

THIS DOCUMENT IS FOR REPRESENTATIVE PURPOSES ONLY

State of Montana School Trust Lands
Department of Natural Resources & Conservation

SPECIAL LEASE FOR SINGLE FAMILY RESIDENCE CABINSITE

Lease Number	Effective Date	Expiration Date
	March 1,	February 28,

Name of Lessee: _____

Mailing Address: _____

City/State/Zip: _____

Phone: _____

Lease Premises:

Description	County	Sec.	Twp.	Rge.	Acres
					+/-

Check one if applicable:

Joint Tenants

Joint Tenants with Right of Survivorship: A form of ownership whereby each tenant holds an undivided interest in the property, but the individual interests of each owner, upon their death, passes to the surviving tenant or tenants, automatically.

Tenants-in-Common

Tenants in Common: A form of ownership whereby each tenant (i.e. owner,) holds an undivided interest in the property. The interest of a tenant in common does not terminate upon his or her death.

Pursuant to this lease, the State Board of Land Commissioners, by and through the Trust Lands Management Division of the Montana Department of Natural Resources and Conservation (hereafter referred to as "the Department"), as Lessor, hereby authorizes the above-described Lessee(s) to occupy and use the above-described lease premises for the purpose of a cabin lease premises, home lease premises, or residence, and placement of a one single-family dwelling and supporting buildings, subject to the terms, conditions, and provisions further stated herein. This lease covers approximately _____ acres, more or less.

The following improvements are authorized in addition to the residence structure (type or handwrite additional authorized improvements): _____

THIS DOCUMENT IS FOR REPRESENTATIVE PURPOSES ONLY
TERMS AND CONDITIONS

I. RENTAL

- A. Advance payment: All rentals shall be paid in advance of the annual lease year beginning March 1st of each year, and the annual rental shall be calculated according to the direction of ARM 36.25.1003.
- B. Appraisals: Appraisals to ascertain the fair market value of the State land will be conducted in accordance with 77-1-208, Montana Code Annotated (MCA). The appraisal of State land is determined by the Department of Revenue.
- C. Rental Determination:
 - 1. Effective for the 2010 lease year beginning on March 1, 2010, the lease fee will be five (5) percent of the adjusted 2009 appraised value. The adjusted 2009 appraised value will be an amount equal to the 2003 appraised parcel value determined by the Montana Department of Revenue (DOR) compounded annually at an annual rate of 6.53 percent for six years.
 - 2. The annual rental due for years 2011 and thereafter shall be calculated by applying a Lease Fee Indicator (LFI), as defined in ARM 36.25.1001(15), to the previous year's lease rental. In year 2010, the LFI will not be used.
 - 3. If the Lessee obtained the bid through competitive bidding, the annual rental for the cabinsite will be equal to the Lessee's bid amount until such time as the annual rent as calculated by the process described in ARM 36.25.1003 exceeds the bid amount.
- D. Payment Schedule: Based on the criteria stated herein, the annual payment is due and payable annually or semi-annually as indicated herein below.

Check one:

Annual Payment

Annual payments must be postmarked on or before March 1. Payment after March 1 will incur a \$25.00 late payment penalty. Failure to make payment in full by April 1 cancels the lease.

Semi-Annual payments

One-half the rental is due by March 1 and one-half is due by September 1. Payment after March 1 or September 1 will incur a \$25.00 late payment penalty. Failure to make payment in full by April 1 or October 1 cancels the lease.

- E. If the due date(s) for any payments or fee calculation statements falls on a non-business day, the penalty shall not apply until the close of business on the next business day.
- F. Place of Payment: All payments required by this lease shall be made to the Department of Natural Resources and Conservation, P.O. Box 201601, Helena, MT 59620-1601, or the local Area Office or Unit Office. Payments will be credited on the date they are received by the Department.
- G. Nonpayment Constitutes Breach: Failure of the Lessee to make the annual rental payment, penalty, interest, or any other charges when due shall be grounds for cancellation of this lease. The Department may, within thirty (30) days after cancellation, reinstate this lease upon payment of the rental owing plus a penalty not to exceed three times the annual rental, except that a penalty may not be less than \$500.00.

