LEASE

PARTIES

The parties to this lease (Lease) are the state of North Dakota, acting through its _____ (STATE), and _____ having its principal place of business at _____ (LANDLORD);

SCOPE OF LEASE

LANDLORD, in consideration of the rent to be paid and the covenants to be performed by STATE, hereby leases to STATE the following described premises situated in the city of _____, county of _____ and state of North Dakota:

_____
_____
_____
_____

TERM OF LEASE

The term of this Lease is for a period of _____ months, commencing on _____ day of _____, _____, and terminating on the _____ day of _____, _____.

HOLDING OVER

If STATE remains in possession of the premises after this Lease expires, and LANDLORD accepts rent from STATE, this Lease shall be deemed renewed on a month-to–month basis with all other terms and conditions of this Lease remaining in effect until otherwise agreed in writing.

RENTAL PAYMENTS

STATE will pay rent for the premises, consisting of _____ square feet, at _____ per square foot per annum, or _____ per annum.

Rent will be paid in advance by the 10th day of each month in an amount of _____ which is 1/12 of the annual amount, commencing on the _____ day of _____, _____ and continuing monthly thereafter for the term of this Lease.

Rent is payable at the address of LANDLORD, _____ _____, unless STATE is notified otherwise in writing by LANDLORD.

LANDLORD'S OBLIGATIONS

1. To pay all water, sewer, heat, electricity, air conditioning, garbage collection, and all other utility fees (except telephone) charged against the premises.
2. To perform all required maintenance and repairs, including all janitorial services, which will be done on a daily basis, including furnishing of related supplies.
3. To perform all maintenance and repairs requested by STATE which are related to use and habitability of the premises.
4. To keep the walkways and parking areas of the premises free of accumulations of snow and ice and to cut and care for the grass, shrubbery, plants, and trees on the premises.
5. That if other portions of the building are leased to other parties, LANDLORD shall not permit any activity to be conducted in other portions of the building or grounds that will materially interfere with STATE'S use and enjoyment of the premises.
6. That STATE may install items that it deems necessary for maximum and optimum use of the premises. STATE may, at any time, remove from the premises all fixtures and other equipment owned by STATE; provided the removal is completed before termination of this lease or any renewal or extension. STATE agrees to repair any damages that may be done to the premises resulting from the removal of the items, if any.
7. That STATE may place decorations, wall hangings, signs and directories upon entrance doors, in hallways leading to its premises, or doors and walls within the premises.
8. To furnish _____ automobile parking stalls for use by STATE, its agents or designees, in the lot provided for use by the building tenants.
9. To comply at its own expense with all federal, state, county, and city laws and ordinances and all lawful rules, regulations, or orders of any duly constituted authority, present or future, affecting the premises.
10. To pay all real estate taxes and special assessments on the premises during the terms of the lease.

STATE'S OBLIGATIONS

1. To pay the rent when due.
2. To pay for its own telephone service.
3. To keep the premises in reasonable condition the same as at the commencement of the term or as it may be put by LANDLORD, except for reasonable use and wear, or damage by fire and unavoidable casualty.
4. Not to make any unlawful, improper, or offensive use of the premises, and to observe all the laws of the State of North Dakota and the ordinances of the city of _____ in force from time to time relating to the leased premises.

5. To permit LANDLORD at all reasonable times to enter and examine the premises and to make necessary repairs for the protection of the premises.
6. To surrender the premises to LANDLORD at the end of the term; and, in default of the payment of rent due or failure to perform its obligations under this Lease, to surrender the premises upon demand by LANDLORD.
7. To maintain at its own expense and assume responsibility for all office equipment, furniture, and fixtures installed by STATE.

TERMINATION OF LEASE

STATE has no obligation under this Lease for the initial or succeeding terms if the North Dakota Legislature fails to appropriate to STATE sufficient funds to defray the full rental costs. STATE, without any liability, may terminate this Lease by providing thirty (30) days' written notice, if its legislative appropriations are reduced or if its authority to spend its appropriations is reduced or limited by law or by reductions in federal or other grant funds to a point STATE, in its sole discretion, deems insufficient to pay the full rental cost for the remainder of the term of this Lease. During the term of this Lease or any renewal or extension, STATE may terminate this Lease by providing thirty (30) days' written notice to LANDLORD, if LANDLORD fails to comply with any of its obligations under this Lease, or if STATE determines it must relocate to comply with the Americans With Disabilities Act of 1990 or any rules adopted under the act, or with any other state or federal law or rules.

