

DEPARTMENT OF THE AIR FORCE

LICENSE

TO EL PASO COUNTY

TO USE PROPERTY LOCATED ON

UNITES STATES AIR FORCE ACADEMY

TABLE OF CONTENTS

BASIC TERMS.....1

1. TERM1

2. LICENSE FEE1

3. CORRESPONDENCE.....2

4. USE OF THE PREMISES.....2

5. DEFAULT, REMEDIES, AND TERMINATION3

OPERATION OF THE PREMISES3

6. EASEMENTS AND RIGHTS OF WAY3

7. CONDITION OF PREMISES3

8. MAINTENANCE OF THE PREMISES4

9. TAXES4

10. INSURANCE4

11. ALTERATIONS.....7

12. COSTS OF UTILITIES/SERVICES.....7

13. RESTORATION.....7

CHANGES IN OWNERSHIP OR CONTROL7

14. TRANSFER, ASSIGNMENT, SUBLETS, OR DISPOSAL.....7

15. LIENS AND MORTGAGES7

ENVIRONMENT8

16. ENVIRONMENTAL COMPLIANCE8

17. ASBESTOS-CONTAINING MATERIALS AND LEAD-BASED PAINT9

18. SAFETY, HAZARDOUS MATERIALS, AND WASTE MANAGEMENT9

19. HISTORIC PRESERVATION9

20. INSTALLATION RESTORATION PROGRAM (IRP).....10

21. ENVIRONMENTAL BASELINE SURVEY/ CONDITION OF PROPERTY12

GENERAL PROVISIONS.....12

22. GENERAL PROVISIONS (AIR FORCE PROPERTY).....12

23. SPECIAL PROVISIONS13

24. GOVERNMENT RIGHTS NOT IMPAIRED13

25. COMPLIANCE WITH APPLICABLE LAWS13

26. AVAILABILITY OF FUNDS14

27. CONGRESSIONAL REPORTING14

28. AMENDMENTS14

29. GENERAL INDEMNIFICATION14

30. ENTIRE AGREEMENT14

31. SECTION HEADINGS15

32. STATUTORY AND REGULATORY REFERENCES.....15

33. PRIOR AGREEMENTS15

34. EXHIBITS15

DEPARTMENT OF THE AIR FORCE

LICENSE

TO EL PASO COUNTY, COLORADO

TO USE PROPERTY LOCATED ON UNITED STATES AIR FORCE

ACADEMY

PREAMBLE

THE SECRETARY OF THE AIR FORCE, hereinafter referred to as “Government”, acting under the authority of 10 U.S.C. § 9013, hereby issues to **EL PASO COUNTY by and through the Board of County Commissioners of El Paso County, Colorado, a body corporate, politic and a political subdivision of the State of Colorado**, whose address is 200 S. Cascade, Colorado Springs, Colorado 80903, hereinafter referred to as “Licensee”, a license (“License”) at will for **the Construction of the El Paso County/Struthers Detention Pond** at the United States Air Force Academy, hereinafter referred to as “Installation,” identified in **EXHIBITS A and B**, both attached hereto and made a part hereof, hereinafter referred to as the “Premises.” The Government and the Licensee, when referred to together, are hereinafter referred to as the “Parties.”

THIS LICENSE is issued subject to the following conditions.

BASIC TERMS

1. TERM

1.1. The term of this License shall be 5 years commencing upon the signature of all parties (“Commencement Date”) and ending **5 years from the signature of all parties** (“Expiration Date”), unless sooner terminated by Government. The obligations of Licensee (excluding those of Section 2), including those regarding remediation of environmental damage and removal of structures, facilities, and equipment installed by Licensee, shall continue beyond the expiration or earlier termination of this License unless otherwise agreed to by the Parties.

2. LICENSE FEE

2.1. The consideration for this License will be the protection, care, and maintenance of the Premises.

2.2. The use, operation, and occupation of the Premises pursuant to this License shall be without cost or expense to the Government.

3. CORRESPONDENCE

3.1. Any notices pursuant to this License shall be given in writing by (a) personal delivery, or (b) reputable overnight delivery service with proof of delivery, or (c) United States Mail, postage prepaid, registered or certified mail, return receipt requested, or (d) email, in each case addressed as follows:

If to the Government: Department of the Air Force:

10 CES/CEIA
8120 Edgerton Drive, Suite 40
U.S. Air Force Academy, CO 80840
10ces.ceiap.realproperty@us.af.mil

If to the Licensee:

El Paso County – Department of Public Works
Engineering Division
3275 Akers Drive
Colorado Springs, CO 80922
dotdpwdispatch@elpasoco.com

Each notice shall be deemed to have been given either (1) at the time of personal delivery, (2) if sent by expedited delivery service, as of the date of first attempted delivery at the address and in the manner provided herein, (3) if sent by United States Mail, five business days (weekdays, excluding federal holidays) after the date such notice is deposited in the United States Mail or (4) if sent by email transmission, as of the date of the email transmission if an original of such notice is also sent to the intended addressee by means described in clauses (a), (b), or (c) above. Either Party, by written notice to the others in the manner herein provided, may designate (A) an address different from that set forth in this License and (B) an additional address.