THIS DOCUMENT IS FOR REPRESENTATIVE PURPOSES ONLY

- H. **Renewal of Lease:** If all rentals due the State under this lease have been paid and the terms of this lease have not been violated, the Lessee may make application to the Department, within thirty (30) days prior to its expiration, for an additional term not to exceed fifteen (15) years at such rental as the Director of the Department of Natural Resources and Conservation may determine is a fair return to the State, and subject to periodic reviews of the rental as herein provided. However, should the Director of the Department of Natural Resources and Conservation determine, in the sole discretion of the Department, that it is in the best interest of the State not to renew this lease, and written notice is given to the Lessee at least six (6) months prior to the expiration of the lease of such decision, the Lessee shall have no renewal rights.
- I. **Lessor Lien:** The Department shall have a lien upon all buildings, structures and other improvements for payment of the rentals specified herein.

II. AUTHORITY AND USE AND TERM AUTHORIZED.

- A. Primary direction for lease management comes from Administrative Rules of Montana (ARM) 36.25.1001 - 36.25.1010.
- B. This lease authorizes only personal residential use of a noncommercial nature by the Lessee, members of the Lessee's immediate family, ranch manager and guests, excluding use in association with an adjacent agricultural and grazing lease.
- C. This lease is subject to all applicable federal, state, county, and municipal laws, ordinances, and regulations in effect at the date of this lease, or which may, from time to time, be adopted, and which do not impair the obligations of this contract and which do not deprive the Lessee of an existing property right recognized by law.
- D. The State reserves all rights and interests to the land under this lease other than those specifically granted by this lease. These reservations include, but are not limited to, the following:
 - 1. **Mineral and timber reservation:** All coal, oil, gas and other minerals and all deposits of stone, gravel, sand, gems, and other non-minerals valuable for building, mining or other commercial purposes, and all timber and trees, are excepted from the operation of this lease. The Lessee shall not open any mine or quarry or work or dig any of the minerals or non-minerals mentioned above from any mine or quarry, pit or diggings situated on the said land whether such mine, quarry, pit or diggings was open at the date of this lease or not. The Lessee shall not cut, remove, use or destroy any such timber or standing trees and shall not allow or permit any other person to cut, use, remove or destroy such timber or standing trees unless such person is authorized by the Department.
 - 2. **Additional Reservations:** The State reserves a right-of-way to the United States over the land above-described for ditches, canals, tunnels, telephone and telegraph, and power lines now constructed or to be constructed by the State of Montana, in furtherance of the reclamation of arid lands. The State also reserves the right of granting rights-of-way on the above-described land for other purposes. The State also reserves to itself and its representatives and Lessees the right to enter upon the lands embraced by this lease for purpose of prospecting and exploring for minerals and for the purpose of mining, drilling for, developing and removing such minerals and for carrying on all operations related thereto; it also reserves to itself and its Lessees the right to enter upon the said lands for the purpose of cutting and removing timber, wood and other forest products, and for removing gravel, sand, building stone, and other non-minerals. The State reserves the right to grant permits for advertising such as signs and billboards. The State or its authorized representative may from time to time, at any reasonable hour, enter upon and inspect

THIS DOCUMENT IS FOR REPRESENTATIVE PURPOSES ONLY

the leased premises, lease premises or any portion thereof or improvements thereon to ascertain compliance with this lease, but without obligation to do so or liability thereof.

