise agreed to in writing by Navajo Nation Risk Management Program, Operator will provide and maintain, from the date the Agreement is approved and continuing until the Agreement is terminated or expired, the minimum insurance coverages listed below. Coverage will be provided with forms and insurers acceptable to the DED until all obligations under this Agreement are satisfied. All insurers must be a Nationally Accredited Insurance Company with an AM Best rating of "A-VIII" or higher, or the equivalent, and authorized to do business in the State where the Agreement premises are located. All policies required under this Agreement, except for the Worker's Compensation policy and any Professional Liability policy, shall (i) name the DED and the United States as additional named insureds, and (ii) provide that the Operator's policy shall be primary, with DED's policies being non-contributory, in the event of a loss. These coverages are as follows:

A. Workers' compensation insurance to cover obligations imposed by federal and state statutes of the entity having jurisdiction over the Operator's employees working on the Agreement premises, and Employers' Liability insurance with minimum limits of $1,000,000 per accident, Bodily Injury by Accident; $1,000,000 each employee, Bodily Injury by Disease; and $1,000,000 policy limit, Bodily Injury by Disease. In case of any contracted work on the Agreement premises, the Operator will require the Contractor, and all subcontractors, to provide the same as above. Operator's policy shall include a waiver of subrogation in favor of DED.

B. Commercial General Liability Insurance to cover:

(1) bodily injury, death, personal injury, and damage to property based upon or arising out of the ownership, use, occupancy or maintenance of the premises and all areas appurtenant thereto. Operator's policy shall include a waiver of subrogation in favor of DED. The policy shall also contain a separation of insureds provision.

(2) Operator shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a following form basis and it contains the required additional insured and waiver of subrogation wording.

- $1,000,000 each occurrence Bodily Injury and Property Damage,
- $1,000,000 each occurrence Personal and Advertising Injury,
- $1,000,000 each occurrence Products/Completed Operations,
- $2,000,000 Products/Completed Operations Aggregate, and
- $2,000,000 General Aggregate.

(3) If the Operator will be manufacturing, distributing, selling, serving or furnishing alcoholic beverages, for the duration of this Agreement, Operator shall maintain the following minimum liquor liability insurance coverages and limits:

- $1,000,000 each occurrence, and
- $1,000,000 annual aggregate.

(4) Whether the Agreement premises is developed or undeveloped, the Operator must obtain the appropriate insurance, which shall, include the DED and the United States as additional insureds. In the case of any contracted work on the Agreement premises, the Operator shall require the contractor and all subcontractors to provide the same coverage as above.

C. Commercial Automobile liability insurance to cover bodily injury and property damage for each occurrence with respect to Operator's owned, hired, and non-owned vehicles assigned to or used in Operator's business, with a minimum limit of $1,000,000 combined single limit per accident. Operator's coverage shall include coverage for bodily injury or property damage arising out of the actual, alleged, or threatened discharge, dispersal, seepage, migration, release, or escape of pollutants arising out of the collision, upset, or overturn of an auto as a result of the maintenance or use of a covered auto. Operator's policy shall provide a waiver of subrogation in favor of the Navajo Nation.

In the case of any contracted work on the Agreement premises, the Operator shall require the contractor and all subcontractors to provide the same coverage as above.

An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements, provided that the coverage is written on a following form basis and it contains the required waiver of subrogation wording.

D. If the Operator is engaged in a profession, the Operator shall carry Professional Liability insurance with a minimum limit of $1,000,000 per claim and in the aggregate. The retro date on the policy shall be no later than the start date of the Agreement. The retro date shall be disclosed on the certificate of insurance. The policy must be kept in force during the life of the contract and for 2 years (either as a policy force or extended reporting period) after contract termination.

E. Pollution Liability (including Errors and Omissions) coverage and limits for losses caused by pollution conditions that arise from the operations and completed operations of Operator:

- $2,000,000 each occurrence, and
- $2,000,000 general aggregate.