4. USE OF THE PREMISES

4.1. The use, operation, and occupation of the Premises are subject to the general supervision and control of the Government.

4.2. Government Right of Access and Inspection. Government shall have the right to enter the Premises at any time and shall have the right to reasonably inspect the Premises and Licensee's property placed thereon.

4.3. In accepting the privileges and obligations established hereunder, Licensee recognizes that the Installation serves the national defense and that Government will not permit the Licensee to interfere with the Installation's military mission. This Installation is an operating military Installation which is closed to the public and is subject to the provisions of the Internal Security

Act of 1950, 50 U.S.C. § 797 and of 18 U.S.C. § 1382. Access to the Installation is subject to the control of the Installation Commander and is governed by such regulations and orders. Any access granted to Licensee, its officers, employees, partners, members, contractors of any tier, agents, invitees, others who may be on the Premises at their invitation, or assignees (“Licensee Parties”) is subject to such regulations and orders. This License is subject to all regulations and orders currently promulgated or which may be promulgated by lawful authority as well as all other conditions contained in this License. Violation of any such regulations, orders, or conditions may result in the termination of this License. Such regulations and orders may, by way of example and not by way of limitation, include restrictions on who may enter, how many may enter at any one time, when they may enter, and what areas of the Installation they may visit, as well as requirements for background investigations, including those for security clearances, of those entering. Licensee is responsible for the actions of Licensee Parties while on the Installation.

4.4. In the event all or any portion of the Premises shall be needed by the Government or in the event the presence of Licensee’s property shall be considered detrimental to governmental activities, Licensee shall, from time to time and at Licensee’s expense, upon notice to do so, remove or relocate its property to such other location or locations on the Premises (or substitute land of Government which shall then become part of the Premises) as may be designated by the Government in writing and by amendment to this License. In the event Licensee’s property shall not be removed or relocated within thirty (30) days after any such notice, or such shorter time as may be designated in the notice as necessary under the circumstances, the Government may remove or relocate the Licensee’s property at the expense of the Licensee.

5. DEFAULT, REMEDIES, AND TERMINATION

5.1. This License may be terminated at will by the Government and such termination shall not create any liability on the part of Government for any reason, including, without limitation, Licensee’s costs, anticipated profits or fees, and costs of construction, installation, maintenance, upgrade, and removal of facilities, or any other costs, profits, or fees, and any such costs and anticipated profits or fees will not be recoverable from Government.

OPERATION OF THE PREMISES

6. EASEMENTS AND RIGHTS OF WAY

6.1. This License is subject to all outstanding easements, rights of way, leases, permits, licenses, and uses for any purpose with respect to the Premises. The Government shall have the right to grant additional easements, rights of way, leases, permits, and licenses, and make additional uses with respect to the Premises with due regard for this License.

7. CONDITION OF PREMISES

7.1. The Licensee has inspected and knows the condition of the Premises. The Premises are granted in an “as is, where is” condition without any warranty, representation, or obligation on the part of the Government to make any alterations, repairs, improvements, or corrections to defects whether patent or latent. The Parties have signed a Physical Condition Report (“PCR”),

attached hereto as Exhibit C, to document the condition of the Premises prior to use and occupancy of the Premises by the Licensee.

8. MAINTENANCE OF THE PREMISES

8.1. The Licensee shall, at all times, protect, repair, and maintain the Premises in good order and condition at its own expense and without cost or expense to the Government. The Licensee shall exercise due diligence in protecting the Premises against damage or destruction by fire, vandalism, theft, weather, or other causes related to the Licensee's activities on the Premises. Any property on the Premises damaged or destroyed by the Licensee incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the Licensee to the satisfaction of the Government.

9. TAXES

9.1. Payment of Taxes. The Licensee shall pay to the proper authority, when and as the same become due and payable, all taxes, assessments, and similar charges which, at any time during the term of this License may be imposed on the Licensee or the Premises.

10. INSURANCE

10.1. Risk of Loss. The Licensee shall, in any event and without prejudice to any other rights of the Government, bear all risk of loss or damage or destruction to the Premises, including any buildings, improvements, fixtures, or other property thereon, arising from any causes whatsoever, with or without fault by the Government; provided, however, the Government shall not be relieved of responsibility for loss or damage that is solely the result of the gross negligence or willful misconduct of the Government to the extent such loss or damage is not covered by coverage of insurance required under this License.

10.2. License Insurance Coverage. During the entire period this License is in effect, the Licensee, at no expense to the Government, will carry and maintain, and as appropriate, require any contractor performing work on the Premises to carry and maintain, at no expense to the Government, the following insurance coverages:

10.2.1. Property insurance coverage against loss or damage by open perils or its equivalent, including fire, in an amount not less than One Hundred Percent (100%) of the full replacement cost of Licensee's, building improvements, improvements to the land, fixtures, and personal property on the Premises. The policies of insurance carried in accordance with this Section shall contain a "Replacement Cost Endorsement." Such full replacement cost shall be determined from time to time, upon the written request of the Government or the Licensee, but not more frequently than once in any twenty four (24) consecutive calendar month period (except in the event of substantial changes or alterations to the Premises undertaken by the Licensee as permitted under the provisions of the License).

10.2.1.1. If the Premises are located in an area that is prone to suffer property loss and damage from earthquake, flood, windstorm, or rainstorm, a special risks or perils endorsement

from a commercial insurer or from a State or Federal program, in such amounts and with such limitations and retentions satisfactory to the Government.

10.2.2. Commercial general liability insurance, on an occurrence basis, insuring against claims for bodily injury, death and property damage, occurring upon, in or about the Premises, including any building thereon and sidewalks, streets, passageways and interior space used to access the Premises. Such insurance must be effective at all times throughout the License Term, with limits of not less than single limit minimum coverage of \$5 million each occurrence and \$10 million aggregate, and include coverage for fire, legal liability, and medical payments. This coverage may be provided under primary liability and umbrella excess liability policies.

10.2.2.1. An ISO business auto policy or its equivalent, covering bodily injury, death and property damage arising from covered auto Symbol 1 (“any auto”) or its equivalent, with limits of at least \$5 million each occurrence. All liability policies shall be primary and non-contributory to any insurance maintained by the Government.

10.2.3. If there is an airport operator on the Premises, airport operator’s liability insurance, including, but not limited to, insurance against contractual liability assumed under this License by the Licensee, with respect to claims or causes of action arising in connection with use of the Premises and improvements thereon as an airfield or airport, affording protection with limits of liability of \$100 million.

10.2.4. If and to the extent required by law, Workers’ compensation or similar insurance covering all persons employed in connection with the work and with respect to whom death or bodily injury claims could be asserted against the Government or the Licensee, in form and amounts required by law (statutory limits), and employers’ liability, with limits of \$5 million each coverage and policy limit.

10.3. General Requirements. All insurance required by this License shall be: (i) effected under valid and enforceable policies, in such forms and amounts required under this License; (ii) underwritten by insurers authorized to underwrite insurance in the State where the Premises are located, and must have a rating of at least B+ by the most recent edition of *Best’s Key Rating Guide*; (iii) provide that no reduction in amount or material change in coverage thereof shall be effective until at least sixty (60) days after receipt by the Government of written notice thereof; (iv) provide that any cancellation of insurance coverage based on nonpayment of the premium shall be effective only upon ten (10) days’ written notice to the Government; (v) provide that the insurer shall have no right of subrogation against the Government; and (vi) be reasonably satisfactory to the Government in all other respects. The Government shall appear in all policies as **The United States Air Force Academy, 10 CES CEAI, 8120 Edgerton Drive, Suite 40, U.S. Air Force Academy, CO 80840**. In no circumstance will the Licensee be entitled to assign to any third-party rights of action that the Licensee may have against the Government. The Licensee understands and agrees that cancellation of any insurance coverage required to be carried and maintained by the Licensee or contractor under this License will constitute a failure to comply with the terms of the License, and the Government shall have the right to terminate the License upon receipt of any such cancellation notice, but only if the Licensee fails to cure such noncompliance to the extent allowed.

10.4. Commercial general liability and business auto liability insurance required pursuant to this agreement shall be maintained for the limits specified, and shall provide coverage for the mutual benefit of the Licensee and the Government as an additional insured with equal standing with the named insured for purposes of submitting claims directly with the insurer. Property policies will provide for the Government as a loss payee to the same coverage as the named insured.

10.5. Evidence of Insurance. The Licensee shall deliver or cause to be delivered upon execution of this License (and thereafter not less than fifteen (15) days prior to the expiration date of each policy furnished pursuant to this License), at the Government's option, a certified copy of each policy of insurance required by this License, or a certificate of insurance evidencing the insurance and conditions relating thereto required by this License, in a form acceptable to the Government, and including such endorsements necessary.

10.6. Damage or Destruction of Premises. In the event all or part of the Premises is damaged (except *de minimis* damage) or destroyed, the Licensee shall promptly give notice thereof to the Government and the Parties shall proceed as follow:

10.6.1. In the event that the Government in consultation with the Licensee determines that the magnitude of damage is so extensive that the Premises cannot be used by the Licensee for its operations and the repairs, rebuilding, or replacement of the Premises cannot reasonably be expected to be substantially completed within three (3) months of the occurrence of the casualty ("Extensive Damage or Destruction of Premises"), either Party may terminate this License as provided herein. If this License is terminated, any insurance proceeds received as a result of any casualty loss to the Premises shall be applied to the restoration of the Premises prior to being afforded to the Licensee.

10.6.2. In the event that the Government, in consultation with the Licensee, shall determine that Extensive Damage or Destruction of the Premises has not occurred, neither Party shall have the right to terminate this License. The Licensee shall, as soon as reasonably practicable after the casualty, restore the Premises as nearly as possible to the condition that existed immediately prior to such loss or damage. Any insurance proceeds received as a result of any casualty loss to the Premises shall be applied first to restoring the damaged area and removing any related debris to the reasonable satisfaction of the Government and second, to repairing, rebuilding, and/or replacing the Premises to the reasonable satisfaction of the Government.

10.6.3. Notwithstanding any other provision of this License, the Licensee may, with the prior consent of the Government, self-insure any risk for which insurance coverage is required under this License; provided, however, that if the Licensee's statutory limits of liability or other impediments to the assumption of liability are less than the limits of insurance required in this License, the Licensee shall obtain commercial coverage which is sufficient in amount and nature to satisfy the insurance requirements of this License when added to any such self-insurance. In order to obtain the consent of the Government to self-insure, the Licensee shall provide the Government with a writing setting forth the limitations and impediments, if any, to which the Licensee's self-insurance is subject, the Licensee's source of funds to pay any claim from any risk for which insurance is required under this License, and any other information which the Government may require to assess the Licensee's request. If commercial insurance is required for

any purpose, the total amount of commercial insurance and self-insurance shall meet the dollar limitations provided in this License.

11. ALTERATIONS

11.1. No additions to or alterations of the Premises (“Alterations”) shall be made without the prior written approval of the Government.

12. COSTS OF UTILITIES/SERVICES

12.1. Regarding the Licensee’s use of the Premises and its property on the Premises, the Licensee is responsible for all utilities, janitorial services, building maintenance, and grounds maintenance for the Premises without cost to the Government. The Government may, if permitted by law and if its capabilities permit, consent to provide [certain of these services – list the reimbursable services provided] to the Licensee on a reimbursable basis. [Or] The Government will, if permitted by law and if its capabilities permit, provide utilities, janitorial services, and building and grounds maintenance for the Premises at no cost to the Licensee.

13. RESTORATION

13.1. Upon the expiration or earlier termination of this License, the Licensee shall vacate the Premises, remove its property therefrom, and restore the Premises to its original condition, as documented by the PCR, subject to reasonable wear and tear, without expense to the Government. Such restoration shall include, if applicable, removal of environmental contamination caused by or attributable to Licensee and replacement of removed soils with clean fill in accordance with Applicable Laws (defined in Section 25.1 below).

13.2. Government Restoration of Premises. If the Licensee fails, refuses, or neglects to satisfy its removal and restoration obligations pursuant to Paragraph 13.1, the Licensee's remaining property shall at the option of the Government either become property of the Government and/or be removed or destroyed by the Government and the Premises restored at the expense of the Licensee. No claim for damages against the Government, its officers, employees, agents, or contractors shall be created by or accrue on account of such removal and/or destruction and restoration work pursuant to this Section. The Licensee shall reimburse the Government for any expenses it incurs to restore the Premises to the condition required by this Section 13 within thirty (30) days after the Government provides written notice to Licensee of the reimbursement amount.

CHANGES IN OWNERSHIP OR CONTROL

14. TRANSFER, ASSIGNMENT, SUBLETS, OR DISPOSAL

14.1. Licensee shall not transfer, permit, license, assign, lease, or dispose of in any way, including, but not limited to, voluntary or involuntary sale, merger, consolidation, receivership, or other means (all referred to in this Section 14 as “transfer”), this License or any interest therein or any property on the Premises, or otherwise create any interest therein.

15. LIENS AND MORTGAGES

15.1. The Licensee shall not engage in any financing or other transaction creating any mortgage upon the Premises, place or suffer to be placed upon the Premises any lien or other encumbrance, or suffer any levy or attachment to be made on the Licensee's interest in the Premises under this License. This License shall terminate without further action or notice by the Government on the date of the execution, attachment or filing of record of any such mortgage, lien, encumbrance, levy, or attachment, regardless of whether or when it is foreclosed or otherwise enforced.

ENVIRONMENT

16. ENVIRONMENTAL COMPLIANCE

16.1. The general rule is that a Licensee is prohibited by 10 U.S.C. § 2692 from storing, using or disposing of non-DOD owned toxic or hazardous materials on Air Force owned Installations. If an exception to this statutory prohibition exists as an exemption from 10 U.S.C. § 2692 or within guidance provided by AFI 32-9003, the Licensee shall abide by all applicable installation management plans and permit requirements governing the proper storage and use of all hazardous materials. Further, the Licensee is responsible for complying with all installation plans and permit requirements governing the proper recycling or transport and disposal of hazardous waste. Responsibility for compliance with such requirements rests exclusively with licensee, including liability for any fines, penalties, or other similar enforcement costs.”

16.2. In its activities under this License, Licensee shall comply with all applicable environmental requirements, and in particular those requirements concerning the protection and enhancement of environmental quality, pollution control and abatement, safe drinking water, and solid and hazardous waste. Responsibility for compliance with such requirements rests exclusively with Licensee, including liability for any fines, penalties, or other similar enforcement costs.

The Licensee shall comply with the Installation spill prevention control and countermeasure plan and hazardous materials/wastes plan, or in the alternative, its own such plans for operations on the Premises, provided the plans have been approved by the appropriate regulatory authorities and are acceptable to the Government.

Proposed or ongoing work, to include all modifications of previously completed projects, in the out-grant area and at facilities included in the outgrant, require compliance with the National Environmental Policy Act (NEPA) prior to obligation of resources. Proposed work/actions include, but are not limited to: ground-disturbing activities, construction actions, and repairs/modifications to AF structures. The Air Force complies with NEPA through the Environmental Impact Analysis Process (EIAP). The out-grant lessee or proponent shall be responsible for compliance with the EIAP, which should be initiated as early in the planning/design/Real Property instrument process as possible.

EIAP for proposed work/actions is initiated with the submittal of form AF IMT 332 (Base Civil Engineer Work Request), which will be reviewed by CE to determine the level of EIAP (CATEX memo, AF Form 813, Environmental Analysis, Environmental Impact Statement) required to comply with NEPA. AF IMT 332s should be submitted to USAFA Production Control. Non-

USAF proponent should contact Real Property staff for further information regarding procedures to initiate EIAP for on-base construction/repair/maintenance.

17. ASBESTOS-CONTAINING MATERIALS AND LEAD-BASED PAINT

17.1. Asbestos-Containing Materials (ACM). The Licensee is hereby notified that the Premises may contain existing and former improvements, such as buildings, facilities, equipment, and pipelines, above and/or below the ground that may contain ACM. The Government is not responsible for any handling, removal or containment of asbestos or ACM, or to the extent consistent with applicable law, for any liability related thereto.

17.2. Lead-Based Paint (LBP). The Licensee is hereby notified that LBP materials may be present on exterior and interior surfaces of facilities within the Premises or in the soil. The Licensee will be responsible at its sole cost and expense for the management, maintenance, removal and disposal of all LBP either located in or attributable to the Premises or any improvements located thereon, necessary or required in connection with the use and occupancy of the Premises. Removal and disposal of LBP must be carried out in compliance with all Applicable Laws (defined below).

18. SAFETY, HAZARDOUS MATERIALS, AND WASTE MANAGEMENT

18.1. Licensee, at its expense, shall comply with all Applicable Laws on occupational safety and health, the handling and storage of hazardous materials, and the proper handling and disposal of hazardous wastes and hazardous substances generated by its activities. Responsibility for the costs of proper handling and disposal of hazardous wastes and hazardous substances discovered on the Premises is governed by Applicable Law. The terms hazardous materials, hazardous wastes, and hazardous substances are as defined in the Federal Water Pollution Control Act, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the Solid Waste Disposal Act, the Clean Air Act, and the Toxic Substances Control Act, and their implementing regulations, as they have been or may be amended from time to time.

18.2. Any unexploded ordnance, as that term is defined in Title 10, United States Code, discovered on the Premises by Licensee is the responsibility of Government and will not be disturbed by Licensee but, upon discovery, shall be immediately reported to the Government.

19. HISTORIC PRESERVATION

Licensee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archaeological, architectural, or other cultural artifacts, relics, vestiges, remains, or objects of antiquity, as defined in the National Historic Preservation Act, 54 U.S.C. § 300101; Archaeological and Historic Preservation Act, 54 U.S.C. § 312501; Archaeological Resource Protection Act, 16 U.S.C. § 470aa; Antiquities Act, 54 U.S.C. § 320301; and Native American Graves Protection and Repatriation Act, 25 U.S.C. § 3001. In the event such items are discovered on the Premises, Licensee shall cease its activities at the site and immediately notify the Government and protect the site and the material from further disturbance until the

Government gives clearance to proceed. Any costs resulting from this delay shall be the responsibility of Licensee.

Grantee shall not conduct or ask to be conducted on their behalf any type of facility modification/repair/addition (including, but not limited to, building repair/maintenance, additional storage sheds, etc.) within the Premises (regardless of the size of said modification) without submitting the proposed work to USAFA 10 CES on an AF332 form for approval. Facility modifications have the potential to unknowingly remove or disturb historic resources (archaeological, architectural, or other cultural artifacts) and must not be conducted without proper approvals. Any costs resulting from any required compliance with the National Historic Preservation Act (NHPA) or due to delays associated with compliance shall be the responsibility of Grantee.

Grantee shall not conduct or ask to be conducted on their behalf any type of landscape modification (including, but not limited to, vegetation clearing and/or landscaping, erosion control, trail/path creation and/or maintenance, etc.) within the Premises (regardless of the size of said modification) without submitting the proposed work to USAFA 10 CES on an AF332 form for approval. Landscape modifications have the potential to unknowingly remove or disturb historic resources (archaeological, architectural, or other cultural artifacts) and must not be conducted without proper approvals. Any costs resulting from any required compliance with the National Historic Preservation Act (NHPA) or due to delays associated with compliance shall be the responsibility of Grantee.

If the normal operating procedures of the Grantee change from what was originally disclosed, USAFA 10 CES should be notified in order to evaluate any potential new compliance requirements in lieu of said changes. Similarly, if uses change based upon the needs of specific actions at the location, that deviation from such procedures will need to evaluate for potential new compliance requirements as well. Any costs resulting from any required compliance with the National Historic Preservation Act (NHPA) or due to delays associated with compliance shall be the responsibility of Grantee.

20. INSTALLATION RESTORATION PROGRAM (IRP)

20.1. IRP Records. On or before the Commencement Date, the Government shall provide the Licensee access to Administrative Record and Information Repository applicable to the Premises, if any, and thereafter shall provide to the Licensee a copy of any amendments to or restatements of Administrative Record documents affecting the Premises. If the Installation has been listed on the National Priorities List (NPL) at the time this License is granted, or is listed subsequent to the granting of this License, the Air Force will provide the Licensee with a copy of any Federal Facility Agreement (FFA) that is entered into between the Air Force and the U.S. Environmental Protection Agency (USEPA), along with any amendments to the FFA when they become effective. Should any conflict arise between the terms of the FFA as it may be amended and the provisions of this License, the terms of the FFA shall govern.

20.2. No Liability for Interference. The Licensee expressly acknowledges that it fully understands the potential for some or all of the IRP response actions to be undertaken with respect to the IRP may impact the Licensee's use of the Premises. The Licensee agrees that notwithstanding any other provision of this License, the Government shall have no liability to the Licensee should implementation of the IRP or other environmental cleanup requirements, whether imposed by law, regulatory agencies, or the Government or the Department of Defense, interfere with the Licensee's use of the Premises. The Licensee shall have no claim or cause of action against the United States, or any officer, agent, employee, contractor, or subcontractor thereof, on account of any such interference, whether due to entry, performance of remedial or removal investigations, or exercise of any right with respect to the IRP or under this License or otherwise.

20.3. Government Right of Entry. The Government and its officers, agents, employees, contractors, and subcontractors shall have the right, upon reasonable notice to the Licensee, to enter upon the Premises for the following purposes:

20.3.1. To conduct investigations and surveys, including, where necessary, drilling, soil and water samplings, test pitting, testing soil borings, and other activities related to the IRP;

20.3.2. To inspect field activities of the Government and its contractors and subcontractors in implementing the IRP;

20.3.3. To conduct any test or survey related to the implementation of the IRP or environmental conditions at the Premises or to verify any data submitted to the United States Environmental Protection Agency (EPA) or the State environmental department by the Government relating to such conditions; and

20.3.4. To construct, operate, maintain, or undertake any other response or remedial action as required or necessary under the IRP, including, but not limited to, monitoring wells, pumping wells, and treatment facilities. Any investigations and surveys, drilling, test pitting, test soil borings, and other activities undertaken pursuant to this Section 20.3.4 shall be conducted in a manner that is as inconspicuous as practicable. Any monitoring wells, pumping wells, and treatment facilities required pursuant to this Section 20.3.4 shall be designed and installed to be as inconspicuous as practicable. The Government shall attempt to minimize any interference with the Licensee's quiet use and enjoyment of the Premises arising as the result of such wells and treatment facilities. The Government shall, subject to the availability of appropriations therefor, repair any damage caused by its exercise of the rights in this Section.

20.4. Response or Remedial Actions. The Licensee agrees to comply with the provisions of any health or safety plan in effect under the IRP or any hazardous substance remediation or response agreement with environmental regulatory authorities during the course of any of the response or remedial actions described in Section 20. Any inspection, survey, investigation, or other response or remedial action will, to the extent practicable, be coordinated with representatives designated by the Licensee. The Licensee or its invitees shall have no claim arising from such entries against the Government or any of its officers, agents, employees, contractors, or subcontractors. In addition, the Licensee shall comply with all Applicable Laws.

20.5. Alterations and Environmental Cleanup. The Licensee further agrees that it shall deliver to the Government prior written notice accompanied by a detailed written description of all proposals for any Alterations (as defined in Section 11) that may impede or impair any activities under the IRP, or the FFA if applicable, or are to be undertaken in certain areas of the Premises identified as “Areas of Special Notice” on **Exhibit D** to this License. These Areas of Special Notice consist of either “Operable Units” (as defined in the National Contingency Plan, 40 C.F.R. Part 300) or other areas of concern because of the potential for environmental contamination and include buffer areas as shown on **Exhibit D**. The notice and accompanying written description of such proposals shall be provided to the Government sixty (60) days in advance of the commencement of any such Alterations. In addition, Alterations shall not commence until Licensee has complied with the provisions of Section 11. The detailed written description must include the effect such planned work may have on site soil and groundwater conditions and the cleanup efforts contemplated under the IRP and the FFA, if applicable. For the avoidance of doubt, any work below the floor of any such structure within any Area of Special Notice that will involve excavating in and/or disturbing concrete flooring, soil and/or groundwater, or will impede or impair any activities under the IRP or the FFA, if applicable, will also be subject to the sixty (60) day notice requirement imposed by this Section 20.5.

21. ENVIRONMENTAL BASELINE SURVEY/ CONDITION OF PROPERTY

21.1. An Environmental Baseline Survey (EBS) or EBS waiver for the Premises dated **14 February 2025** has been prepared at the expense of Government and delivered to the Licensee and is attached as **Exhibit E** hereto. If provided, the EBS sets forth those environmental conditions and matters on and affecting the Premises on the Commencement Date as determined from the records and analyses reflected therein. The EBS is not, and shall not constitute, a representation or warranty on the part of the Government regarding the environmental or physical condition of the Premises, and the Government shall have no liability in connection with the accuracy or completeness thereof. In this regard the Licensee acknowledges and agrees that the Licensee has relied, and shall rely, entirely on its own investigation of the Premises in determining whether to enter into this License. A separate EBS for the Premises shall be prepared by the Government, after the expiration or earlier termination of this License (“Final EBS”). Such Final EBS shall document the environmental conditions and matters on and affecting the Premises on the Expiration Date as determined from the records and analyses reflected therein. The Final EBS will be used by the Government to determine whether the Licensee has fulfilled its obligations to maintain and restore the Premises under this License including, without limitation, Sections 13 and 16.

GENERAL PROVISIONS

22. GENERAL PROVISIONS (AIR FORCE PROPERTY)

22.1. Any interference with the use of or damage to property under control of the Government, incident to the exercise of the privileges herein granted shall be promptly corrected by Licensee to the satisfaction of the Government. If Licensee fails to promptly repair or replace any such property after being notified to do so by the Government, the Government may repair or replace such property and Licensee shall be liable for the costs of such repair or replacement.

23. SPECIAL PROVISIONS

23.1. RESERVED

24. GOVERNMENT RIGHTS NOT IMPAIRED

24.1. General. Nothing contained in this License shall be construed to diminish, limit, or restrict any right, prerogative, or authority of the Government over the Premises relating to the security or mission of the Installation, the health, welfare, safety, or security of persons on the Installation, or the maintenance of good order and discipline on the Installation, as established in law, regulation, or military custom.

24.2. Installation Access. The Licensee acknowledges that it understands that the Installation is an operating military Installation that could remain closed to the public and accepts that the Licensee's operations may from time to time be restricted temporarily or permanently due to the needs of national defense. Access on the Installation may also be restricted due to inclement weather and natural disasters. The Licensee further acknowledges that the Government strictly enforces Federal laws and Air Force regulations concerning controlled substances (drugs) and that personnel, vehicles, supplies, and equipment entering the Installation are subject to search and seizure pursuant to applicable laws and regulations. The Government will use reasonable diligence in permitting the Licensee access to the Premises at all times, subject to the provisions of this Section. Notwithstanding the foregoing, the Licensee agrees the Government will not be responsible for lost time or costs incurred due to interference, delays in entry, temporary loss of access, barring of individual employees from the base under Federal laws authorizing such actions, limitation, or withdrawal of an employee's on-base driving privileges, or any other security action that may cause employees to be late to, or unavailable at, their work stations, or delay arrival of parts and supplies. The Government retains the right to refuse access to the Premises by the Licensee. The Licensee and Licensee Parties fully agree to abide with all access restrictions imposed by the Government in the interest of national defense.

24.3. Permanent Removal and Barment. Notwithstanding anything contained in this License to the contrary, pursuant to applicable laws and regulations, security laws and regulations, and installation commander authority, the Government has the right at all times to order the permanent removal and barment of anyone from the Installation, including but not limited to Licensee or Licensee Parties, if it believes, in its sole discretion, that the continued presence on the Installation of that person represents a threat to the security or mission of the Installation, poses a threat to the health, welfare, safety, or security of persons occupying the Installation, or compromises good order and/or discipline on the Installation.

24.4. No Diminishment of Privileges. Except as provided in Section 24.1, nothing in this License shall be construed to diminish, limit, or restrict any privilege of the Licensee under this License.

25. COMPLIANCE WITH APPLICABLE LAWS

25.1. Licensee shall comply with all applicable Federal, state, interstate, and local laws, regulations, instructions, directives, requirements, and policy memorandums ("Applicable Laws").

This may include the need for Licensee to obtain permits to engage in its activity. Government is not responsible for obtaining permits for Licensee. Licensee is not authorized to use permits obtained by Government for any Licensee activities.

25.2 Compliance with Executive Order (EO) No. 13658. The parties expressly stipulate this License is not subject to EO 13658 and the regulations issued by the Secretary of Labor in 29 CFR Part 10 Pursuant to the EO. However, if the Licensee's use of or actions taken on the premises make this subject to EO 13658 and the regulations issued by the Secretary of Labor in 29 CFR Part 10, the parties hereby expressly agree that this License shall be amended, at no cost to either party, to include "Appendix A of 29 CFR Part 10-Contract Clause."

26. AVAILABILITY OF FUNDS

26.1. The obligations of Government under this License shall be subject to the availability of appropriated funds. No appropriated funds are obligated by this License.

27. CONGRESSIONAL REPORTING

27.1. This License is not subject to 10 U.S.C. § 2662.

28. AMENDMENTS

28.1. This License may only be modified or amended by the written agreement of the Parties, duly signed by their authorized representatives.

29. GENERAL INDEMNIFICATION

29.1. Government shall not be responsible for damage to property or injuries to persons which may arise from, or be attributable or incident to, the condition or state of repair of the Premises, due to its use and occupation by Licensee. Licensee agrees that it assumes all risks of loss or damage to property and injury or death to persons, whether to Licensee Parties or others, by reason of or incident to Licensee's use of the Premises, and its activities conducted under this License. Licensee shall, at its expense, pay any settlements of or judgments on claims arising out of its use of the Premises.

29.2. Licensee shall indemnify and hold Government harmless against any and all judgments, expenses, taxes, liabilities, claims, and charges of whatever kind or nature that may arise as a result of the activities of Licensee under this License, whether tortious, contractual, or other, except to the extent such damage is the result of gross negligence or willful misconduct on the part of the Government.

30. ENTIRE AGREEMENT

30.1. It is expressly understood and agreed that this written instrument embodies the entire agreement between the Parties regarding the use of the Premises by the Licensee, and there are no

understandings or agreements, verbal or otherwise, between the Parties except as expressly set forth herein.

31. SECTION HEADINGS

31.1. The headings contained in this License, its Attachments, and Exhibits are to facilitate reference only and shall not in any way affect the construction or interpretation hereof.

32. STATUTORY AND REGULATORY REFERENCES

32.1. Any reference to a statute or regulation in this License shall be interpreted as being a reference to the statute or regulation as it has been or may be amended from time to time.

33. PRIOR AGREEMENTS

33.1. This License supersedes all prior agreements, if any, to the Licensee for the Premises, but does not terminate any obligations of the Licensee under such prior Licenses that may by their terms survive the termination or expiration of those Licenses, except to the extent such obligations are inconsistent with this License. In the event that any prior license or other agreement between the Parties, or their predecessors in interest, for the use and occupancy of the Premises has expired prior to the execution of this License, the Parties acknowledge that the Licensee, either directly or through its predecessors in interest, has had continuous use and occupancy of the Premises pursuant to the prior agreement since the expiration of the prior agreement.

34. EXHIBITS

34.1. Five exhibits are attached to and made a part of this License, as follows:

EXHIBIT A — MAP OF PREMISES

EXHIBIT B — DESCRIPTION OF PREMISES

EXHIBIT C — PHYSICAL CONDITION REPORT (“PCR”)

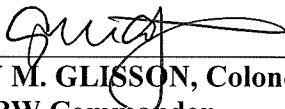
EXHIBIT D — AREAS OF SPECIAL NOTICE

EXHIBIT E — ENVIRONMENTAL BASELINE SURVEY/ENVIRONMENTAL CONDITION OF THE PREMISES

[Signatures on Following Pages]

IN WITNESS whereof, I have hereunto set my hand by authority of the Secretary of the Air Force, this 20 day of February, 2025

THE UNITED STATES OF AMERICA by the
Secretary of the Air Force

BY: 
AMY M. GLISSON, Colonel, USAF
10 ABW Commander

This License is also executed by Licensee this eighteenth day of February, 2025

El Paso County, Colorado

Digitally signed by John Lantz
Date: 2025.02.18 14:59:26 -07'00'

John Lantz

John Lantz, Project Manger

EXHIBIT A
MAP OF PREMISES



Aerial Year: 2022

Order Number: 23071900152

Address: I25 North Gate/Struthers Water Quality Pond, Colorado Springs, CO

Source: ESRI World Imagery

ERIS
© ERIS Information Inc.

Form approved by
SAF/GCN 28 Jul 2022
Previous versions are obsolete

Exhibit A

EXHIBIT B

DESCRIPTION OF PREMISES

**A piece of land located in the North quarter of the Northeast quarter of Section 12
Township 12 South, Range 67 West of the 6th Principal Meridian, County of El Paso, State
of Colorado.**

**Water detention pond to be located south of North Gate Blvd between the north bound and
south bound lanes of I-25.**

Exhibit C

PHYSICAL CONDITION REPORT ("PCR")

AS OF 10 FEBRUARY 2025

This is to confirm that the undersigned, as the License of the Premises pursuant to that certain License of Property dated as of the date first set forth above by and between the Secretary of the Air Force (the "Government"), and the undersigned, which Licensed Premises consists of use of land, for the purpose of constructing a water detention pond, has inspected the Licensed Premises and all environmental reports concerning the Licensed Premises provided to the undersigned by the Government, is familiar with the condition and characteristics of the Licensed Premises and agrees, except as otherwise expressly provided in the License of Property, to accept the Licensed Premises in "as-is, where-is" condition, without any representation or warranty by the Government concerning the condition of the Licensed Premises and without obligation on the part of the Government to make any alterations, repairs, additions, or improvements to the Licensed Premises all in accordance with and subject to the terms of the aforementioned Lease of Property. Except as otherwise defined in this Acknowledgement, the terms used herein shall have the same meanings as set forth in the Licensed Property.

El Paso County, Colorado

By: **John Lantz**
Digitally signed by John Lantz
Date: 2025.02.18 14:59:39 -07'00'

John Lantz
Project Manager

Government:

By: 
2/19/25

Christopher H. Skilbred
Real Property Accountable Officer

EXHIBIT D

AREAS OF SPECIAL NOTICE

NONE

EXHIBIT E

ENVIRONMENTAL BASELINE SURVEY/ENVIRONMENTAL CONDITION OF THE PREMISES

See attached Environmental Bassline Survey dated 14 February 2025.