3. **Right to Entry:** Representatives of the State Historical Society of the State of Montana shall at all reasonable times, upon written notification to the Department of Natural Resources and Conservation prior to entry, have the right to enter into and upon the premises for the purpose of carrying out the duties assigned the Historical Society by the State Antiquities Act, 22-3-4, MCA.
4. **Multiple Use Management:** Pursuant to the obligations imposed by law to administer State lands under a multiple use management concept, the State reserves the right to dispose of any and all interests in the above-described land, subject, however, to such specific interests granted to the Lessee under the terms of this lease.
- E. **Public Use Restricted:** The leased premises are categorically closed to the public as stated in 77-1-804 (3), MCA and ARM 36.25.150. No public use is allowed on the lease premise, including camping, fishing, and picnicking; however, the public may cross on foot the leased premises to access other state land open for use by the public when no other reasonable access is available.
- F. This lease does not obligate the Department to furnish to the Lessee any structures, road maintenance, water, fire protection, or any other such service by the State, utility association, or an individual.
- G. **Unlawful Use:** If any part of the lands or premises under this lease are used or allowed or permitted to be used for any purpose contrary to the laws of this state or the United States, such unlawful use shall, in the discretion of the Department, constitute sufficient reason for the cancellation of the lease.
- H. **Expiration at End of Term:** This lease will expire on the date indicated on the first page of this lease document.

III. IMPROVEMENTS.

- A. Nothing in this lease shall be construed to imply permission to build or maintain any improvement not specifically named on the face of this lease or approved in writing by the Department. New construction requires the prior written approval of the Department. Unauthorized improvements are not compensable upon expiration or cancellation.
- B. All plans for development, layout, construction, reconstruction or alteration of improvements on the lot, as well as revisions of such plans, must approved by the Department prior to commencement of work.
- C. **Lien:** The Department shall have a lien upon all buildings, structures and other improvements for payment of the rentals specified herein.
- D. **Removal of Improvements:** Prior to any removal, the Lessee will inform the Department in writing of Lessee's intention to remove improvements. After cancellation, expiration or abandonment of this lease, the removal of improvements will require a land use license from the Department. The land use license may be for a term up to sixty (60) days. The term may be extended by the Department for good cause.
- E. **Compensation for Improvements after Cancellation, Expiration or Abandonment of the Lease:** If the Lessee seeks compensation for the improvements from a New Lessee, the Former Lessee will submit in writing to the Department a statement specifying that compensation is sought from a New Lessee. The Department is under no obligation to compensate the Lessee for any improvements on the cabinsite at any time.

THIS DOCUMENT IS FOR REPRESENTATIVE PURPOSES ONLY

1. Following cancellation, expiration or abandonment of this lease, the Department will seek to find a New Lessee for the lease premises by offering the lease for competitive bid.
 2. The Lessee will have three years upon cancellation, expiration or abandonment of this lease to receive compensation for improvements. At expiration of three years, the Department shall provide written notice to the Former Lessee that the improvements, unless removed, will become the property of the State. This condition and limitation applies to all improvements on the property, including movable and nonmovable improvements and personal property remaining on the cabinsite.
 3. The Lessee may request a license to remove the improvements at any time; however, the Department reserves the right to withhold authorization to remove the improvements during any time that a lease is being actively bid by the Department.
 4. Lessee may not access the cabinsite after cancellation, expiration or abandonment of this lease for any reason without prior written authorization of the Department. A land use license may be obtained from the Department for the limited purpose of maintaining the improvements and the lot and to market the improvements to a New Lessee. Under no circumstances may the Former Lessee occupy the cabinsite or utilize the cabinsite for recreational or residential purposes after the cancellation, expiration or abandonment of this lease.
 5. The Lessee shall be responsible for notifying the Department of the amount of compensation sought. The asking price of the improvements shall not exceed the value of the most recent DOR assessment of the improvements, or of an appraisal of the improvements. Any appraisal of the value of the improvements, if sought, shall be contracted by the Department, paid for by the Lessee, and shall utilize standard appraisal procedures.
1. The Department will notify the Former Lessee when there is a New Lessee of the cabinsite. During the pendency of the improvement settlement process, including arbitration and appeal, the New Lessee shall place in escrow an amount equal to the assessed value of the improvements as per DOR assessment, plus any applicable tax assessment.
 2. The New Lessee and/or the Former Lessee will have one-hundred twenty (120) days from the date the Department sends notice to the Former Lessee to provide to the Department any one of the following: copy of a deed or bill of sale transferring ownership of the improvements to the New Lessee; or a letter stipulating both parties have reached a price and shall close the sale on a specified date; or an agreement that the improvements shall be removed from the lease premises.
 3. If the Department does not receive documentation within one-hundred twenty (120) days evidencing the improvements have been properly settled, the Department will deem the parties cannot agree upon a reasonable value and will initiate arbitration as provided in 77-6-306, MCA to ascertain and fix the price for the improvements. The New Lessee and Former Lessee may initiate arbitration at any time during the one-hundred twenty (120) days. The value determined through arbitration shall be binding on both parties, subject to appeal. The New Lessee shall pay the Former Lessee for the improvements per the terms of the arbitration settlement, or if not specified, within thirty (30) days after the value has been fixed by arbitration.
 4. The Lessee(s) shall, following settlement of improvements with the Former Lessee, own all improvements upon the lease premises. Ownership of the improvements by any person or entity other than the Lessee of record shall be grounds for cancellation of this lease.
- F. The Lessee shall pay all taxes, special assessments, levies, fees, and other governmental charges of every kind or nature that may be levied by any and all federal, state, county, municipality, and any

