

**LEASE AGREEMENT**  
(Commercial Form)

This Lease Agreement ("Lease") is made and entered into as of \_\_\_\_\_, 20XX, by and between the Metropolitan Water Reclamation District of Greater Chicago ("District" or "Lessor"), a body corporate and politic organized and existing under the laws of the State of Illinois, with principal offices located at 100 E. Erie Street, Chicago, Illinois 60611, and \_\_\_\_\_, a \_\_\_\_\_ corporation authorized to transact business in Illinois ("Lessee"), with principal offices located at \_\_\_\_\_.

**WITNESSETH:**

WHEREAS, this Lease has been negotiated, created, and executed pursuant to and in accordance with the Metropolitan Water Reclamation District Act (70 ILCS 2605/1 *et seq.*);

WHEREAS, this Lease has been entered into in accordance with the District's Comprehensive Land Use Policy, as adopted by the District's Board of Commissioners on December 18, 2014, as may be amended from time to time;

WHEREAS, the District's Board of Commissioners authorized this Lease on \_\_\_\_\_, 20XX;

NOW, THEREFORE, for and in consideration of the covenants and obligations contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Lessor and Lessee (the "Parties") agree as follows:

**ARTICLE 1: PREMISES LEASED**

**1.01. Premises.** Lessor hereby demises and leases to Lessee the real property legally described and depicted on the plat of survey attached hereto as Exhibit A ("Premises"), including any improvements located thereon at the time of leasing or constructed by Lessee during the Lease term. For convenience of the Parties, the general location of the Premises is shown on the aerial photograph attached hereto as Exhibit B. The Premises is located at [Common Address] and consists of approximately [acres], known as the District's [Channel Parcel X.XX], [PIN X].

**1.02. Term.** The term of this lease is [XX years], commencing on \_\_\_\_\_, 20XX ("Commencement Date"), and ending on \_\_\_\_\_, 20XX, unless sooner terminated under the provisions of this Lease.

**1.03. Use.** The Premises may only be used by Lessee for \_\_\_\_\_ and for no other purpose whatsoever.

## ARTICLE 2: RENT AND SECURITY DEPOSIT

**2.01. Rent and Security Deposit.** Lessee covenants and agrees to pay Lessor annual rent for the Premises and a security deposit, calculated and paid in the following manner:

**a. Initial Base Annual Rent.** During the first ten-year period of the Lease (from \_\_\_\_\_, 20XX to \_\_\_\_\_, 20XX), the initial base annual rent shall be \$XX,XXX.00, which is equal to XX% of the Premises' appraised fair market value, as established by the District's Board of Commissioners. The annual rent shall be payable in annual installments due on the \_\_\_\_\_ day of every \_\_\_\_\_, with the first installment paid on or before the Commencement Date. This initial base annual rent will be adjusted as set forth below.

**b. Bid Deposit.** Lessee has previously submitted a bid deposit to Lessor in the amount of \$XX,XXX.00. Lessee's bid deposit shall be applied toward its first rental payment. As a result, Lessee must pay the difference of \$XX,XXX.00 on or before execution of this Lease.

**c. Security Deposit.** Before the commencement of the Lease term, Lessee must provide the sum of two months' rent (\$XX,XXX.00) to Lessor as a security deposit. Lessor will continue to hold the security deposit for the full and faithful performance by Lessee of all the covenants, terms and conditions of this Lease. The security deposit shall be returned to Lessee upon the expiration of the Lease term, provided that Lessee has fully performed under this Lease. Such sum is not prepaid rent and shall not be applied by Lessee to the Rent for the last (or any) month of the Term of this Lease. Lessor shall have the right to apply any part of the deposit to cure any default of Lessee, in which case Lessee shall deposit with Lessor that amount so applied so that Lessor shall have the full deposit on hand at all times during the Lease Term.

**d. Annual Consumer Price Index (CPI) Adjustments.** After the first year of every 10-year Lease period (see Art. 2.01(e) Decennial Rent Adjustments below), the rent due each year shall be increased by an amount equal to the prior year's annual rent multiplied by the percentage change in the Consumer Price Index ("CPI") for the Chicago Metropolitan Area, published by the United States Department of Labor, Bureau of Labor Statistics, in the most recent month of October preceding the Lease's Commencement Date. If the Consumer Price Index is discontinued, the District's Board of Commissioners shall, in its sole discretion, select and utilize another economic activity index of the United States government which reasonably reflects economic activity in the Metropolitan Chicago Area. If the percentage change in the CPI is zero or less than zero, then the change will be treated as zero percent for that year and the same annual rent as the prior year will remain in effect.

**e. Decennial Rent Adjustments.** Every ten years under this Lease the Premises will be reappraised to redetermine the Premises' fair market value. In accordance with 70 ILCS 2605/8c, the reappraisal process will proceed as follows:

**i. Appraisals.** Before every 10-year anniversary of the Lease's Commencement Date, the Lessee must procure and pay for two fair market value appraisals of the Premises from two professional appraisers who are members of the American Institute of Real Estate Appraisers (or a similar, equivalently recognized professional organization). The District,

acting through the Executive Director, may select and engage an additional appraiser for such determination of fair market value. The appraisal reports must be dated within the 6 months preceding the 10-year anniversary date and must be provided to Lessor at least 45 days before the 10-year anniversary date. Every appraisal report must contain an affidavit certifying the absence of any collusion involving the appraiser.

**ii. Value of Improvements.** If the Premises at the commencement of this Lease included Lessor-owned improvements, all decennial reappraisals will include those improvements in redetermining the fair market value. If Lessee, with Lessor's approval, makes its own improvements to the Premises during the lease term, all decennial appraisals will value the Premises independent of those improvements (i.e., will value the land as of its condition at the commencement of the Lease term.)

**iii. Updated Base Annual Rent.** The appraised fair market value will be established based on the highest of the three appraisals, consistent with the District's Board of Commissioners' policy. The base annual rent for the next 10-year period shall be calculated in the same manner as the initial base annual rent (XX% multiplied by the appraised fair market value). Notwithstanding the reappraisals, the base annual rent shall never result in a decrease in the amount of rent owed to the District, and the decennial adjustment shall never exceed 100% of the rental in effect on the last day of the preceding 10-year period. After the first year of the next 10-year term, the new base rent will be CPI adjusted, as set forth in Article 2.01(d).

**2.02. Rent to Be Without Deduction, Setoff, or Counterclaim.** This Lease shall be deemed and construed to be a net Lease. Lessor shall receive all rent and other payments hereunder to be made by Lessee free from any charges, assessments, expenses, or deductions of any nature whatsoever. Lessor shall not be responsible for making any expenditure for the maintenance, repair, or preservation of the real estate or improvements. In no event shall there be any deduction of any nature whatsoever from rent due to Lessor, and no defense, setoff, or counterclaim shall be made against rent in any proceeding for the collection of rent, or otherwise for the enforcement of this Lease.

**2.03. Lien for Rent.** The whole amount of the rent, and each and every installment thereof, and the amount of all taxes, assessments, water rates, insurance premiums, and other charges imposed under the provisions of this Lease, and all costs, reasonable attorney fees and other expenses which may be incurred by Lessor in enforcing the provisions of this Lease or on account of any delinquency of Lessee in carrying out any of the provisions of this Lease, shall be and are hereby declared to constitute a valid and prior lien upon any Lessee improvements on the Premises, including any machinery, fixtures and equipment of Lessee situated thereon, and upon Lessee's leasehold estate, and may be enforced by equitable remedies including the appointment of a receiver.

**2.04. Interest on Rent Not Paid When Due.** Rents and all other sums payable to Lessor shall bear interest at the rate of 2% per annum in excess of the prime rate charged by a principal bank in Chicago, Illinois, to its commercial borrowers, as determined on the first date of a delinquency until the same is paid by Lessee.

**2.05. Additional Compensation.** [NOTE: REMOVE IF INAPPLICABLE] In addition to the foregoing rent to be paid by Lessee to Lessor, Lessee shall pay in cash to Lessor X% of the gross revenues generated by Lessee's use of, or activities on, the Premises. On each anniversary of the Commencement Date, Lessee shall furnish to Lessor an audited and certified statement of all items of income attributable to Lessee's use of the Premises and simultaneously remit its check to Lessor in an amount equal to the aforesaid percentage multiplied by the audited and certified statement for that one-year period. All such audited and certified statements shall be subject to confirmation by Lessor. Lessee shall furnish all original books and records or certified copies thereof necessary to confirm such statements, upon reasonable demand by Lessor, at no cost to Lessor.

### ARTICLE 3. INDEMNIFICATION AND INSURANCE

**3.01. Indemnification.** To the extent permitted by law, Lessee (including its executors, administrators, successors, and assigns), agrees to indemnify, defend, and hold harmless the District (including its Commissioners, officers, agents, and employees), from and against any and all claims, losses, damages, suits or actions, judgments, fines, penalties, or costs (including reasonable attorney's fees) arising out of the use or occupancy of the Premises by Lessee or by Lessee's employees, agents, invitees, and customers, during or after the Lease term, including but not limited to the following: any injury or death to any person; any damage to or loss of any property; violation of any laws, ordinances, or regulations; any construction, maintenance, or business activity performed on the Premises, including any mechanics liens; any other negligence, willful misconduct, or other acts or omissions of Lessee in connection with this Lease. If any such action or suit is brought against Lessor, Lessor may give written notice of same to Lessee, and thereafter Lessee shall, at its own cost and expense, defend such actions or suits with due diligence with counsel reasonably satisfactory to Lessor. The indemnities contained herein shall survive the termination or expiration of this Lease. No Commissioner, officer, agent, or employee of the District shall have any direct or personal liability arising out of this Lease.

**3.02. Insurance.** Lessee, at its own expense, shall procure and maintain, for the duration of the Lease term, insurance against claims for injuries to persons or damage to property which may arise from, or in connection with, Lessee's operation and use of the Premises. The insurance requirements, including form, coverage limits, etc., are as follows:

**3.03. Coverage.** Insurance coverage shall be at least as broad as the following:

**a. Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than **\$4,000,000 per occurrence**. If a general aggregate limit applies, either the general aggregate limit shall apply separately to the Premises (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

**b. Workers' Compensation Insurance** as required by the State of Illinois, with Statutory Limits, and Employer's Liability Insurance with limits of no less than \$1,000,000 per accident for bodily injury or disease. (This applies to Lessees with employees).

**c. Property Insurance** against all risks of loss to any improvements or betterments on the Premises, at full replacement cost with no coinsurance penalty provision.

**d. Premises Pollution Legal Liability Insurance** with limits no less than **\$4,000,000 per occurrence**.

**e. Marine General Liability Insurance** covering products and completed operations, property damage, bodily injury, and other marine risks as may be applicable, including but not limited to charters liability and wharfingers liability, with limits no less than **\$4,000,000 per occurrence**.

If the Lessee maintains broader coverage and/or higher limits than the minimums shown above, the District requires and shall be entitled to the broader coverage and/or the higher limits maintained by Lessee. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the District. The insurance provisions of this Lease shall not affect the indemnification of Lessor by Lessee, as set forth in the Lease.

**3.04. Other Insurance Provisions.** The insurance policies are to contain, or be endorsed to contain, the following provisions:

**a. Additional Insured Status.** The Metropolitan Water Reclamation District of Greater Chicago, its Commissioners, officers, agents, and employees are to be covered as additional insureds on the CGL policy.

**b. Primary Coverage.** For any claims related to this Lease and the Premises, the Lessee's insurance coverage shall be primary and non-contributory and at least as broad as ISO CG 20 01 04 13 as it respects the District, its Commissioners, officers, agents, and employees. Any insurance or self-insurance maintained by the District shall be excess of Lessee's insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies.

**c. Umbrella or Excess Policy.** The Lessee may use Umbrella or Excess Policies to provide the liability limits as required in this Lease agreement, provided that such policies shall provide all of the insurance coverages herein required, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The Umbrella or Excess policies shall be provided on a true "following form" or broader coverage basis, with coverage at least as broad as provided on the underlying Commercial General Liability insurance.

**d. Legal Liability Coverage.** The property insurance is to be endorsed to include Legal Liability Coverage (ISO Form CP 00 40 04 02 or equivalent) with a limit equal to the replacement cost of the leased property.

**e. Notice of Cancellation.** Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the District.

**f. Waiver of Subrogation.** Lessee hereby grants to the District a waiver of any right to subrogation which any insurer of said Lessee may acquire against the District by virtue of the payment of any loss under such insurance. Lessee agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the District has received a waiver of subrogation endorsement from the insurer.

**g. Self-Insured Retentions.** Self-insured retentions (SIR) must be declared to, and approved by, the District. As part of any approval, the District may require Lessee to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. Policies shall not contain any SIR provision that limits the satisfaction of the SIR to the Named Insured.

**h. Acceptability of Insurers.** Insurance is to be placed with insurers authorized to conduct business in the State of Illinois, with a current A.M. Best's rating of no less than A:VII.

**i. Verification of Coverage.** Lessee shall furnish the District with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this agreement and a copy of the Declarations and Endorsements Pages of the CGL and any Excess policies listing all policy endorsements. All certificates and endorsements and copies of the Declarations & Endorsements pages are to be received and approved by the District before the Lease commences. However, failure to obtain the required documents prior to the Lease commencement date shall not waive the Lessee's obligation to provide them. The District reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

**j. Special Risks or Circumstances.** The District reserves the right to modify these insurance requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

**k. Disposition of Insurance Proceeds.** As set forth in this Lease, Lessee has the duty to repair the Premises if the Premises (or any improvements thereon) are damaged or destroyed by any of the hazards or casualties against which Lessee is to insure the Premises. The rebuilding or restoration is to be accomplished within one year, or as otherwise approved by Lessor in writing. Lessee shall receive all insurance proceeds payable for the hazard or casualty loss to finance the reconstruction. However, if the Premises or improvements are not rebuilt or restored in the timeframe approved by Lessor, then all insurance money received or recoverable on the policies of insurance to be obtained by Lessee shall belong to, and be paid to, Lessor as liquidated damages by reason of the failure of Lessee to rebuild or restore the Premises. If this Lease agreement is forfeited for any reason, then all policies of insurance and all insurance money due, or to become due, at the time of the forfeiture shall belong to Lessor, free and clear of any claim or interest on or to such money on the part of Lessee or anyone claiming through or under Lessee. Nothing in this paragraph shall be construed as in any manner releasing Lessee from any obligation to restore or construct the Premises or improvements as provided in this Lease agreement, nor as a waiver of the rights of Lessor to

insist on the full performance by Lessee of the terms and conditions in this Lease agreement, even if the insurance proceeds are not sufficient to fully pay for the restoration or repair.

**l. Failure of Lessee to Obtain Insurance.** If Lessee at any time fails to insure or keep insured the Premises or its improvements as required herein, then Lessor may procure or renew such insurance policies, and the costs must be repaid by Lessee with the next rent payments under this Lease, with interest at the rate of 2% per annum in excess of the prime rate charged by a principal bank in Chicago, Illinois, to its commercial borrowers, as determined on the first date of a delinquency until the same is paid by Lessee.

**m. Self-Insurance.** If Lessee is a self-insurer, then Lessee, prior to entering upon the Premises, shall prepare and transmit to Lessor an acknowledged statement that Lessee is a self-insurer, and that it undertakes and promises to insure the District, its Commissioners, officers, agents, servants and employees, as an additional insured as required by the Lease. The statement must be signed by such officer or agent of Lessee having sufficient knowledge of the fiscal structure and financial status of Lessee to verify that Lessee has the funds available to meet the insurance requirements set forth herein. This statement is subject to Lessor's review and approval.

#### ARTICLE 4. LESSEE RIGHTS AND RESPONSIBILITIES

**4.01. Lessee to Pay All Taxes, Assessments, and Fees.** Lessee agrees to pay or cause to be paid, on or before the penalty date, all real estate taxes, any other taxes on tangible property assessments, water rates, utility charges, and any other governmental charges, general and special, ordinary and extraordinary, unforeseen as well as foreseen, of any kind and nature whatsoever, which are assessed, levied, confirmed, imposed or become a lien upon the Premises or the improvements thereon. Lessee must provide proof of payment to Lessor upon request. After execution of this Lease, Lessee must submit a copy of this Lease to the assessor for the county in which the Premises is located.

**4.02. Right to Mortgage Interest in the Premises.** Lessee has the right to mortgage its leasehold interest in the Premises, by mortgage or trust deed, but any such mortgage or trust deed shall in no way create a lien or encumbrance on the fee simple estate of the Lessor. Any mortgage or trust deed must be paid in full and a duly executed and recordable release must be provided prior to the expiration of the Lease term. Any forms or other agreements requested by Lessee from Lessor related to a mortgage or trust deed of the leasehold estate are subject to the review and approval of Lessor's General Counsel. The terms of any mortgage or trust deed of the leasehold interest are subject to the assignment provisions in Article 8 of this Lease.

**4.03. Repair or Rebuild after Damage/Destruction.** If the Premises is damaged or destroyed in whole or in part by fire or other casualty, or by Lessee's want of ordinary care, Lessee shall be responsible for promptly rebuilding or restoring the Premises in accordance with plans approved by Lessor. Such rebuilding or restoration shall be at Lessee's expense, and Lessee shall remain liable for any rent under this Lease agreement during the rebuilding or restoration of the Premises.

**4.04. Compliance with Laws.** Lessee shall not use the Premises for any purpose in violation of any federal, state, or local law, or any regulation, order, or directive of a governmental agency,

as such statutes, ordinances, regulations, orders, or directives that now exist or may in the future provide, concerning the use and safety of the Premises. Lessee shall obtain and maintain during the lease term all licenses and permits required to conduct or operate its business on the premises which are required by any applicable governmental body or agency having jurisdiction over the Premises and shall pay the fee or charge imposed for issuance of any such license or permit.

**4.05. Prohibited Uses.** Lessee agrees not to use the Premises for any unlawful business or activity. Lessee also agrees that no alcoholic beverages of any kind shall be sold, given away, or consumed on the Premises, unless the following requirements are met: the Lease term is more than 20 years; Lessor's Board of Commissioners has provided its consent to such use; and Lessee has procured dram shop insurance (or other applicable insurance protection) with policy limits, form, and carrier approved by Lessor. The manufacture, sale, distribution, discharge, and unauthorized use of guns and firearms on the Premises is expressly prohibited, including any hunting activities.

**4.06. Condition of Premises.** Lessee shall not maintain, commit, or permit any nuisance on the Premises. Lessee agrees to keep the Premises (and any improvements thereon) in a clean and sanitary condition, in accordance with all applicable laws, ordinances, and regulations. Lessee will maintain any improvements in good order and repair (including all necessary replacement), and will not allow the improvements to become damaged or diminished in value, ordinary wear and tear excepted.

**4.07. Waterway Strategy Resolution.** If the Premises embraces or abuts a waterway regulated by Lessor, or in which Lessor asserts property rights, Lessee shall, to the extent applicable, comply with the District's Waterway Strategy Resolution (attached as Exhibit C), the River Edge Renaissance Plan, and the Revised Leasing Criteria for the North Shore Channel Right-of-Way Lands of Lessor's Board of Commissioners. Lessee is responsible for the construction and maintenance of any docking facility at its own cost and expense, and Lessee must maintain and stabilize the bank in an aesthetically pleasing condition. Permanent storage of bulk commodities, unsightly materials, and/or debris on the waterway side of the scenic berm or the docking area is prohibited. Lessee must, where possible, maintain a "natural" appearance along the waterway by retaining existing vegetative cover. However, Lessor recognizes that site development will sometimes necessitate the removal of existing vegetative cover. In those cases, Lessee must re-establish vegetative cover in the same quantity and quality as that removed. The re-established plant materials are to be considered as an addition to the landscaping required within the scenic easement. Lessee must comply with all applicable local zoning and setback requirements. Lessor reserves the right to traverse the Premises to access any waterway which abuts the Premises. Lessee's method of compliance with this paragraph is subject to the written approval of Lessor's Executive Director.

## ARTICLE 5. LESSOR RIGHTS AND RESPONSIBILITIES

**5.01. No Representations or Warranties.** Lessor executes and delivers this Lease without making any representations or warranties concerning: Lessor's title to the Premises; the suitability of the Premises for Lessee's use; the size of the Premises or useable areas; or the building and zoning laws that may affect the Premises or Lessee's use thereof. Lessee acknowledges and agrees that it has had the opportunity to examine title to the Premises and encumbrances (if any), Lessor's



authority to execute this Lease, and all other matters relating to the size, useable areas, existing improvements, and any zoning or building laws that may pertain to Lessee's proposed use of the Premises (including any proposed construction or improvements) and finds such matters to be satisfactory. Lessee accepts the Premises and any improvements thereon "as-is" and "with all faults."

**5.02. Lessor Option to Terminate Based on Zoning/Building Laws.** If at the commencement of this Lease, or at any other time during the Lease term, the local zoning or building laws do not permit Lessee's use or improvements under this Lease, Lessee agrees, at its own expense, to make diligent and good faith efforts to obtain any zoning changes, building permits, etc. that may be needed within one year. If Lessee is unable to secure any such zoning changes or building permits that may be necessary within that one-year period, despite Lessee's diligent and good faith efforts, then Lessor has the option to terminate this Lease, at its reasonable discretion. In the event of such termination by Lessor, the rent owed by Lessee shall abate as of the date of termination by Lessor.

**5.03. Lessor's Remedies of Reentry and Collection of Rent.** If the Premises is vacated or abandoned, or in the event of a cancellation or termination of this Lease either by operation of law or by the service of a notice of termination, Lessee shall, nevertheless, remain liable to Lessor in a sum equal to all rent herein reserved for the balance of the term originally granted. Lessor may reenter the Premises, using such force for that purpose as may be necessary without being liable for said reentry or the use of such force, and Lessor may repair or alter the Premises in such manner as Lessor may deem necessary or advisable, and/or let or relet the Premises or any or all parts thereof for the whole or any part of the remainder of the original term or for a longer period, and, out of any rent so collected or received, Lessor shall, first, pay to itself the expense and cost of retaking, repossessing, repairing, and/or altering the Premises and the expense of removing all persons and property therefrom; second, pay to itself any cost or expense sustained in securing any new tenant or tenants; and, third, pay to itself any balance remaining on account of the liability of the Lessee to Lessor for the sum equal to the rents reserved herein and then unpaid by Lessee for the remainder of the original term. Any entry or reentry by Lessor shall not absolve or discharge Lessee from liability hereunder.

**5.04. Effect of Condemnation.** All damages awarded for the taking or damaging of all or any part of the Premises shall be the property of Lessor, with the exception of any improvements made by Lessee during the Lease term. Nothing in this Lease shall be construed as precluding Lessee from asserting any claim Lessee may have against the condemning authority for the reduced value of this Lease or for the disruption or relocation of Lessee's business. If the entire Premises is taken by any condemning authority pursuant to the power of eminent domain, this Lease shall terminate as of the date possession is taken by the public authority. If a substantial portion of the Premises is taken pursuant to the power of eminent domain such that it is not economically feasible for Lessee to continue this Lease, either party may terminate this Lease as of the date possession is taken by the public authority. In the case of a partial taking where the Lease is not terminated, all of the provisions of this Lease shall remain in full force and effect for the remaining Premises, except that the rental payment shall be reduced proportionately to account for the part taken.

## ARTICLE 6. ENGINEERING REQUIREMENTS AND RESERVATIONS

**6.01. District Facilities and Infrastructure.** Lessee agrees and acknowledges that Lessor may have installed various wastewater treatment or stormwater management facilities and related infrastructure (such as sewers, pipes, drains, dropshafts, parking areas, access drives, etc.) on, under, or through the Premises. Lessor will cooperate with Lessee to ascertain, identify, and locate Lessor's existing facilities and infrastructure on the Premises, if any. Lessee must not damage or interfere with District facilities or infrastructure at any time. Lessee is also responsible for taking any steps necessary to protect its own property, equipment, and employees in the vicinity of District infrastructure. Lessor shall not be responsible for any loss, cost, or expense that Lessee may incur arising out of the failure of any District facilities or infrastructure on the Premises. In addition, Lessor reserves the right to operate, maintain, repair, and reconstruct any such facilities or infrastructure, and to use, access, inspect, or survey any portion of the Premises for such purposes. Any such use or access shall be carried out, at the discretion of the District's Executive Director, in a manner that minimizes any interference with Lessee's use of the Premises.

**6.02. District Corporate Use Reserve Area.** For purposes of this Lease, the District's "Corporate Use Reserve Area" shall be defined as 1) the area delineated by a line parallel with, and 250 feet distant from, the water's edge of any waterway which traverses or is adjacent to the Premises, and 2) all areas within the Premises below the lowest elevation of development thereon as reflected in Lessee's approved development plans for the Premises. Lessor, and anyone acting under its authority, shall have the right to construct, operate, maintain, repair, renew, or relocate any facilities or infrastructure for its corporate purposes (such as sewers, pipes, drains, dropshafts, outfalls, power or communications lines, etc.) with necessary appurtenances thereto, on, under, or through the Corporate Use Reserve Area. Any such use shall be carried out, at the discretion of the District's Executive Director, in a manner that minimizes any interference with Lessee's use of the Premises.

**6.03. Other Easements and Infrastructure.** Lessee agrees and acknowledges that this Lease is subject to any and all other easements and infrastructure on, under, or through the Premises, which may be owned or operated by other governmental entities, public utility companies, corporations, or individuals. These easements and/or infrastructure may include pipelines, sewers, cables, electrical transmission lines, or other surface or subsurface structures. Lessee shall, at its own initiative, inquire and satisfy itself as to the presence or absence of all such easements or infrastructure on or impacting the Premises, and Lessee hereby waives all claims which it might otherwise have against Lessor due to the presence of any such easements or infrastructure insofar as it may affect Lessee's use and enjoyment of the Premises. Lessor may also renew existing easements during the lease term.

**6.04. Lessor Review of Improvements.** Lessee must submit detailed plans and specifications for any proposed improvements (including any modifications to existing improvements) to be made on the Premises before any construction commences. This includes the plans for handling the sewerage, grading, and drainage of the Premises; any roadways, water supply, telephone, and electric service; and the construction of any buildings. Any such plans and specifications will be submitted to the District's technical departments for review, and no work or construction may commence until approval is obtained from the District's Executive Director (or his designee). If any improvements are made without first obtaining District approval, the District may require Lessee to remove or alter the improvements at Lessee's expense. The District may require a

performance bond in connection with construction or improvements on the Leasehold premises to ensure the project is completed.

**6.05. Prohibited Construction/Improvements.** The District reserves the right to prohibit any proposed improvements on the Premises that may impact or damage District infrastructure; that may impede reasonable access to, or operation and maintenance of, District infrastructure; or that may present potential impacts to the environment or public health and safety. If the Premises is adjacent to a waterway, any blockage or restriction of flow in the waterway is prohibited. No construction or improvements of any kind can project into the waterway, unless District approval (and any other required permits) is obtained. The installation of new artificial turf or synthetic grass on District real estate is prohibited. Commercial advertising signs/billboards are prohibited.

**6.06. Wastewater and Stormwater Management Requirements.** Lessee must submit to Lessor for its review and approval the written plans for managing wastewater, stormwater, and drainage on the Premises. Any proposed sewerage or stormwater management plans and related improvements must comply with the District's Watershed Management Ordinance ("WMO") and any other applicable ordinances, laws, or regulations pertaining to wastewater treatment and stormwater management. Whenever possible, Lessee should employ best management practices, such as green roofs, natural landscaping, filter strips, rain gardens, drainage swales, and naturalized detention basins.

**6.07. Relocation of Improvements.** As set forth in the previous paragraphs, any improvements on the Premises will be coordinated between Lessor and Lessee to avoid any conflicts to the extent possible. However, the Lessee may be required to relocate or remove improvements located on the Premises, at no cost to the District, in the following instances: if the Premises is adjacent to a waterway and the removal or relocation is required to widen or otherwise improve the waterway; if required by another governmental agency with appropriate jurisdiction; or if the relocation or removal is required for the District's corporate purposes, as set forth in this Article 6.

**6.08. Road or Highway Construction.** If any portion of the Premises is required for the construction of roads, highways, or adjuncts thereto, such as interchanges, ramps, or access roads, as determined by the District's Executive Director, for the use of any other governmental agency engaged in the construction of roads and highways, then Lessee shall surrender possession of such part of the Premises that may be so required. Lessee also agrees, at its own cost, to remove all of its equipment, structures, or other works from those portions of the Premises so required.

**6.09. Green Infrastructure Program.** Lessee is encouraged to participate in the District's voluntary Green Infrastructure Program, which offers rent reductions during the first ten years of the Lease term if the Lessee constructs or installs pre-approved green infrastructure on the Premises. The full program requirements are available on the District's website at <https://mwrld.org/doing-business/real-estate>. If the Lessee chooses to participate in the program, the Green Infrastructure Form signed by Lessee and approved by the District will be attached to this Lease as Exhibit D.

**6.10. Tree Mitigation.** Lessee may conduct routine trimming of trees, brush, or other overgrown vegetation or invasive species to the extent they interfere with safety or the proper functioning of any improvements. However, Lessee may not remove any trees on District property without the District's review and approval. If trees must be removed for the safe and effective operation, maintenance, or construction of facilities or improvements on the Premises, then Lessee must provide notice to the District at least 21 days before Lessee performs any such proposed tree removal work. The notice must include the number, location, and species of trees to be removed. The notice must also include a plan to replace any trees removed with the same or greater number and quality of trees on the Premises (or on other District property), subject to the District's written approval. Lessee is responsible for obtaining any local permits or approvals necessary for tree removal work.

**6.11. Construction Requirement. [Remove if inapplicable.]** Within X months/years of the commencement date of this Lease, Lessee agrees to begin construction of the following improvements on the Premises: \_\_\_\_\_. Said improvements shall be completed within X months/years of the commencement date of this Lease. Consistent with Article 6 of this Lease, plans for any such improvements must be reviewed and approved by the District and must fully comply with all applicable zoning and building laws. If the installation or construction of said improvements is not commenced or completed within the timeframes set forth above, then Lessor reserves the right to terminate this Lease with 90 days' written notice to Lessee.

## ARTICLE 7. DEFAULT PROVISIONS

**7.01. Events of Default.** The occurrence of any one or more of the following events (Event of Default) will constitute a default and breach of this Lease by Lessee:

**a. Monetary Default.** If Lessee fails to pay any rent, additional compensation, or other financial obligation required under this Lease when it becomes due and payable, and such default continues for a period of 30 days after written notice thereof given by Lessor to Lessee.

**b. Nonmonetary Default.** If Lessee fails to perform any of Lessee's nonmonetary obligations under this Lease for a period of 60 days after written notice from Lessor; provided, however, that if more time is required to complete such performance, Lessee will not be in default if Lessee commences such performance within the 60-day period and thereafter diligently pursues its completion.

**c. Violation of Assignment or Sublet Requirements.** If Lessee, by operation of law or otherwise, violates the provisions of Article 8 relating to assignment or sublease of the Premises or in the income arising therefrom.

**d. False or Misleading Representations.** If Lessor discovers that any financial statement, warranty, representation, or other information given to Lessor by Lessee (or by any assignee, sublessee, or successor in interest of Lessee) in connection with this Lease was materially false or misleading when made or furnished.

**e. Environmental Default.** If Lessee violates the provisions of Article 9 relating to environmental compliance for a period of 30 days after written notice from Lessor, or such shorter time period as is reasonable in the event of an emergency; provided, however, that if more time is required to complete such performance, Lessee will not be in default if Lessee commences such performance within the 30-day (or shorter, if applicable) period and thereafter diligently pursues its completion. In addition, if any violation of Environmental Laws, or Lessee's liability for any Environmental Conditions on the Premises, has or may be reasonably expected to have a material adverse effect on Lessee's financial condition, operations, assets, business, properties, or its parent company, it shall constitute a default.

**f. Bankruptcy, Insolvency, Receivership, or Assignment for Benefit of Creditors.** If Lessee, or any successor or assignee of Lessee while in possession, shall file a petition in bankruptcy or insolvency or for reorganization under any bankruptcy act, or shall voluntarily take advantage of any such act by answer or otherwise, or shall make an assignment for the benefit of creditors, or if a receiver is appointed.

**7.02 Lessor's Remedies.** Upon the occurrence of an Event of Default by Lessee, and at any time thereafter, with or without notice or demand and without limiting Lessor in the exercise of any right or remedy that Lessor may have, Lessor will be entitled to the rights and remedies set forth below.

**a. Written Notice of Termination Required.** In the event of default, Lessor may terminate this Lease. However, Lessor will not be deemed to have terminated this Lease, Lessee's right to possession of the leasehold, the liability of Lessee to pay rent thereafter to accrue, or Lessee's liability for damages under any of the provisions hereof, unless Lessor will have notified Lessee in writing that it has so elected. Lessee covenants that the service by Lessor of any notice pursuant to the applicable unlawful detainer statutes of Illinois, and Lessee's surrender of possession pursuant to such notice, will not (unless Lessor elects to the contrary at the time of, or at any time subsequent to the service of, such notice, and such election be evidenced by a written notice to Lessee) be deemed to be a termination of this Lease or of Lessee's right to possession thereof.

**b. Termination of Possession.** Lessor will have the right to terminate Lessee's right to possession of the Premises by any lawful means, and Lessee will immediately surrender possession of the Premises to Lessor. In such event, Lessor will have the immediate right to reenter and remove all persons and property, and such property may be removed and stored in a public warehouse or elsewhere at Lessee's cost, all without service of notice or resort to legal process and without being deemed guilty of trespass, or becoming liable for any loss or damage that may be occasioned thereby. In such event, Lessor will be entitled to recover from Lessee all damages incurred by Lessor due to Lessee's default.

**c. Damages.** At any time after an Event of Default and termination of this Lease, Lessor will be entitled to recover from Lessee, and Lessee will pay to Lessor, on demand, as final damages for Lessee's default, an amount equal to the sum of the base rent, additional compensation, and any other charges to be paid by Lessee hereunder for the unexpired portion of the Lease term (assuming this Lease had not been so terminated). Lessor may, but need not, relet the premises

or any part thereof; however, if Lessor elects to relet the Premises, or any portion thereof, for the unexpired term, or any part thereof, the amount of rent reserved upon such reletting will, prima facie, be the fair and reasonable fair market rent for the part or the whole of the Premises so relet during the term of the reletting. Nothing herein contained will limit or prejudice the right of Lessor to prove and obtain, as damages by reason of such expiration or termination, an amount equal to the maximum allowed by any statute or rule of law in effect at the time when, and governing the proceedings in which, such damages are to be proved.

**d. Reentry and Removal.** Upon the occurrence of an Event of Default by Lessee, Lessor will also have the right, with or without terminating this Lease, to reenter the Premises to remove all persons and property from the Premises. Such property may be removed and stored in a public warehouse or elsewhere at Lessee's cost. If Lessor elects to reenter the Premises, Lessor will not be liable for damages due to such reentry.

**e. No Termination; Recovery of Rent.** If Lessor does not elect to terminate this Lease as provided in this section, then Lessor may, from time to time, recover all rent as it becomes due under this Lease. At any time thereafter, Lessor may elect to terminate this Lease and to recover damages to which Lessor is entitled.

**f. Reletting the Premises.** In the event that Lessor should elect to terminate this Lease and to relet the Premises, it may execute any new lease in its own name. Lessee hereunder will have no right or authority whatsoever to collect any rent from such other lease. Lessor shall have the right, but shall not be required, to apply the rent received from reletting the premises to:

- i. First, to the payment of any indebtedness other than rent due hereunder from Lessee to Lessor, including without limitation storage charges;
- ii. Second, to the payment of the costs and expenses of reletting the Premises, including alterations and repairs that Lessor, in its sole discretion, deems reasonably necessary and advisable, and reasonable attorneys' fees, incurred by Lessor in connection with the retaking of the Premises and such reletting;
- iii. Third, to the payment of rent and other charges due and unpaid hereunder; and
- iv. Fourth, to the payment of future rent and other damages payable by Lessee under this Lease.

**g. Waiver of Counterclaim.** In the event Lessor commences any legal proceedings for non-payment of rent or additional charges due Lessor under this Lease, forcible detainer, or violation of any of the terms hereof, Lessee will not interpose any counterclaim or set off of any nature or description in any such proceedings.

**h. Remedies Cumulative; No Waiver.** All rights, options, and remedies of Lessor contained in this Lease will be construed and held to be cumulative, and no one of them will be exclusive of the other. Lessor will have the right to pursue any one or all of such remedies or any other remedy or relief that may be provided by law, whether or not stated in this Lease. No waiver

by Lessor of a breach of any of the terms, covenants, or conditions of this Lease by Lessee will be construed as or held to be a waiver of any succeeding or preceding breach of the same or any other term, covenant, or condition therein contained. No waiver of any default of Lessee hereunder will be implied from any omission by Lessor to take any action on account of such default if such default persists or is repeated, and no express waiver will affect default other than as specified in such waiver. The consent or approval by Lessor to or of any act by Lessee requiring Lessor's consent or approval will not be deemed to waive or render unnecessary Lessor's consent to or approval of any subsequent similar acts by Lessee. Lessor has no obligation to apply the security deposit on unpaid rent before default for failure to pay rent.

**i. Legal Costs.** Lessee will reimburse Lessor, upon demand, for any costs or expenses incurred by Lessor in connection with any breach or default of Lessee under this Lease, regardless of whether suit is commenced or judgment entered. Such costs will include, without limitation, reasonable attorney's fees, legal fees and costs incurred for the negotiation of a settlement, enforcement of rights, collection of arrearage in rent, or otherwise.

**j. Waiver of Damages for Reentry.** To the extent that Lessor complies with all applicable law, Lessee hereby waives all claims for damages that may be caused by Lessor's reentering and taking possession of the Premises or removing and storing the property of Lessee as permitted under this Lease, and will save Lessor harmless from all losses, costs, or damages occasioned Lessor thereby. No such reentry will be considered or construed to be a forcible entry by Lessor.

## ARTICLE 8. ASSIGNMENT AND SUBLEASE

**8.01. Assignment and Sublease.** Lessee shall not sublet or assign any part of this Lease to any other person or entity without the prior written consent of Lessor. Unless required by law, this Lease shall not pass by operation of law to any trustee in bankruptcy, a receiver in a receivership, or for the assignment for the benefit of creditors of Lessee. For purposes of this section, any change in the partners of Lessee (if Lessee is a partnership), or any transfer of shares of stock of Lessee by sale, assignment, operation of law, or otherwise resulting in a change in the present control of such partnership or corporation by the person or persons owning a majority of such partnership interests or shares as of the date of this Lease, will be deemed to be an assignment within the meaning of this section.

**8.02. Notification.** Lessee shall notify Lessor in writing at least sixty (60) days prior to any proposed assignment or sublease. Lessee shall identify the name and address of the proposed assignee/sublessee, and deliver to Lessor all supporting documentation that Lessor may deem reasonably necessary to evaluate the assignee/sublessee's ability to comply with the terms and conditions of this Lease.

**8.03. Approval of Assignment/Sublease.** Lessor shall not unreasonably withhold consent to a proposed assignment or sublease. However, the parties agree that reasonable grounds for withholding consent include the following:

- a. The proposed activity of the assignee/sublessee does not conform with the terms of this Lease, or with policies established by Lessor.
- b. The proposed assignee/sublessee does not have the financial resources to comply with the requirements of the Lease, or the proposed assignee/sublessee does not have substantial experience operating the site, facility, or business located on the leased Premises. Lessor may require an additional security deposit from the assignee/sublessee as a condition of any consent.
- c. Lessee (or the proposed assignee/sublessee) has existing violations under this Lease or another lease of District property.
- d. The activity of the proposed assignee/sublessee would interfere with or disturb neighboring tenants or owners.

**8.04. Additional Compensation.** If Lessee assigns or sublets its interest under this Lease and thereby receives a rental in excess of the rent paid to Lessor under Article 2, then Lessee shall pay 50% of that excess rent so received to Lessor. Lessor may also charge its standard document preparation fee for any approved assignments or subleases.

