BUSINESS TERMS AGREEMENT
BETWEEN THE DEPARMENT OF THE ARMY AND
(selected Offeror)
FOR AN ENHANCED USE LEASE
(location)

The Department of the Army (the "DA"), through its Request for Proposals No. ***, dated ***, and relating to the Enhanced Use Lease (the "Lease") for a *** at *** (the "Installation"), as supplemented or amended (the "RFP"), solicited proposals for the lease and development of land (the "Property" as defined in the RFP) to design, finance, construct, operate, maintain, manage, and decommission the Project (as defined in the RFP) on the Property pursuant to a Lease and any other documents to be executed in connection with the transaction either by the DA or the DA and the Selected Offeror (each a "Party" and collectively, the "Parties"). The Selected Offeror submitted a proposal to the DA in response to the RFP (the "Proposal") and is submitting this signed Business Terms Agreement (this "Agreement") as required pursuant to the terms of the RFP. Capitalized terms used and not otherwise defined in this Agreement have the meanings given in the RFP. This Agreement, together with the Proposal and Agreed Milestone Timetable, sets forth the conditions precedent for execution of the L e a s e. The Selected Offeror acknowledges and agrees as follows:

1. As stated in the RFP, Selected Offeror's Proposal will be considered valid for one hundred and eighty (180) days from the Closing Time, subject to the provisions of the RFP. The Selected Offeror shall be legally bound by the RFP, this Agreement, and the terms of its Proposal, including without limitation the in-kind consideration proposed to be provided to the DA as part of the Lease, except as may otherwise be negotiated and agreed to between the Parties, provided that nothing in this Agreement shall be construed as waiving the Selected Offeror's right during the pre-Lease period to continue diligence, feasibility review, permitting analysis, financing review and project-structure discussions contemplated by the RFP and this Agreement, or as precluding the Selected Offeror from raising issues identified through that process for resolution under this Agreement, or unless DA terminates the RFP, as provided therein, this Agreement, as provided herein, or until such time as the Parties execute the Lease in accordance with the Milestone Timetable agreed to by the Selected Offeror and the DA (the "Agreed Milestone Timetable") attached as Schedule 1 hereto.

2. Any and all risks of error or mistake (including any omission) in the completion or submission of the Proposal, including this Agreement, or any other documentation submitted by the Selected Offeror shall, as between the DA and the Selected Offeror, be borne solely by the Selected Offeror. No error or mistake in the completion or submission of the Proposal, this Agreement, or any other documentation shall relieve the Selected Offeror of any of its obligations hereunder or under the RFP.

3. Prior to execution of the Lease, the Selected Offeror shall have the opportunity to conduct such diligence regarding the Property as it deems appropriate at no cost or expense to the DA.

4. The Selected Offeror understands that time is of the essence to the DA in accomplishing the milestones set forth on the Agreed Milestone Timetable and in otherwise complying with the Selected Offeror's obligations under this BTA. If the Selected Offeror fails to meet any milestone required under the Agreed Milestone Timetable in a timely manner, subject to the provisions of Section 16 hereof, DA shall provide the Selected Offeror written notice of such failure. Within ten (10) business days of receipt of such notice, Selected Offeror shall submit a proposed plan and schedule to cure such failure, which plan and schedule shall be subject to the written approval of DA. In the event the Selected Offeror fails to diligently prosecute such cure to completion in accordance with the plan and schedule approved by DA, then DA shall have the right, at its sole discretion, but subject to the provisions of Section 16 hereof, to provide written notice terminating all future discussions with and rights of the Selected Offeror under the RFP and this Agreement. Upon such termination, DA shall neither owe nor pay any fees, costs, expenses, or monetary penalties to the Selected Offeror for any reason(s) regarding or stemming from this RFP and its process, and DA shall, at its discretion, be free to select another Offeror in order to further pursue the Lease and Project.

5. The Selected Offeror will be required to comply with, at its sole cost, any mitigation actions required for the Project. If any required mitigation actions significantly and adversely affect the viability of the Project, DA and the Selected Offeror will enter into discussions to resolve any disputes regarding the implementation of any such mitigation actions. If DA and the Selected Offeror cannot resolve the disputes, DA reserves the right to terminate negotiations. Upon such termination, DA shall neither owe nor pay any fees, costs, expenses or monetary penalties to the Selected Offeror for any reason(s) regarding or stemming from this Solicitation, and DA shall, at its discretion, be free to select another Offeror to further pursue the Lease and Project or cancel the entire Solicitation.

6. Except for such representations and warranties of the DA as are expressly set forth in the Lease or any other document to which the DA is a party, the DA makes no representations or warranties of any kind (whether express, implied, or arising by operation of law). Without limiting the foregoing, the DA makes no representation or warranty regarding the suitability of the Property for use of any kind.

7. The Selected Offeror confirms its duly authorized representative has executed and will execute all documents submitted to the DA in connection with the RFP, the Proposal, this BTA and all other required documents. The Selected Offeror has the requisite corporate authority to submit these documents and agrees to be legally bound by their terms and the terms of the RFP. This BTA constitutes a valid and binding obligation of the Selected Offeror enforceable against the Selected Offeror in accordance with its terms (except as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, and other similar laws affecting the enforcement of the rights of creditors generally and the application of equitable principles in any proceeding, whether at law or in equity).