THIS DOCUMENT IS FOR REPRESENTATIVE PURPOSES ONLY

other taxes or assessing authority upon the improvements and property owned by Lessee on or about the leased premises during the term of this lease and prior to any assumption of the lease premises by a New Lessee. Payment shall be made prior to delinquency of taxes, special assessments, levies, fees, and other governmental charges. Lessee shall cause all taxes imposed upon all improvements situated in, on or about the premises, to be levied or assessed separately from said leased premises and not as a lien thereunder.

- G. Water Rights: Any water right appropriated or secured on State land by any individual or party for use on or off such state land shall be appropriated or secured in the name of the Department of Natural Resources and Conservation. The Department shall be notified prior to such development or appropriation of water right.

IV. RESPONSIBILITIES OF LESSEE.

- A. The Lessee shall exercise diligence in preventing damage to the lease premises. The Lessee shall abide by all restrictions on fires which may be in effect at any time and take all reasonable precautions to prevent and suppress fires. The Lessee shall make reasonable efforts to suppress any fire that exists and report it to the proper firefighting authority. The Lessee assumes all risk of loss to the improvements.
- B. The Lessee shall protect, in place, all land survey monuments and private property corners. In the event that such land markers or monuments are destroyed, the Lessee shall see that they are reestablished in the same location.
- C. No soil, trees, or other vegetation may be removed from the lease premises without prior permission from the Department.
- D. The Lessee shall maintain the improvements and premises to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the lease manager. The Lessee shall fully repair and bear the expense for all damage, ordinary wear and tear, to state school trust lands, roads and trails caused by the Lessee's activities.
- E. The Lessee has the responsibility of inspecting the lease premises, authorized rights-of-way, and adjoining areas for dangerous trees, hanging limbs, and other evidence of hazardous conditions which could affect the improvements and or pose a risk of injury to individuals, and reporting such conditions to the Department in writing. After securing permission from the Department to remedy such conditions, the Lessee shall remove such hazards.
- F. In case of change of permanent address, the Lessee shall immediately notify the Department in writing.
- G. Utility Installation: The Lessee, at its sole cost and expense, shall determine the availability of, and shall cause to be installed in, on, and about the leased premises, all facilities necessary to supply thereto all water, sewer, gas, electricity, telephone and other like services required in Lessee's operations hereunder. Lessee agrees to pay all connection or acreage assessments or charges levied by any public utility, agency or municipality with respect to their services. Notwithstanding the foregoing, Lessee shall not enter into any contract or agreement with any city, county, or other governmental agency or body or public utility with reference to sewer lines or connections, water lines or connections, or street improvements relating to the leased premises, without the prior written consent of the Department, which consent shall not reasonably be withheld.
- H. Noxious Weeds and Pests: The Lessee agrees, at his/her own expense and cost, to keep the land free from noxious weeds, and if noxious weeds are present, then chemical application or other appropriate weed control measures must occur in time to prevent seed-set according to state law and to