Operator's policy shall be written on an "occurrence" basis with no sunset clause or if written on a "claims-made" basis, it shall be maintained for a period of not less than 2 years with the retroactive date to be held constant with the effective date of this Agreement. The Certificate of Insurance must provide clear evidence that Operator's insurance policies contain the minimum limits of coverage and the special provisions prescribed in this clause. Operator's policy shall provide a waiver of subrogation in favor of the Navajo Nation.

Operator's policy shall include the following coverages:

a. Bodily injury, sickness, disease, mental anguish, or shock sustained by any person, including death and medical monitoring costs.
b. Property damage including physical injury to or destruction of tangible property, including the resulting loss of use thereof, cleanup costs, and the loss of use of tangible property that has not been physically injured or destroyed including diminution in value.
c. Environmental damage, including physical damage to soil, surface water, or groundwater, or plant or animal life, caused by pollution conditions and giving rise to clean-up costs.
d. Defense including costs, charges and expenses incurred in the investigation, adjustment, or defense of claims for such compensation damages.
e. Asbestos or lead – no exclusion.
f. Mold coverage.
g. Transportation cargo.
h. Non-Owned Disposal Site coverage.

Should Operator's operations involve treatment, storage, or disposal of hazardous wastes, Operator shall furnish an insurance certificate from the designated disposal facility establishing that the facility operator maintains current Pollution Legal Liability Insurance in the amount of $1,000,000 per occurrence / $2,000,000 general aggregate and will cover sudden and gradual pollution losses arising from the facility, associated with the operations of the Operator

F. Unless a later date is provided in writing by the Navajo Nation Risk Management Program, an acceptable certificate of insurance shall be issued to the Navajo Nation by the Operator on the date the Agreement is approved as evidence that the required coverages are in full force and effect. The certificate shall identify this Agreement and indicate the policies will not be canceled unless at least thirty (30) days prior written notice is given to the DED. Certificates of insurance shall be addressed as follows: Navajo Nation Division of Economic Development, Real Estate Department, P.O. Box 663, Window Rock, Arizona 86515.

G. Failure on the part of the Operator to procure or maintain required insurance shall constitute a material breach of contract upon which the DED may immediately terminate this Agreement.

H. The Navajo Nation reserves the right to request and receive certified copies of any or all of the above policies and/or endorsements.

I. Operator and its insurers providing the required coverages shall waive all rights of recovery against the Navajo Nation and its agents, officials and employees, and the United States.

J. The insurance limits required under this Agreement shall not limit the liability of the Operator, nor relieve the Operator of any obligation under this Agreement.

K. The Operator shall not do or commit to be done anything in or upon any portions of the Agreement premises or bring or keep anything there which would in any way conflict with the conditions of any insurance policy upon the Agreement premises or in any way increase the rate of insurance upon the Agreement premises or on property kept there.

L. The Navajo Nation will not be responsible for any omissions or inadequacies of insurance coverage and amounts in the event the insurance purchased by Operator proves to be inadequate or otherwise insufficient for any reason whatsoever.

PROPERTY INSURANCE.

A. Unless (i) Operator is a Navajo Nation Enterprise covered by Navajo Nation Risk Management Program, or (ii) otherwise agreed to in writing by Navajo Nation Risk Management Program, Operator shall carry "all risks" of loss OR risks of direct physical loss or damage OR causes of loss – special form, including the perils of Equipment Breakdown/Boiler & Machinery, Flood and Earth movement, covering not less than full replacement cost value of all improvements on the Agreement premises. Said policy shall be obtained from a Nationally Accredited Insurance Company, with an AM Best rating of "A-VIII" or higher or equivalent, licensed to do business in the State in which the Agreement premises are located and shall be written jointly to protect Operator, the Navajo Nation, and the United States, and shall provide for notification to the DED prior to any cancellation or non-renewal of the policy for any reason, including nonpayment of premiums.

A copy of the policy shall be sent to DED at the following address: Navajo Nation Division of Economic Development, Real Estate Department, P.O. Box 664, Window Rock, AZ, 86515.

B. Operator shall maintain business income insurance with limits not less than an amount equal to one year's annual rent.