TERMINATION OF LEASE IN THE EVENT OF DESTRUCTION OF PREMISES

If the leased premises are destroyed or damaged by fire or the elements to the extent they become untenable, this Lease will terminate immediately, unless LANDLORD, within twenty (20) days of the happening of the event, gives written notice of intention to restore the building and fully restores the premises within a reasonable time. During the term between destruction and restoration of the premises rent will not be due, and if rent has already been paid LANDLORD shall refund to STATE all that portion of the prepaid rent attributable to the time during which STATE was unable to use the premises for its intended use.

MERGER AND MODIFICATION

This Lease constitutes the entire agreement between the parties. There are no understandings, agreements, or representations, oral or written, not specified within this Lease. This Lease may not be modified, supplemented or amended, in any manner, except by written agreement signed by both parties.

SEVERABILITY

If any term of this Lease is declared to be illegal or unenforceable by a court having competent jurisdiction, the validity of the remaining terms is unaffected and, if possible, the rights and obligations of the parties are to be construed and enforced as if this Lease did not contain that term.

ASSIGNMENT – SALE OF PREMISES

This Lease must not be assigned or subleased by STATE without LANDLORD'S written consent. This Lease does not terminate if the premises are sold, but continues throughout the entire term.

NOTICE

All notices or other communications required under this Lease must be given by registered or certified mail and are complete on the date postmarked when addressed to the parties at the following addresses:

STATE	LANDLORD
Name	Name
Title	Title
Address	Address
City, State, Zip	City, State, Zip

Notice provided under this provision does not meet the notice requirements for monetary claims against the State found at N.D.C.C. § 32-12.2-04.

APPLICABLE LAW AND VENUE

This Lease is governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this Lease must be adjudicated exclusively in the state District Court of _____ County, North Dakota. Each party consents to the exclusive jurisdiction of such court and waives any claim of lack of jurisdiction or *forum non conveniens*.

ALTERNATIVE DISPUTE RESOLUTION – JURY TRIAL

STATE does not agree to any form of binding arbitration, mediation, or other forms of mandatory alternative dispute resolution. The parties have the right to enforce their rights and remedies in judicial proceedings. STATE does not waive any right to a jury trial.

SPOLIATION – PRESERVATION OF EVIDENCE

LANDLORD shall promptly notify STATE of all potential claims that arise from or result from this Lease. LANDLORD shall also take all reasonable steps to preserve all physical evidence and information that may be relevant to the circumstances

surrounding a potential claim, while maintaining public safety, and grants to STATE the opportunity to review and inspect the evidence, including the scene of an accident.

INDEMNITY

LANDLORD agrees to defend, indemnify, and hold harmless the state of North Dakota, its agencies, officers and employees (State), from and against claims based on the vicarious liability of the State or its agents, but not against claims based on the State's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by LANDLORD to the State under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary. LANDLORD also agrees to defend, indemnify, and hold the State harmless for all costs, expenses and attorneys' fees incurred if the State prevails in an action against LANDLORD in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

INSURANCE

LANDLORD shall secure and keep in force during the term of this agreement and LANDLORD shall require all subcontractors, prior to commencement of an agreement between LANDLORD and the subcontractor, to secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

1) Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of $250,000 per person and $1,000,000 per occurrence.
2) Automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with minimum liability limits of $250,000 per person and $1,000,000 per occurrence.
3) Property insurance insuring the full and true value of all Landlord's (or Tenant's) real and personal property located on or in the building in which the leased premises are located for all losses.
4) Workers compensation coverage meeting all statutory requirements. The policy shall provide coverage for all states of operation that apply to the performance of this contract.
5) Employer's liability or "stop gap" insurance of not less than $1,000,000 as an endorsement on the workers compensation or commercial general liability insurance.