THIS DOCUMENT IS FOR REPRESENTATIVE PURPOSES ONLY

exterminate pests to the extent as required by the Department. In the event the land described in this lease shall be included in a weed control and weed seed extermination district, the Lessee shall be required to comply with the provision of 77-6-114, MCA, which provides as follows: "It shall be the duty of the Board in leasing any state land to provide in such lease, that the Lessee of lands so leased lying within the boundaries of any noxious weed control and weed seed extermination district shall assume and pay all assessments and taxes levied by the Board of County Commissioners for such district on such state lands, and such assessment and tax levy shall be imposed on such Lessee as a personal property tax and shall be collected by the County Treasurer in the same manner as regular personal property taxes are collected." Failure to comply with this provision when directed to do so by the Department may result in cancellation of the entire lease.

- I. Road Maintenance: The Lessee is responsible maintaining access to the leased premises.
- J. Improvement Maintenance: The Lessee is responsible for maintaining their improvements.

V. LIABILITIES.

- A. This lease is subject to all valid existing rights and claims outstanding in third parties. The State of Montana is not liable to the Lessee for the exercise of any such right or claim.
- B. The Lessee shall be liable for any damage suffered by the State of Montana resulting from or related to the Lessee's use of the lease, including damages to state land resources such as the removal of trees, shrubs, and vegetation, and costs of fire suppression, subject to civil and criminal remedies.
- C. Indemnification: This lease is made upon the express condition that the Lessee shall assume all liability for any injury, property damage or loss by any persons and for any injury, property damage or loss to any employee or property of Lessee, its agents or employees, or third persons, or to the Lessee, from any cause or causes whatsoever while in or upon the said premises or any parts thereof during the terms of this lease or occasioned by the occupancy for use of said premises or any activity carried on by the Lessee in connection therewith. Lessee shall indemnify Department and save, protect, defend, and hold Department harmless from any and all liability, loss, damage, expense (including legal expenses and reasonable attorney fees), causes of action, suits, claims or causes whatsoever while in or upon said premises or any part thereof during the terms of this agreement or occasioned by any occupancy, and all suits which may be brought against Department, either alone or in conjunction with others, upon any such liability or claim(s). Lessee shall satisfy, pay and discharge any and all judgments and fines that may be recovered against Department in any such action(s), provided, however, that Department shall have given Lessee written notice of any such claim or demand promptly after receiving notice thereof.

VI. TRANSFER, SALE, AND RENTAL.

- A. Divestiture of Ownership: If the Lessee through voluntary sale, transfer, enforcement of contract, foreclosure, or other legal proceeding shall cease to be the owner of the physical improvements, this lease shall be assigned to such person to whom title has been transferred only with the prior written approval by the Department.
- B. Notice to Prospective Purchasers: When considering a voluntary sale of the residential improvements, the Lessee shall provide a copy of this special lease to the prospective purchaser before finalizing the sale. The Lessee shall make no binding representations to the purchasers as to whether the Department will reauthorize the occupancy.
- C. Assignment: If all rentals due have been paid and the terms of the lease have not been violated, the lease may be assigned on blank forms provided for that purpose by the Department, but no such

THIS DOCUMENT IS FOR REPRESENTATIVE PURPOSES ONLY

assignment shall be binding on the State unless the assignment is filed with the Department, approved by it, and payment made of the assignment fee. Prior to assignment, the lease may be inspected by the Department to ensure the leased premises are in compliance with the terms and conditions of the lease.

- D. Notice of Sale Price: Before the completion of an assignment or any transfer of interest in the leasehold and improvements, the Lessee(s) or assigns shall provide to Department written notification and copies of any agreements reflecting the transfer and sale price of the improvements, thereby ensuring full disclosure of the consideration paid for such transfer. Notification will also occur when an assignment involves no monetary exchange, such as may exist in an assignment between family members.

VII. REVOCATION.

- A. Revocation for Cause: This lease may be revoked for cause by the Department upon breach of any of the terms and conditions of this lease or applicable law. Prior to such revocation for cause, the Lessee shall be given notice and provided a reasonable time--not to exceed ninety (90) days--within which to correct the breach.
- B. Cancellation: The Department shall have the power and authority in his discretion to cancel a lease for any of the following causes: for fraud or misrepresentation, or for concealment of facts relating to its issue, which if known would have prevents its issue in the form or to the party issued; for using the land for other purposes than those authorized by the lease, and for any other reasonable cause which in the judgment of the Department makes the cancellation of the lease necessary in order to do justice to all parties concerned and to protect the interest of the State. Such cancellation shall not entitle the Lessee to any refund for rentals paid or exemption from the payment of any rents, penalties or other compensation due the State. Lease cancellation is subject to appeal as provided in Section 77-6-211, MCA.
- C. Request to Abandon Lease: The Lessee may request to abandon the lease by writing to the Department at least sixty (60) days prior to the end of any rental year. The Director of the Department may grant or deny the request and may condition the right to abandon upon the payment of reasonable damages caused by the abandonment. The Lessee may abandon the lease as described in ARM 36.25.1006.
- D. Surrender of Premises upon Cancellation, Expiration or Abandonment of Lease: The Lessee shall upon the cancellation, expiration or abandonment of this lease peaceably yield up and surrender the possession of the land to the Department or its agents or to subsequent Lessees and grantees.

VIII. MISCELLANEOUS PROVISIONS.

- A. The Department reserves the right to enter upon the lease premises to inspect for compliance with the terms of this lease.
- B. The Department disclaims any warranty of title to the above-described lease premises, and improvements. The Lessee enters into this lease based solely upon its own investigation of title and the Lessee's own determination of the ownership of improvements present upon the lease premises.
- C. This agreement shall not be modified or amended except by an instrument in writing signed by the Department and the Lessee. However, any form or report signed by both the Lessee and the Department in connection with this lease agreement will modify and become incorporated into this lease agreement.
- D. Special Conditions:

THIS DOCUMENT IS FOR REPRESENTATIVE PURPOSES ONLY

1. The lease premises must be kept free of debris, garbage and any other unsightly objects. This includes lakeshores or streams when adjacent to the lease premises. The Department may, at its discretion, require removal of junk vehicles, old building materials, improvements that are in disrepair, etc. Open pits, ditches, or other unsafe conditions must be eliminated from the lease premises.
2. Cutting of live or green trees on the lease premises is prohibited without permission from the Department.
3. Disturbance of the peace of the community will not be tolerated.
4. No livestock will be kept on the lease premises described in this lease.
5. The Lessee will manage the lease to prevent resource damage and will comply with all county, state, and federal laws that may apply to the lease property.
6. Pesticides will be used, stored, and disposed of in accordance with the label.
7. Incinerators, fireplaces, stoves or any other type of burner must be fireproofed by use of spark proof screens. All fires must be extinguished prior to leaving the area.
8. The use of firearms or fireworks is not permitted on state land.
9. The lease premises must be kept free of fire hazards. Forest litter (needles, twigs, duff) must be removed for a distance of ten feet around all buildings and from roof tops. Tree limbs too close to the roof or chimneys must be removed.
10. No buildings except boat docks may be constructed on the lease premises within 100 feet of shoreline on rivers and lakes.
11. Only one dwelling will be allowed on the lease premises.
12. If the Lessee no longer occupies or uses the lease premises for its intended purpose, the Lessee must contact the Department who may pursue reclassification of the lease.

IN WITNESS WHEREOF, the State of Montana and the Lessee have caused this lease to be executed in duplicate and the Director of the Department of Natural Resources and Conservation, pursuant to the authority granted him by the Board of Land Commissioners of the State of Montana, has hereunto set his hand and affixed the seal of the Board of Land Commissioners this ____ day of _____, 20 ____.

LESSEE

LESSOR

Lessee

MARY SEXTON

Director, Montana Department of Natural Resources and Conservation

Lessee

By: _____

SAMPLE