8. Without limiting the indemnification and hold harmless obligation of the Selected Offeror set forth in the RFP, the Selected Offeror hereby indemnifies and holds harmless the DA and the United States and each of their respective officers, employees, contractors, and advisors and their respective successors and assigns (the "Indemnified Parties") from and against (i) any and all claims asserted against any Indemnified Party arising from or relating in any way to any act or omission of the Selected Offeror or any person acting on behalf of or in conjunction with the Selected Offeror in connection with or as a result of the Selected Offeror's or such other person's participation or efforts to participate in the RFP process or in anticipation thereof, including without limitation the preparation or submission of the Proposal and this BTA, including without limitation any claim of any real estate or other broker, agent or finder, and any and all liabilities, losses, costs, and expenses (including reasonable attorneys' fees and expenses) incurred as a result or in defense of any such claim; and (ii) any and all liabilities, losses, costs, and expenses (including reasonable attorneys' fees and expenses) incurred by the DA in connection with any action taken by the DA to defend or enforce any of its rights and/or remedies under this BTA or otherwise in connection with the RFP process, the Proposal, or this BTA.

9. It is understood and agreed by the Selected Offeror that the DA is not obligated, and may not have the authority, to agree to any substantive change to the form of the Lease or any other required documents included as part of the RFP or the structure of any transaction contemplated thereby.

10. Within ten (10) business days of receipt from the DA of the execution form of the Lease and any other required documents, the Selected Offeror (and/or any other party thereto) shall execute and deliver the same to the DA.

11. The Selected Offeror represents, warrants, and covenants to the DA as follows:

(a) the Selected Offeror has read, and has had an opportunity to review with its legal counsel, the RFP (including, without limitation, all supplements thereto) and fully understands and is fully capable of complying with all of its terms and conditions and the obligations of the Selected Offeror set forth therein, including without limitation the Disclaimer that is a part thereof, and the Selected Offeror has had an opportunity to ask and has received satisfactory responses from the DA regarding the RFP;

(b) without limiting the foregoing, the Selected Offeror has read, and has had the opportunity to review with its legal counsel, this BTA and the form of the Lease and other required documents included in the RFP and understands and is fully capable of complying with all of the terms, conditions, and obligations of the Selected Offeror set forth therein, including any and all time frames specified for performance in the Agreed Milestone Timetable;

(c) the information provided in the Proposal is true and correct in all material respects as of the date of the Proposal and, in the event any of such information ceases at any time to be true and correct in all material respects, the Selected Offeror shall promptly so inform the DA in writing (specifically identifying such information);

(d) (i) neither the Selected Offeror nor any of its partners, members, board members or principal

stockholders (as defined below) is debarred or suspended from doing business with the DA or any other federal government agency; (ii) if at any time the Selected Offeror or any of its partners, members, board members or principal stockholders is proposed to be debarred or suspended from doing business with the DA or any other federal government agency, the Selected Offeror will immediately so advise the DA in writing; (iii) neither the Selected Offeror nor any of its partners, members, board members or principal stockholders is listed on the most current "Excluded Parties List System" published at https://www.sam.gov/, as updated from time to time; (iv) neither the Selected Offeror nor any of its partners, members, board members or principal stockholders is a person who poses a security or safety risk, as determined by the Secretary of State, including but not limited to any person who either represents a country, or is a member of or provides political, financial, or military support to a group, that is listed in the most current "Patterns of Global Terrorism" report issued by the Secretary of State in compliance with 22 U.S.C. § 2656f, available from the Superintendent of Documents, U.S. Government Printing Office, Washington D.C. 20402 and also available at http://www.state.gov/j/ct/rls/crt/index.htm, or a government of a terrorist country; (v) neither the Selected Offeror nor any of its partners, members, board members or principal stockholders is subject to a criminal indictment or information for a felony in any court in the United States; and (vi) in conjunction with any proposed assignment of the Lease, the assignment would, as determined pursuant to an opinion of the DA's Office of Counsel, not cause or result in a violation of any federal ethics law or regulation to include, but not be limited to, the "Standards of Ethical Conduct For Employees of the Executive Branch," 5 C.F.R. 2635, 2637 and 2641. For purposes of the Lease, the term "principal stockholder" shall mean any person who is a beneficial owner (as defined for purposes of Rule 13d-3 promulgated by the Securities and Exchange Commission) of ten percent (10%) or more of the outstanding stock or other equity of the Lessee. For purposes of this BTA, the term "principal stockholder" shall mean any person who is a beneficial owner (as defined for purposes of Rule 13d-3 promulgated by the Securities and Exchange Commission) of ten percent (10%) or more of the outstanding stock or other equity of the Selected Offeror.