**8.05. Unauthorized Assignment/Sublease.** Any attempted sublease or assignment not in compliance with this section shall be void and without force and effect. Additionally, Lessor shall be entitled to 100% of all sublease fees received by Lessee under any unauthorized sublease.

## ARTICLE 9. ENVIRONMENTAL REQUIREMENTS

### **9.01. Definitions.**

- a. **“Environmental Law or Laws”** shall mean any and all federal, state, or local laws, regulations, ordinances, rules, orders, directions, requirements, or court decrees pertaining to health, industrial hygiene, or the environmental conditions on, under, or about the Premises, including, without limitation, the Resource Conservation and Recovery Act (RCRA); the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); the Toxic Substances Control Act; the Federal Water Pollution Control Act (Clean Water Act); the Safe Drinking Water Act; the Clean Air Act; the Illinois Endangered Species Protection Act; and all parallel, similar, or relevant laws pertaining to the environmental condition of the Premises or activities conducted thereon, as those laws may be amended from time to time.
- b. **“Hazardous Materials”** shall mean any substance (whether solid, liquid or gaseous in nature), the presence of which (without regard to action level, concentration, or quantity threshold) requires investigation or remediation under any Environmental Law, or which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous or dangerous, or which could cause or threaten to cause a nuisance upon the Premises or to adjacent properties, or poses a hazardous threat to the health or safety of persons on or about such properties. “Hazardous Materials” includes, but is not limited to, “hazardous waste” as defined in RCRA; “hazardous substance” as defined in CERCLA;



petroleum or petroleum wastes/byproducts; and any other toxic or hazardous substances that may be regulated from time to time by applicable Environmental Laws.

c. **“Environmental Conditions”** shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of Hazardous Materials on, from, or about the Premises, other than in compliance with applicable Environmental Laws.

d. **“Environmental Costs”** shall mean any and all judgments, damages, penalties, fines, costs, liabilities, obligations, losses, or expenses of whatever kind and nature, including attorneys’ fees, consultants’ fees, and experts’ fees, arising from or incurred in connection with Environmental Conditions, including but not limited to those relating to the presence, investigation, or remediation of Hazardous Materials.

**9.02. Compliance with Environmental Laws.** Lessee (including Lessee’s employees, contractors, agents, successors, or assigns), at its sole expense, shall comply at all times with all Environmental Laws pertaining to the Premises or Lessee’s use of the Premises, and with all directions of all public officers issued pursuant to any Environmental Law, which shall impose any duty on the Lessee with respect to the use or occupancy of the Premises. Lessor may request from Lessee at any time during the Lease term an operation and maintenance plan, monitoring plan, emergency spill plan, or any other similar plan to ensure that Lessee is reasonably prepared to respond to environmental issues that may occur on the Premises and to comply with all applicable Environmental Laws.

### **9.03. Notifications.**

**a. Environmental Conditions or Claims.** Lessee shall give immediate written notice to the District of any Environmental Conditions or claims, including the following: (a) any proceeding or inquiry by any governmental authority with respect to the presence of any Hazardous Materials on the Premises or the migration thereof from or to other areas; (b) all claims and potential claims made, inquired about, or threatened by any third party against Lessee or the Premises relating to any loss or injury resulting from any Hazardous Materials or other Environmental Conditions; and (c) Lessee’s discovery of any occurrence or Environmental Condition on any property adjoining or in the vicinity of the Premises that could cause the Premises (or any part thereof) to be subject to any restrictions on its ownership, occupancy, transferability, or use under any Environmental Law.

**b. Release of Hazardous Materials.** In the event of a release of Hazardous Materials or other Environmental Condition discovered on the Premises, Lessee must notify any required governmental agencies, as required by Environmental Laws. In addition, Lessor must notify Lessor by telephone immediately after the release or discovery of the Environmental Condition, to provide the following information, to the extent known: the identity of the Hazardous Materials, the quantity thereof, and the cause(s) of the release. Lessee must provide Lessor, within 72 hours of the event, copies of all written notices by Lessee, its parent and its subsidiaries that are reported to government regulators or received from government regulators.

**9.04. Representations and Warranties.** Lessee represents, warrants, and covenants to and with Lessor that: a) Lessee has the full right, power, and authority to carry out its environmental obligations hereunder; b) Lessee is financially capable of performing and satisfying its environmental obligations hereunder; c) Lessee is not now, and never has been, in violation of any applicable Environmental Law relating to the Premises or its activities on the Premises, including but not limited to any Environmental Law relating to the generation, handling, usage, transportation, treatment, storage, or disposal of Hazardous Materials, nor is it subject to any threatened, existing, or pending action by any governmental authority or any environmental liens; and d) Lessee's generation, handling, usage, transportation, treatment, storage, or disposal of Hazardous Materials at the Premises (if any) shall at all times comply with applicable Environmental Laws and will not cause or allow any Environmental Condition to occur or exist.

**9.05. Prohibited Uses.** Lessee shall only use the Premises for the uses authorized under this Lease. Lessee is prohibited from using the Premises in any way which would impair the environmental condition of the Premises, or that would cause or threaten to cause a public or private nuisance. In addition, Lessee shall not construct, reconstruct, use, or operate any underground storage tanks or related facilities without the express written permission of Lessor.

**9.06. Inspections and Environmental Site Assessments.**

**a. Inspections.** Lessor shall have the right, but not the duty, to inspect the Premises at any time to determine whether Lessee is complying with the terms of this Lease, including the right to perform any testing (surface, subsurface, groundwater, etc.) on the Premises that Lessor deems necessary.

**b. Periodic Environmental Site Assessments.** Every five years during the Lease term, Lessee must conduct a Phase I Environmental Site Assessment ("ESA") (as defined by ASTM International) with respect to the Premises at its own expense. Lessor may waive this requirement if there is current environmental information or reports available such that a Phase I ESA is not needed, at Lessor's sole discretion. The Phase I ESA must be provided to the Lessor within 90 days after each fifth anniversary of the Lease commencement date. After review of the Phase I ESA, Lessor may require Lessee to obtain a Phase II Environmental Site Assessment (as defined by ASTM International) with respect to the Premises. Prior to commencing any Phase II ESA, the scope of work must be provided to Lessor for review and approval. The written report of the Phase II ESA shall be submitted to Lessor within 120 days of Lessor's request for same.

**c. Other Environmental Site Assessments.** Lessor may also require Lessee, at any time, to obtain a Phase I or Phase II ESAs, at Lessor's discretion, to ensure compliance with the environmental requirements of this Lease. If Lessee fails to provide any required Phase I or Phase II ESA to Lessor as provided for in this section, Lessor may obtain a Phase I or Phase II ESA, at its discretion, and Lessee must reimburse Lessor for any associated costs.

**9.07. Environmental Remediation.** In the event of any release, emission, discharge, or disposal of Hazardous Materials in, on, under, or about the Premises or improvements, or if any

inspection or environmental site assessment finds an Environmental Condition, or a violation of an Environmental Law or this Lease, then Lessee must take remedial measures in accordance with the recommendations of Lessee's environmental engineers and/or consultants, and/or the requirements of any governmental authority having jurisdiction over such matters. The remedial measures taken must restore the Premises to a clean and sanitary condition that complies with all applicable Environmental Laws. If Lessee fails to comply with the environmental requirements of this Lease, then Lessor shall have the right, but not the duty, to enter upon the Premises to remedy, at Lessee's expense, any Environmental Conditions caused by Lessee's failure to comply. Lessee shall pay to Lessor all Environmental Costs incurred by Lessor in performing any such remedial measures within 30 days after Lessor's written request therefore. Lessor shall use reasonable efforts to minimize interference with Lessee's business operations, but Lessor shall not be liable for any interference caused thereby.

**9.08. Indemnification.** Lessee (including its executors, administrators, successors, and assigns), agrees to indemnify, defend, and hold harmless the District (including its Commissioners, officers, agents, and employees), from and against any and all claims, losses, damages, suits or actions, judgments, fines, penalties, or costs (including reasonable attorney's fees) arising out of any Environmental Conditions on the Premises, or arising out of Lessee's violation of any Environmental Laws, and Lessee shall pay all Environmental Costs in connection therewith. Notwithstanding anything in this Lease to the contrary, Lessor agrees that Lessee shall not be responsible for Environmental Conditions to the extent that such Environmental Conditions exist as of the commencement date of the Lease, as documented in the baseline Phase I/II Environmental Site Assessment dated XX, provided that these Environmental Conditions were not the result of Lessee's operations under a prior lease or occupancy of the Premises. Lessee's indemnification of Lessor shall extend to any migration of Hazardous Materials from the Premises to any other properties. The foregoing indemnity shall also survive the end of the Lease term.

#### **9.09. Restoration at End of Lease Term.**

**a. Restoration.** At the end of the Lease term, whether by expiration or termination for any other reason, Lessee is required to restore the Premises to the Tiered Approach to Corrective Action Objectives ("TACO") Tier I Residential Standards, as set forth in the Illinois Administrative Code (35 Ill. Adm. Code Part 742), as may be amended from time to time, (or to the baseline environmental condition established at the commencement of the Lease term, as documented in the baseline Phase I/Phase II Environmental Site Assessment dated XX, if applicable). Lessor may require a No Further Remediation ("NFR") letter from the Illinois Environmental Protection Agency ("IEPA") to demonstrate compliance with this provision. During the final year of the Lease term, Lessee must prepare a Phase I ESA that demonstrates the Premises meets this standard, and that the Premises is otherwise in compliance with all applicable Environmental Laws. After review of the Phase I ESA, Lessor may request one or more Phase II ESAs to ensure compliance with this section. Prior to commencing any Phase II ESA, the scope of work must be provided to Lessor for review and approval. Based on Lessor's review of the environmental assessments, it may request Lessee to address specific environmental issues or conditions as part of its Site Vacation Plan (see Section 10). Lessor's Executive Director has the sole discretion to determine which TACO Tier I objectives and measures are appropriate based on site-specific conditions and Lessor's remediation goals for

use of the Premises after expiration of the Lease term. Lessee's responsibility to restore and remediate the Premises applies to any contamination that may have migrated from adjacent properties, but Lessee may seek recovery from any responsible third parties.

**b. Site Restoration Deposit.** At any time during the last 5 years of the Lease term, Lessor, at its option, may require Lessee to provide an Environmental Site Restoration Deposit to Lessor in the amount of at least \$10,000.00, secured by cash or irrevocable letter of credit. Lessor may require a higher deposit amount if any inspections, or the environmental site assessments on file, have shown that environmental conditions will require more costly remediation efforts. The deposit shall be maintained in full force and effect until such time as Lessee has demonstrated and documented to the reasonable satisfaction of Lessor (and Lessor has executed its written release thereof) full compliance with all Environmental Laws relating to Lessee's use or occupancy of the Premises and its environmental restoration or remediation.

**9.10. Survival.** The environmental requirements set forth in this article shall survive the expiration or termination of the Lease.

**9.11. Compliance with this Article.** Lessee shall cause its parent company, subsidiaries, contractors, subcontractors, employees, and agents to comply with all applicable Environmental Laws and this Article 9 at all times, and to provide such information that Lessor may reasonably request from time to time to determine compliance.

#### ARTICLE 10. SITE VACATION AND RESTORATION

**10.01. Lessee to Yield Premises Upon Lease Expiration.** At the end of the Lease term, by expiration, termination, or otherwise, Lessee agrees to yield up the Premises, together with any buildings or improvements, to Lessor in as good condition as when said buildings or improvements were constructed or placed thereon, ordinary wear and tear excepted. The process for yielding up and vacating the Premises is the following:

**a. Site Vacation Plan.** At least one year prior to the expiration of this Lease, Lessee must provide a Site Vacation Plan ("Plan") in writing for the District's review and approval. The Site Vacation Plan must include the following components:

- i. Proposed timeframe to vacate the Premises, including all of Lessee's personal property, vehicles, equipment, etc.
- ii. Proposed measures to secure the site, along with any buildings or structures, including any utility disconnections, as appropriate.
- iii. Proposed measures to restore the Premises to the required environmental condition (see Article 9). This Plan must include the removal of any and all storage tanks from the Premises, above or belowground, and to remove any and all asbestos from the Premises.

**10.02. District Review and Approval.** The Plan submitted by Lessee is subject to the District's review and approval. As part of the review process, the District will inform Lessee

which, if any, improvements on the Premises shall be demolished, at Lessee's sole cost and expense. All remaining improvements will become the sole property of Lessor, without any compensation owed to Lessee. Lessor's Executive Director must also approve the site restoration and/or remediation components of the Plan to ensure compliance with Article 9 of this Lease. This requirement of Lessee to demolish improvements as required by the District, and to restore and/or remediate the site as required under this Lease, shall survive expiration or termination of this Lease. If, after notice from Lessor, Lessee fails to demolish the improvements, or fails to restore and/or remediate the site, Lessor may undertake those actions and Lessee will be required to pay all associated costs.

**10.03. Right to Show.** Within the last 18 months of the Lease term, Lessor may show the property to prospective tenants or buyers, upon reasonable advance notice to Lessee (which shall be at least one week prior to the showing). Showings will be limited to normal business hours, unless otherwise agreed upon. Lessor may also display "For Rent" or "For Sale" signs on the property during this period.

**10.04. Increase in Security Deposit to Cover Property Taxes.** With one year or less remaining in the Lease term (by expiration, termination, or otherwise), if the Security Deposit required by Article 2 of this Lease is insufficient to cover the anticipated real estate taxes on the leasehold that will become due after the termination or expiration of this Lease, Lessor may require Lessee to pay additional funds to Lessor such that the total Security Deposit held by Lessor is at least 110% of the real estate taxes owed in the most recent ascertainable tax year.

#### ARTICLE 11. MISCELLANEOUS

**11.01. Notices.** Any notice or demand to be given pursuant to this Lease must be in writing, and must be sent by registered or certified mail, postage prepaid, to the other party at the following address (or to other such address that either party may designate in writing):

Lessor: Metropolitan Water Reclamation District of Greater Chicago  
100 E. Erie St.  
Chicago, Illinois 60611  
ATTN: Executive Director

With a copy to: [MWRD Attorney Name/Phone/Email Address]

Lessee: [NAME]  
[ADDRESS]  
[CITY/STATE/ZIP]  
ATTN:

With a copy to: [Other Name/Phone/Email Address]

The mailing of a notice in accordance with this section shall be deemed sufficient for purposes of this Lease and effective as of the date such notice is mailed.

**11.02. Entire Agreement.** No representations, statements, or warranties have induced the making, execution, and delivery of this lease agreement by Lessee other than those expressed in this lease agreement. This lease 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 of this lease agreement. This instrument may be amended or modified only by an instrument of equal formality signed by the respective parties. The Parties acknowledge that they have had an adequate opportunity to review every provision contained in this Lease and to submit the same to legal counsel for review. The Parties agree that the rule of construction that a contract be construed against the drafter, if any, shall not be applied in the interpretation and construction of this Lease. The headings used in this Lease are inserted for the convenience of the Parties and shall not affect the interpretation of the provisions contained herein.

**11.03. Governing Law.** This Lease is governed by, and must be interpreted under, the laws of the State of Illinois. This Lease shall be binding and inure to the benefit of the Parties' successors and assigns, and all of the conditions and covenants of this Lease shall run with the land during the Lease term.

**11.04. Recording.** After execution of this Lease, Lessor will record a Memorandum of Lease with the recorder of deeds for the county in which the Premises is located. Lessee must reimburse the District the county's fee for such recording.

#### ARTICLE 12. OTHER SITE-SPECIFIC TERMS AND CONDITIONS

12.0X. Insert site-specific terms and conditions (e.g., the comments from the technical departments.)

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and year first above written.

**METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO**

BY: \_\_\_\_\_  
Marcelino Garcia, Chairman of Finance

ATTEST: \_\_\_\_\_  
Jacqueline Torres, Clerk

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

**[LESSEE'S NAME]**

BY: \_\_\_\_\_  
Name: \_\_\_\_\_ Title: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Name: \_\_\_\_\_ Title: \_\_\_\_\_

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

**APPROVED AS TO FORM AND LEGALITY:**

\_\_\_\_\_  
Head Assistant Attorney

\_\_\_\_\_  
General Counsel

**APPROVED:**

\_\_\_\_\_  
Executive Director

RECEIVED:

Fee \_\_\_\_\_  
Insurance \_\_\_\_\_  
Bond \_\_\_\_\_

STATE OF ILLINOIS )  
 )  
COUNTY OF COOK )

MWRD NON-COLLUSION AFFIDAVIT

Pursuant to the MWRD Act (70 ILCS 2605/8c), the undersigned, being first duly sworn upon oath, certifies the absence of any collusion relating to this lease:

\_\_\_\_\_  
President Kari K. Steele

\_\_\_\_\_  
Vice President Patricia Theresa Flynn

\_\_\_\_\_  
Chairman of Finance Marcelino Garcia

\_\_\_\_\_  
Commissioner Precious Brady Davis

\_\_\_\_\_  
Commissioner Yumeka Brown

\_\_\_\_\_  
Commissioner Cameron Davis

\_\_\_\_\_  
Commissioner Beth McElroy Kirkwood

\_\_\_\_\_  
Commissioner Eira L. Corral Sepúlveda

\_\_\_\_\_  
Commissioner Sharon Waller

\_\_\_\_\_  
Executive Director

SUBSCRIBED AND SWORN to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public



STATE OF ILLINOIS )  
 )  
COUNTY OF COOK )

LESSEE NON-COLLUSION AFFIDAVIT

Pursuant to the MWRD Act (70 ILCS 2605/8c), the undersigned, being first duly sworn upon oath, certifies the absence of any collusion relating to this lease:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

SUBSCRIBED AND SWORN to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

## EXHIBIT C

### 3.3 Sale of District Land

- A. Permissible Sales: The sale of Surplus Land located in Cook, DuPage, and Will Counties that is isolated and not contiguous to waterways, and the sale of District land in Fulton County, is permitted, but only upon the Executive Director's recommendation and at the sole discretion of the Board of Commissioners.
- B. Prohibited Sales: The sale of Corporate Use Land, and any District land contiguous to waterways in Cook, DuPage, or Will County, is prohibited.

### 3.4 The District's Waterway Strategy

- A. District Lands Contiguous to Waterways
  - 1. Setback Requirements: It is the intent of the District to have a well-maintained and attractive river edge of all of the property it owns adjacent to waterways, including the Chicago River, the Chicago Sanitary & Ship Canal (a.k.a. Main Channel), the North Shore Channel, and the Cal-Sag Channel. In order to accomplish this goal, the District requires a waterway edge easement to be included in its land leases. Unless otherwise authorized by the Board of Commissioners, the width of the easement shall be a minimum of 60 feet and up to 100 feet, when feasible. Such width shall be measured from the edge of the water at normal water levels, then inward across the leased premises at a 90 degree angle, or best approximation thereof, from the water's edge. No lessee of the District shall cause, or allow to be caused, any impediment to be constructed or placed upon such easement, whether it be a permanent structure such as a building, or moveable objects such as unsightly materials and debris. Buildings existing at the time this policy is enacted shall be grandfathered in.
  - 2. Bank Stabilization and Landscaped Visual Screening: All lessees shall be responsible for bank stabilization and the construction and maintenance of a landscaped visual screen that effectively screens the leased premises from the viewpoint of the waterway edge easement. The recommended landscaped visual screen, whenever possible, shall consist of native vegetative cover. In the event that site development necessitates removal of existing vegetative cover, the lessee shall be required to promptly reestablish native vegetative cover in the same quantities as those removed during the development.
  - 3. Penalties: Any lessee's failure to comply with the requirements contained in subsections A(1) and A(2) above shall constitute a breach of the lease agreement by the lessee and shall be grounds for the District, at its option, to terminate the lease agreement. The District shall also have the right to recover from the lessee any and all reasonable costs associated with correcting each such violation, including, but not limited to, remediation costs to have the violations corrected, as well as court costs

and attorneys' fees for filing an action in circuit court seeking an order to have the lease agreement terminated on these grounds.

**B. North Shore Channel – Additional Requirements**

1. Limitations on Use of Lands Contiguous to North Shore Channel: All District lands contiguous to either side of the North Shore Channel, starting from the south at Devon Avenue and continuing north to, and including, Wilmette Harbor, shall be dedicated and used exclusively as open green space and public recreational use.
2. Special Lease Conditions: All District leases pertaining to lands contiguous to the North Shore Channel shall require continuous trails, boat access, and bank stabilization; however, in the case of renewed District leases to public agencies, the stated policy shall apply only to the extent it is economically feasible and consistent with existing public uses.

**C. Exceptions: Any use of District land that is prohibited by or inconsistent with the terms of this Paragraph 3.4 shall be permitted only upon one or more of the following conditions:**

1. Uses Permitted Under Pre-Existing Leases: The use is authorized by the terms of an unexpired lease agreement with the District that was entered into before the date of passage of this Comprehensive Land Use Policy. Such use shall continue to be permitted until such time as the lease agreement expires or is terminated, unless otherwise extended by the Board of Commissioners.
2. Variances: The use is authorized by a variance granted by the Board of Commissioners whenever, and to the extent, it deems that the variance is necessary and in the best interests of the District considering the location, existing topography and vegetation, and use or proposed use of the leased premises. All variances shall be granted only by approval of the Board of Commissioners at its sole discretion, with recommendation by the Executive Director.
3. Waterborne Commerce: The use is for the purpose of waterborne commerce pursuant to a lease agreement with the District. In such instances, no variance from the Board of Commissioners is necessary. However, the lessee shall, to the extent possible, construct and maintain a docking facility compatible with the visual intent of the scenic easement, with the District maintaining the sole discretion to determine whether compatibility has been achieved.

**3.5 Land Use Categories**

A land use category is a designation by District staff as to the a) manner that District land is presently being used in the case of land that is already occupied, or b) recommended use of District land in the case of land that is vacant. District staff shall be responsible for

**EXHIBIT D**  
**Green Infrastructure Program for Commercial Leases**

Lessees that are awarded leases through competitive bidding are encouraged to participate in the District's Green Infrastructure Program. Participation is completely voluntary.

Under the program, tenants can receive a rent reduction in the form of a lease credit equal to \$0.50 on the \$1.00, up to 10% of the annual rental amount and capped at the first 10 years of the lease, for expenditures and improvements on the leasehold related to the construction and installation of green infrastructure (subsequent maintenance or replacement do not qualify). All green infrastructure projects must be pre-approved by the District to be eligible and lease credits are solely at the District's discretion. No credit will be given for conditions in existence prior to the Lease or for improvements made to come into compliance with the minimum requirements of the District's ordinance, regulations, or policies.

The lease credit is based on "Design Retention Capacity" ("DRC"). DRC is the maximum available retention capacity of a project in any individual storm event as stated in project plans, stamped by a licensed Professional Engineer, or in the absence of such statement, a project specific capacity calculated using the following table:

<b>Technology</b>	<b>Quantity</b>	<b>Unit</b>	<b>DRC (gallons)</b>
Rain Gardens	100	sq. ft.	200
Native Plants/Landscaping	100	sq. ft.	150
Stormwater Trees	100	Trees	1000
Porous Pavement	100	sq. ft.	1000
Bio-Swales	100	sq. ft.	500
Green Roofs	100	sq. ft.	300
Greenways	100	sq. ft.	63

In place of, or in addition to the above, Lessee may construct and install off-site green infrastructure in partnership with the local municipality where the leasehold is located. Maintenance and operation will be solely by Lessee, and a lease credit will only be given for Lessee's own expenditures. Lessee is required to install signage indicating that such green infrastructure is being provided in partnership with the District.

Each year, Lessee must provide the District with an annual certification, by filling out the District's "Green Infrastructure Program Annual Certification" form, due on the anniversary date of the Lease. Failure to maintain the green infrastructure, provide an annual certification, or falsify information on the certification form may be grounds for the District to revoke the lease credit and entitles the District to full reimbursement of any amount previously credited to Lessee. Additionally, the District reserves the right to inspect the premises throughout the duration of the Lease to verify that the green infrastructure has been properly installed and maintained.

To participate in the District's Green Infrastructure Program, Lessees must fill out the following "Green Infrastructure Program" form completely and have the form signed by the authorized representatives of the Lessee and the District concurrently with the signing of the Lease.