C. If there is a coinsurance provision, it shall be waived by an Agreed Amount endorsement. Operator's policy shall name the Navajo Nation as Loss Payee as their interest may appear. Operator's policy shall provide a waiver of subrogation in favor of the Navajo Nation. The covered property shall be identified on the certificate of insurance.

D. Operator, at its cost, shall maintain insurance coverage for full replacement cost on all of Operator's personal property, Operator's alterations, Operator's utility installations, and Operator's trade fixtures in or about the Agreement premises. The proceeds from any such insurance shall be used by Operator for the replacement of Operator's personal property, alterations, utility installations, or trade fixtures only if the Navajo Nation repairs or rebuilds the Agreement premises.

E. In the event of damage to any improvement on the Agreement premises, Operator shall rebuild, repair or otherwise reinstate the damaged improvement or building in a good and substantial manner according to the plan and elevation of the improvement or building so destroyed or damaged or in accordance with any modified plan approved in writing by the DED prior to commencement of repair or reconstruction. DED's approval shall be obtained from the appropriate DED Leasing Department Manager.

Repair or reconstruction shall commence as soon as possible and, in any event, within one (1) year after the damage occurs and shall be pursued diligently. Insurance proceeds shall be deposited in an escrow account with an institution approved by DED. Operator shall also deposit in said escrow account all additional funds required to reconstruct the damaged improvement. Escrow instructions shall include provisions that all funds so deposited shall be used to reconstruct the damaged improvements and that funds shall be disbursed during the progress of reconstruction on proper architect's, engineer's, or contractor's certificates. All money in escrow after reconstruction has been completed shall be paid to Operator.

F. In the event of damage to the extent of seventy-five percent (75%) or more of the total value of all improvements on the Agreement premises during the last five (5) years of the term of this Agreement, Operator shall have the option to reconstruct said improvements. Operator shall provide DED with a written notice of the exercise of Operator's reconstruction option within thirty (30) days of the event of damage giving rise to Operator's reconstruction option. Should Operator exercise its option to reconstruct, Operator shall commence reconstruction of the damaged improvements within ninety (90) days of Operator's exercise of its reconstruction option and shall diligently pursue the reconstruction to completion. Should Operator not exercise its option to reconstruct, this Agreement shall terminate one hundred and twenty (120) days after the event of damage giving rise to Operator's reconstruction option. The Agreement premises shall be cleared of debris at Operator's expense prior to termination of the Agreement. Operator shall not be charged rent during the period of debris removal unless Operator occupies the Agreement premises beyond the Agreement termination date, after which the Operator will be charged hold over rental as provided herein. In the event Operator does not reconstruct, all insurance proceeds shall be paid to the Navajo Nation.

0-3-N

**[*EMERGENCY OPERATING AGREEMENT*
CONDITIONAL USE PERMIT
OR *REVOCABLE USE PERMIT*]
INSURANCE PROVISION

I, _____, [***Operator* or *Permittee***], for ~~Business Site Lease~~[**Emergency Operating Agreement or Permit**] No. _____ _____~~:~~ ~~has~~have been advised by [***name***], [***title***], ~~Real Estate Department,~~ Division of Economic Development [**Leasing Department or RBDO**] that pursuant to the Navajo Nation Business Site Lease Administrative Management Plan, Section [~~12~~13.3(~~3~~A)(2) *(FOR REVOCABLE USE PERMITS)* ~~13~~14.3(3B) *(FOR CONDITIONAL USE PERMITS)* **or** ~~14~~15.3(3B) *(FOR EMERGENCY OPERATING AGREEMENTS)*], I will be subject to the following if I do not provide appropriate insurance coverage: I will be self-insured and~~:~~ (1) Subject to liability and ~~L~~lawsuit by an injured party~~,~~ for compensatory, consequential, ~~and~~ incidental, and/or other damages; (2) Subject to loss of personal property: money, car, house, etc.; and (3) ~~Indemnify the Nation for all of the above~~I must indemnify the Navajo Nation and the United States from any and all claims pursuant to the attached Indemnification Form.

DIVISION OF ECONOMIC DEVELOPMENT:

_____ DATE: _____
[name], ~~Division Director~~[Leasing Department

[OPERATOR or PERMITTEE]:

_____ _____
[name], [Operator or Permittee] DATE:
[name of business]

REVIEWED AND APPROVED BY

NAVAJO NATION RISK MANAGEMENT PROGRAM

_____ DATE: _____
[name], [title]

INDEMNIFICATION, DEFEND, AND HOLD HARMLESS FORM

Pursuant to the Navajo Nation Business Site Lease Administrative Management Plan, **[Section 13.3(A)(2), 14.3(B), or 15.3(B)]** I, _____, **[Permittee OR Operator]**, shall indemnify, protect, defend and hold harmless the Navajo Nation and the United States from and against any and all claims, loss of rents, damages, costs, liens, judgments, penalties, permits, attorney's or consultant's fees, expenses and/or liabilities arising out of, involving, or dealing with, the occupancy of the premises by **[Permittee OR Operator]**, the conduct of the **[Permittee's OR Operator's]** business, any act, omission, neglect or misconduct of **[Permittee OR Operator]**, its agents, contractors, employees or invitees, and out of any Default or Breach by **[Permittee OR Operator]** in the performance in a timely manner of any obligation on the **[Permittee's OR Operator's]** part to be performed under this **[Revocable Use Permit, Conditional Use Permit, OR Emergency Operating Agreement]**. The foregoing shall include, but not be limited to, the defense or pursuit of any claim or any action or proceeding involved therein, and whether or not litigated and/or reduced to judgment, and whether well-founded or not. In case any action or proceeding be brought against the Navajo Nation by reason of any of the foregoing matters, or **[Permittee OR Operator]**, upon notice from Navajo Nation, shall defend the same at **[Permittee's OR Operator's]** expense by counsel reasonably satisfactory to the Navajo Nation, and the Navajo Nation shall cooperate with **[Permittee OR Operator]** in such defense. **[Permittee OR Operator]** shall have the right to control such defense and to settle or compromise the claim in cooperation with Navajo Nation as long as such defense, settlement or compromise does not unduly prejudice the Navajo Nation.

[PERMITTEE OR OPERATOR]:

_____ _____

Name, **[Permittee or Operator]** Date

Completed Document(s)

This column will hold any attorney-generated finalized documents.

2025.12.16 BIA to NN re BSL Plan Amendments (no BIA approval reqd).pdf

0-1 Proposed Admin Plan Amendments (clean) (2025-09-03) with Cover S_31145_1.docx

0-1-A. Part I BSL amendments proposed (clean) (Aug 21 2025).docx

0-1-B. PART II BSL amendments proposed (clean) (July 31 2025).docx

0-1-C. Notice of Exercise of Option to Renew (clean, new).docx

0-1-D. Sublease (clean).docx

0-1-E.1 Tenant Agreement Form (clean, new).docx

0-1-E.2 Sample Tenant Agreement.pdf

0-1-F.1 Complex Assignment of Lease (clean).docx

0-1-F.2 Simple Assignment of Lease (clean).docx

0-1-G. Modification (clean).docx

0-1-H. Mutual Termination (clean).docx

0-1-I. Collateral Assignment of Lease (clean).docx

0-1-J. Revocable Use Permit (clean).docx

0-1-K. Conditional Use Permit (clean).docx

0-1-L. Emergency Operating Agreement (clean).docx

0-1-M. Sub-Permit (clean, new).docx

0-1-N. Insurance Provision - Indem Form (clean).docx

0-1-O. Sample Business Plan Outline.docx

0-1-P. Leasehold Credit Rules.docx

0-1-Q. BSL APPLICATION.docx

0-1-R. Sample Management Agreement Form.pdf

0-1-S. File Management.docx

0-1-T. Sample Evidence of Authority.docx

0-1-U. Sample Rental Provisions.pdf

0-2 Proposed Management Plan Amendments (clean) (2025-0_31148_1.docx

0-2-a. Annual Lease Compliance Report.pdf

0-2-b. Site Status Report.pdf

✓0-2-c. Property Inventory Form.pdf

✓0-2-d. Environmental Summary Sheet Form.docx

✓0-3 Blackline Proposed Admin Plan Amendments (clean) (2025-09-03).docx

✓0-3-A. Redline Part I BSL amendments proposed (clean) (Aug 21 2025).pdf

✓0-3-B. Redline PART II BSL amendments proposed (July 31 2025).pdf

✓0-3-D. Redline Sublease.pdf

✓0-3-F.1 Redline Complex Assignment of Lease.pdf

✓0-3-F.2 Redline Simple Assignment of Lease.pdf

✓0-3-G. Redline Modification.pdf

✓ 0-3-H. Redline Mutual Termination.pdf

✓0-3-I. Redline Collateral Assignment of Lease.pdf

✓0-3-J. Redline Revocable Use Permit.pdf

✓0-3-K. Redline Conditional Use Permit.pdf

✓0-3-L. Redline Emergency Operating Agreement.pdf

✓0-3-N. Redline Insurance Provision - Indem Form.pdf

- 0-4 Blackline of Proposed Management Plan Amendments (clean) (2025-09-12).docx

- EOR Form for DOJ Surname # 025825_December 23 2025.pdf

EXHIBIT C

Document No. 025825 Date Issued: 12/16/2025

EXECUTIVE OFFICIAL REVIEW

Title of Document: Proposed DED BSL Adm & Mgt Plan Amdmts Contact Name: BEGAY-PLATERO, SHARLENE R.

Program/Division: DIV. OF ECONOMIC DEVELOPMENT

Email: srbplatero@navajo-nsn.gov Phone Number: 928.357.6576

			Sufficient	Insufficient
☐	**Business Site Lease**			
	1. Division:	Date:	☐	☐
	2. Office of the Controller:	Date:	☐	☐
	(only if Procurement Clearance is not issued within 30 days of the initiation of the E.O. review)			
	3. Office of the Attorney General:	Date:	☐	☐
☐	**Business and Industrial Development Financing, Veteran Loans, (i.e. Loan, Loan Guarantee and Investment) or Delegation of Approving and/or Management Authority of Leasing transactions**			see surnames in "Other" category below.
	1. Division: Sh Bgy-Plat	Date: 12/16/25	☒	☐
	2. Office of the Attorney General: Katherine Belzowski	Date: 12/29/25	☒	☐
☐	**Fund Management Plan, Expenditure Plans, Carry Over Requests, Budget Modifications**			
	1. Office of Management and Budget:	Date:	☐	☐
	2. Office of the Controller:	Date:	☐	☐
	3. Office of the Attorney General:	Date:	☐	☐
☐	**Navajo Housing Authority Request for Release of Funds**			
	1. NNEPA:	Date:	☐	☐
	2. Office of the Attorney General:	Date:	☐	☐
☐	**Lease Purchase Agreements**			
	1. Office of the Controller: (recommendation only)	Date:	☐	☐
	2. Office of the Attorney General:	Date:	☐	☐
☐	**Grant Applications**			
	1. Office of Management and Budget:	Date:	☐	☐
	2. Office of the Controller:	Date:	☐	☐
	3. Office of the Attorney General:	Date:	☐	☐
☐	**Five Management Plan of the Local Governance Act, Delegation of an Approving Authority from a Standing Committee, Local Ordinances (Local Government Units), or Plans of Operation/Division Policies Requiring Committee Approval**			
	1. Division:	Date:	☐	☐
	2. Office of the Attorney General:	Date:	☐	☐
☐	**Relinquishment of Navajo Membership**			
	1. Land Department:	Date:	☐	☐
	2. Elections:	Date:	☐	☐
	3. Office of the Attorney General:	Date:	☐	☐

☐ **Land Withdrawal or Relinquishment for Commercial Purposes**

			Sufficient	Insufficient
1. Division:		Date:	☐	☐
2. Office of the Attorney General:		Date:	☐	☐

☐ **Land Withdrawals for Non-Commercial Purposes, General Land Leases and Resource Leases**

1. NLD		Date:	☐	☐
2. F&W		Date:	☐	☐
3. HPD		Date:	☐	☐
4. Minerals		Date:	☐	☐
5. NNEPA		Date:	☐	☐
6. DNR		Date:	☐	☐
7. DOJ		Date:	☐	☐

☐ **Rights of Way**

1. NLD		Date:	☐	☐
2. F&W		Date:	☐	☐
3. HPD		Date:	☐	☐
4. Minerals		Date:	☐	☐
5. NNEPA		Date:	☐	☐
6. Office of the Attorney General:		Date:	☐	☐
7. OPVP		Date:	☐	☐

☐ **Oil and Gas Prospecting Permits, Drilling and Exploration Permits, Mining Permit, Mining Lease**

1. Minerals		Date:	☐	☐
2. OPVP		Date:	☐	☐
3. NLD		Date:	☐	☐

☐ **Assignment of Mineral Lease**

1. Minerals		Date:	☐	☐
2. DNR		Date:	☐	☐
3. DOJ		Date:	☐	☐

☐ **ROW (where there has been no delegation of authority to the Navajo Land Department to grant the Nation's consent to a ROW)**

1. NLD		Date:	☐	☐
2. F&W		Date:	☐	☐
3. HPD		Date:	☐	☐
4. Minerals		Date:	☐	☐
5. NNEPA		Date:	☐	☐
6. DNR		Date:	☐	☐
7. DOJ		Date:	☐	☐
8. OPVP		Date:	☐	☐

☒ **OTHER:**

1.	DED	[signature]	Date: 12/16/25	☑	☐
2.	DOJ		Date:	☐	☐
3.	RDC		Date:	☐	☐
4.			Date:	☐	☐
5.			Date:	☐	☐

NAVAJO NATION DEPARTMENT OF JUSTICE

DOCUMENT REVIEW REQUEST COVER SHEET

DOJ USE ONLY

December 19, 2025
DATE / TIME
NNDOJ #: See HighQ
DOC #: 025825
UNIT: Economic/ Community Development
RESUBMITTAL: {. . .}

***** FOR NNDOJ USE ONLY - DO NOT CHANGE OR REVISE FORM. VARIATIONS OF THIS FORM WILL NOT BE ACCEPTED. *****

CLIENT TO COMPLETE			
DATE OF REQUEST:	December 19, 2025	DIVISION:	Division of Economic Development
CONTACT NAME:	Sharlene Begay-Platero Sally Yabeny		
PHONE NUMBER:	928-357-6672	E-MAIL:	srbplatero@navajo-nsn.gov
TITLE OF DOCUMENT: Legal Review of Proposed DED BSL Adm & Mgt Plan Amdmts			

UNIT REVIEW	
DATE/TIME IN UNIT: December 19, 2025	REVIEWING ATTORNEY/ADVOCATE: Frances Sjoberg
DATE/TIME ATTORNEY REVIEW COMPLETE: {. . .}	
DATE/TIME OUT OF UNIT: See email transmitting completed document	

DOJ ATTORNEY / ADVOCATE COMMENTS	
Legally sufficient.	
LEGAL STATUS: Sufficient	SURNAMED BY: *{. . .}* See Document Review signature sheet for date/time

RESOURCES & DEVELOPMENT COMMITTEE
March 2, 2026
Regular Meeting

VOTE TALLY SHEET:

Legislation No. 0023-26: An Action Relating to Resources and Development Committee; Approving the Division of Economic Development Business Site Lease Administrative Plan and Management Plan Amendments
Sponsor: Brenda Jesus, Council Delegate

Recall motion: Danny Simpson
Second: Brenda Jesus
The vote was **5** in favor **0** opposed yeas: *Brenda Jesus, Shawna Ann Claw, Casey Allen Johnson, Rick Nez, Danny Simpson*

Motion: Otto Tso
Second: Danny Simpson
Vote: 5-0, Pro Tempore Chairperson not voting

Final Vote Tally:

Shawna A. Claw	**y**	
Brenda Jesus	**y**	
Casey Allen Johnson	**y**	
Rickie Nez	**y**	
Danny Simpson	**y**	
Otto Tso		

Otto Tso, Pro Tempore Chairperson
Resources & Development Committee

Peggy Nakai, Legislative Advisor
Resources & Development Committee