(e) Neither the Selected Offeror, nor any of its affiliates, nor any of their respective officers, directors, partners, principals, agents, employees, or parties in interest has in any way colluded, conspired, connived, or agreed, directly or indirectly, with any other Offeror, firm, or person to submit a collusive or sham proposal in connection with this RFP, or to take (or not take) any other action designed, or the effect of which is reasonably likely to be, to limit or curtail competition among prospective offerors with respect to the RFP.

12. Except as is otherwise set forth in the RFP with regard to administrative expenses under 10 U.S.C. § 2695, the Lease and other required documents, each of the Selected Offeror and the DA shall pay its own expenses (including legal, accounting, investment banker, broker, or finders fees) incurred in connection with the RFP, the Proposal, this BTA, and any transaction contemplated thereby, (including without limitation the preparation and submission of the Proposal and related documentation and review and execution of this BTA by the Selected Offeror and the preparation and dissemination of the RFP and review and evaluation of RFP proposals by the DA).

13. This BTA may be amended or modified, and the terms hereof waived, only by a written instrument signed by the DA and the Selected Offeror. No failure or delay on the part of the DA to exercise any right, power, or privilege hereunder shall operate as a waiver thereof; nor shall any waiver on the part of the DA of any such right, power, or privilege, or any single or partial exercise of any such right, power, or privilege, preclude any other or further exercise thereof or the exercise of any other or subsequent right, power, or privilege.

14. In the event a dispute arises under or relating to this BTA, the Parties shall first seek to resolve any dispute arising under or relating to this Agreement through good-faith discussions between senior representatives. If the dispute is not resolved within a reasonable period, either Party may pursue any rights or remedies available under applicable law or as otherwise agreed by the Parties.

15. The Selected Offeror shall not assign or otherwise transfer this BTA or any of its rights or obligations under this BTA or with respect to the RFP or the Proposal without the prior written consent of the DA (which consent may be granted or withheld in the sole and absolute discretion of the DA), and any attempted transfer or assignment in violation of this provision shall (i) be void and of no force or effect, and (ii) constitute a material default under this BTA and entitle the DA to exercise its rights and remedies hereunder with respect thereto.

16. The Selected Offeror shall not be liable for any failure to perform under this BTA or any delay in performing under this BTA (including any failure to meet a milestone set forth in the Agreed Milestone Timetable) if such failure is due directly to any of the following causes or circumstances and such cause or circumstance is beyond the Selected Offeror's control (and such event, an event of Force Majeure): war; fire; riot; terrorist act; flood; or other extreme weather; accident; change (hereafter) in any law or regulation; regulatory action impeding the Selected Offeror's ability to obtain any necessary permits or approvals for its development, once the Selected Offeror has submitted its application and any supporting documentation or studies; labor strike or lockout; or failure of the DA to take an action required to be taken by it. If an event of Force Majeure occurs and the Selected Offeror is delayed in its performance as a result thereof, the Selected Offeror shall be entitled to an extension of time equal to the period of delay caused by the Force Majeure event, provided that the Selected Offeror notifies the DA in writing of the event of Force Majeure and the anticipated resultant delay within five (5) days after the occurrence of the event of Force Majeure. Upon completion of the event of Force Majeure, the Selected Offeror must, as soon as reasonably practicable, recommence the performance of its obligations under the BTA.

17. This BTA shall be binding on and inure to the benefit of the DA (and its successors and assigns) and the Selected Offeror (and its permitted successors and assigns), and there shall be no third-party beneficiaries. This BTA shall be binding upon the Selected Offeror as of its execution by the DA and shall remain binding on the Selected Offeror even if the Proposal is revoked in accordance with this BTA.

18. Any and all notices, demands, requests and other communications given or delivered under or by reason of or in connection with the provisions of this BTA shall be in writing, and shall be given by certified or registered mail, postage prepaid, by delivery by hand or by nationally recognized

air courier service, or by e-mail directed, in the case of the Selected Offeror, to the address or e-mail set forth below and, in the case of the DA, to the address or e-mail set forth below:

Selected Offeror:

with copy to:

Department of the Army:

Headquarters, US Army Corps of Engineers
CEMP-CR, 3O50
441 G Street, NW
Washington, DC 20314-1000

Items directed to the DA must also be clearly labeled with the Selected Offeror's full name and the following subject heading: "Request for Proposals No. *** for an EUL at ***."

Notices shall become effective when received (or refused) by the addressee, provided that any notice or communication that is received (or refused) other than during regular business hours of the recipient on a business day shall be deemed to have been given at the opening of business on the next business day. From time to time, either party may designate a new address or e-mail for purposes of notice hereunder to such effect to the other Party. Email notice shall be effective upon confirmation of transmission, and either Party may update its notice details by written notice (including by email) to the other Party.

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IN WITNESS WHEREOF, this Business Terms Agreement has been duly executed and delivered by a duly authorized officer or representative of the Selected Offeror.

Selected Offeror:

Name:

Title:

IN WITNESS WHEREOF, this Business Terms Agreement has been duly executed and delivered as of the date below by a duly authorized officer or representative of the DA solely for the purposes set forth herein.

DA:

Department of the Army

Headquarters, US Army Corps of Engineers

Title: Director of Real Estate