The insurance coverages listed above must meet the following additional requirements:

1) Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the LANDLORD.
2) This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated “A-” or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an “A-” rating must be approved by the State. The policies shall be in form and terms approved by the State.
3) The duty to defend, indemnify, and hold harmless the State under this agreement shall not be limited by the insurance required in this agreement.
4) The state of North Dakota and its agencies, officers, and employees (State) shall be endorsed on the commercial general liability policy, including any excess policies (to the extent applicable), as additional insured. The State shall have all the benefits, rights and coverages of an additional insured under these policies that shall not be limited to the minimum limits of insurance required by this agreement or by the contractual indemnity obligations of the LANDLORD.
5) The insurance required in this agreement, through a policy or endorsement, shall include:
   a) a “Waiver of Subrogation” waiving any right to recovery the insurance company may have against the State;
   b) a provision that LANDLORD’s insurance coverage shall be primary (i.e. pay first) as respects any insurance, self-insurance or self-retention maintained by the State and that any insurance, self-insurance or self-retention maintained by the State shall be in excess of the LANDLORD’s insurance and shall not contribute with it;
   c) cross liability/severability of interest for all policies and endorsements;
   d) The legal defense provided to the State under the policy and any endorsements must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary;
   e) The insolvency or bankruptcy of the insured LANDLORD shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured LANDLORD from meeting the retention limit under the policy.
6) The LANDLORD shall furnish a certificate of insurance to the undersigned State representative prior to commencement of this agreement. All endorsements shall be provided as soon as practicable.
7) Failure to provide insurance as required in this agreement is a material breach of contract entitling the State to terminate this agreement immediately.

LANDLORD shall provide at least 30 day notice of any cancellation or material change to the policies or endorsements.

CONFIDENTIALITY

LANDLORD shall not use or disclose any information it receives from STATE under this Lease that STATE has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this Lease or as

authorized in advance by STATE. STATE shall not disclose any information it receives from LANDLORD that LANDLORD has previously identified as confidential and that STATE determines in its sole discretion is protected from mandatory public disclosure under a specific exception to the North Dakota public records law, N.D.C.C. ch. 44-04. The duty of STATE and LANDLORD to maintain confidentiality of information under this section continues beyond the term of this Lease.

LANDLORD acknowledges that STATE possesses substantial amounts of information at the leased premises that is confidential pursuant to state law. LANDLORD, if it views, comes into possession of, or otherwise becomes knowledgeable of confidential information located at the leased premises, shall maintain the confidentiality of that information and shall refrain from re-disclosing that information to any third party. LANDLORD shall require, by contract, any agent it retains to fulfill its obligations otherwise set out in this Lease to similarly maintain the confidentiality of any information it views, comes into possession or of which otherwise becomes knowledgeable. Those indemnity provisions otherwise set out in the Lease agreement specifically apply to this confidentiality requirement.

COMPLIANCE WITH PUBLIC RECORDS LAWS

LANDLORD understands that, in accordance with this Lease's Confidentiality clause, STATE must disclose to the public upon request any records it receives from LANDLORD. LANDLORD further understands that any records obtained or generated by LANDLORD under this Lease, except for records that are confidential under this Lease, may, under certain circumstances, be open to the public upon request under the North Dakota public records law. LANDLORD agrees to contact STATE immediately upon receiving a request for information under the public records law and to comply with STATE's instructions on how to respond to the request.

STATE AUDIT

All records, regardless of physical form, and the accounting practices and procedures of LANDLORD relevant to this Lease are subject to examination by the North Dakota State Auditor, the Auditor's designee, or Federal auditors, if required. LANDLORD shall maintain all of these records for at least three (3) years following completion of this Lease and be able to provide them at any reasonable time. STATE, State Auditor, or Auditor's designee shall provide reasonable notice to LANDLORD prior to conducting examination.

EFFECTIVENESS OF LEASE

This Lease is not binding on STATE until it is reviewed and executed by the Office of Attorney General and approved and executed by the Director of Facility Management Division, OMB, as required in N.D.C.C. § 54-21-24.1.

LANDLORD	STATE OF NORTH DAKOTA
	Acting through its
BY:	BY:
Date:	Date:

REVIEWED BY ATTORNEY GENERAL	APPROVED BY OMB FACILITY MANAGEMENT
BY:	BY:
Date:	Date: