LEASE/SALE #
LESSEE NAME

The Montana Department of Natural Resources & Conservation

PROCEDURE DISCLOSURE FORM

This *Procedure Disclosure Form* summarizes much of the land banking procedure from nomination to closing, but it is not a complete source or the only source of information. Additional process information is available from the Department of Natural Resources and Conservation (the Department). Terms in the *Agreement to Sell Improvements*, *Cabin/Home Site Offer to Purchase and Bid Deposit Receipt*, and the *Cabin/Home Site General Terms and Conditions of Sale Form* override any statements in this disclosure form. All applicable Administrative Rules of Montana and applicable laws of the State of Montana override any statements in this disclosure form.

The Department cannot provide you with any legal advice. If you have any questions regarding the legal implications of moving forward in the Cabin/Home Site Sale process, you should engage the services of a private attorney before returning the *Nomination Form*.

All communication regarding the Cabin/Home Site Sale program shall be sent to the Department in writing. A request for withdrawal from the program must be sent by Certified Mail to:

DNRC
Attn: Cabin/Home Site Sale Program
P.O. Box 201601
Helena, MT 59620-1601

Please read the entire document. If you have questions about an item, ask for clarification before initialing the line. The person(s) initialing this disclosure form has read the statements and understands the disclosures made. Sign where indicated at the bottom of the back page to show that you have read the form completely and understand the disclosures.

_____1) If, during the course of the sale process, the Department discovers that the parcel proposed for sale does not qualify for sale, the Department reserves the right to withdraw the parcel from sale.

_____2) If a parcel is removed from sale consideration by the Department, you have 15 days from the date of the Department's notification to you to appeal the Department's decision to the State Board of Land Commissioners (the Land Board) and the Land Board will make the final determination of whether or not to sell the parcel.

_____3) If you are the current lessee of the land nominated for sale, you have the right to withdraw from the sale process by sending written notice by Certified Mail to the Department received by the Department no later than ten days before the date of the auction, unless another bidder has registered for the auction, at which point the sale cannot be canceled by the nominating lessee. If a written notice to withdraw is received the same date that the Department receives a competitive bid bond, the auction will proceed as scheduled.

_____4) Improvements owners *who are no longer the lessees* do not have the right to withdraw the parcel from sale once it has been nominated.

_____5) This sale must receive preliminary approval from the Land Board for the sale process to commence.

_____6) After the lessee or improvement owner submits the $100 nomination fee, completed *Nomination Form*, and completed *Procedure Disclosure Form*, the Department will provide the lessee or

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improvements owner a list of no fewer than two acceptable appraisers to conduct the appraisal for both the land and the improvements. The lessee or improvement owner will select 50% of the appraisers on the list. The Department will solicit for bids to the selected appraisers. The Department will choose from the responding appraisers to conduct the appraisal.

_____7) You will be notified of the estimated processing costs that will be required to move forward with the sale process, and you will have 10 days after the Department's notification to submit payment for such processing costs. These costs include but are not limited to appraisal attributable to the improvements under consideration for sale on the state-owned lease site, advertising, cultural survey, and indirect costs pursuant MCA §17-1-106. These costs are estimated and may vary from actual expenses. Upon receipt of payment for the estimated processing costs, the Department will contract for the appraisal.

_____8) If you are the current lessee and do not want to pay the processing costs and/or do not want to proceed with the sale process, you must notify the Department by sending written notice to the Department by Certified Mail, and the parcel will be removed from consideration for sale. Once costs are incurred in the sale process, limited, if any, refunds can be made.

_____9) Parcels with legal access are appraised as such. Parcels without legal access are appraised as if they have legal access. The appraiser will provide separate values for the state-owned land and non-state-owned improvements under consideration for sale. Once the appraisal has been reviewed by the Department, the lessee or improvements owner will be notified of the appraised value(s).

_____10) If you do not agree with the recommended values, you must notify the Department in writing within 10 days of the Department notification of the appraised values if you wish to be granted an informal administrative hearing before the Department to dispute the values. If you are the current lessee and have initiated the sale and submitted the estimated processing costs, you may remove the parcel from the sale process by notifying the Department by sending written notice to the Department by Certified Mail that you wish to withdraw, and the existing lease will continue under the present terms. If any estimated processing cost funds remain, they will be refunded. If actual expenses exceed estimates, you will be billed.

_____11) The Department will present to the Land Board the appraisal and appraisal review along with the Department's findings, conclusions, and recommended values from the informal administrative hearing, if any. The Land Board will then set the minimum bid for the land and the maximum value of the improvements under consideration for sale. If you are the current lessee and have initiated the sale and submitted the estimated processing costs, you may remove the parcel from the sale process by notifying the Department by sending written notice to the Department by Certified Mail that you wish to withdraw, and the existing lease will continue under the present terms. If any estimated processing cost funds remain, they will be refunded. If actual expenses exceed estimates, you will be billed.

_____12) If, after the Land Board has set the minimum bid for the land and the maximum value of the improvements, you wish to move forward with the sale and consent to the terms and conditions of the proposed sale, you must complete an *Agreement to Sell Improvements* contract. The *Agreement to Sell Improvements* contract will include the terms of the improvements sale, including maximum value of the improvements (see #11), and marketing obligations. You will be contractually obligated to transfer any and all interest in the improvements upon the lease lot, with clear title, should you not be the highest bidder at auction.

_____13) Current Lessee/improvements owner will be required to allow reasonable access for prospective bidders to view the potential sale parcel and improvements under consideration for sale, including conducting an open house, during which potential bidders may view the interior of the improvements.

_____14) All parcels are sold through a public auction in the county where the land is located. The Department will set a date and time for the auction. All qualified bidders must appear in person or designate a legal representative to appear and bid on their behalf. The Department shall, at a minimum, publish the notice of the auction in a newspaper of general circulation in said county once a week for at least four consecutive weeks preceding the due date for bid deposits, and will post the cabin or home

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site on the Department website.

_____15) In accordance with Montana Code Annotated 77-1-113, it is unlawful for any member of the Land Board, any person appraising lands or in the employ of the state for the selection, classification, appraisal, sale, or leasing of state lands or the timber on state lands, or any officer or employee of the Department of Natural Resources and Conservation (DNRC), to purchase or lease, directly or indirectly, any state lands or any timber on state lands. As such, DNRC employees, their immediate family members, or anyone acting on their behalf are prohibited from bidding on or purchasing state trust land cabin sites.

_____16) All qualified bidders, including the current lessee or improvements owner, shall submit an *Offer to Purchase and Bid Deposit Receipt* form along with a bid deposit, by certified check or electronic funds transfer drawn on any Montana bank, equal to or greater than 5% of the minimum bid amount for the land only. Said bid deposit must be received no later than 20 days before the auction. (see item #19). All bidders shall submit proof of funds or a prequalification letter with the bid deposit. The *Offer to Purchase and Bid Deposit Receipt* form will be available online after the Land Board sets the minimum bid (per item #11). The form will also be mailed by the Department directly to the lessee or improvements owner who nominated the sale.

_____17) It is your responsibility to verify whether any additional bid deposits have been received by the Department if you are concerned about competitive bidding. If you are the current lessee and have initiated the sale and submitted the estimated processing costs and wish to remove the parcel from the sale process, you can do so by sending written notice by Certified Mail to the Department received no later than ten days before the date of the auction, unless another bidder has registered for the auction, at which point the sale cannot be canceled by the nominating lessee. (see #19) The current lessee removing the parcel from the sale process should also notify Department staff by phone or email that they wish to remove the parcel from sale. If you remove the parcel from the sale process, the existing lease continues under the present terms. All costs incurred in preparing the parcel for sale will be paid out of the money submitted for estimated processing costs and the bid deposit. Any funds, submitted for estimated processing costs or bid deposit, remaining will be returned to the lessee. If actual expenses exceed estimates you will be billed.

_____18) If the current lessee fails to notify the Department in writing by certified mail no less than 10 days before the date of the auction or another bidder has registered for the auction, the auction will not be cancelled. Improvements owners, who are no longer the current lessee, do not have the right to withdraw the parcel from sale.

_____ 19) You are responsible for meeting established deadlines for any submission or notification to the Department. If you are sending mail from a location that is expected to have slow mail service to the Department for any reason (from outside of the US, outside of Montana, or other reason), you are responsible for ensuring the Department receives your mail in the established timeframe. This may require sending submissions or notices through expedited mail delivery.

_____20) All bidding is done by oral bid on the date of auction. Bidding will begin with the competitive bidder(s) submitting a bid of no less than the minimum bid amount listed in the auction notice. Bids for less than the minimum will not be accepted. Bidding will continue until the competitive bidders no longer wish to raise the bid. The Department representative conducting the auction will then ask the current lessee if they wish to exercise their lessee preference right to match the high bid. If the current lessee chooses to exercise that right, the bidding may begin again if the competitive bidders wish to bid a higher amount. The bidding only stops when the competitive bidders wish to cease bidding and/or the current lessee chooses not to match the high bid.

_____ 21) The sale will be presented to the Land Board for final approval. The Land Board has the final say on approving or disapproving of the sale. If the Land Board does not approve the sale, the successful bidder is not responsible for processing costs.

_____ 22) The parcel is sold to the highest bidder who consummates the terms of the sale (successful purchaser). The current lessee **has** the right to match the high bid at the oral auction. The owner of the improvements (if no longer the current lessee) **does not** have the right to match the high bid. The Department retains the bid deposit of the highest bidder and will return bid deposits of all unsuccessful bidders within 15 business days of the auction. If the highest bidder fails to comply with

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the terms of the sale, for any reason, and thus fails to consummate the sale, the bidder's bid deposit is forfeited unless the next higher bidder or a subsequent bidder, in sequence of bid amount, agrees to the terms of the sale and finalizes the sale.

_____ 23) If the successful purchaser is not the owner of the improvements, the owner of the improvements will be obligated to transfer any and all interest in the improvements upon the lease lot, with clear title, per the *Agreement to Sell Improvements* contract (See #12). The purchaser shall compensate the owner of the improvements no more than the maximum value of the improvements set by the Land Board (see #11). The owner of the improvements may choose to accept an amount less than the value set by the Land Board, but not more. The sale/purchase of the improvements must be completed simultaneously with closing on the land.

_____24) All state trust land property is sold in "AS IS" condition. "AS IS" means that the buyer accepts the property in its present condition. The buyer takes the property at his or her own risk, without recourse against the seller for its condition or faults, whether the faults are apparent or not. No express or implied warranty(ies) will be provided by the Department with the sale. The failure of any bidder to inspect, or to be fully informed as to the condition of all or any portion of the property offered will not constitute grounds for any claim or demand for adjustment, reimbursement or withdrawal of a bid after the close of the auction.

_____ 25) Title to the land is granted by a patent or quit claim deed. No warranty deed is issued. The state does not furnish title insurance.

_____ 26) Mineral rights are reserved by the state in accordance with MCA §77-2-304.

_____27) GRANT OF ACCESS: The State does not guarantee access. As part of the sale process, the State will convey any access that it may have and can convey to provide legal access to the cabin site or home site. RESERVED ACCESS: The State may reserve a right of access up to 60-foot wide upon existing access roads and/or driveways across the nominated sale parcel for the purpose of continuing access to adjoining leased or unleased lands owned by the State. It is understood and agreed that any such reservation by the State will be partially assigned to any subsequent purchasers of State Land who rely on these roads and driveways for legal access. GENERAL PROVISIONS OF ACCESS: Purchasers and Lessees are responsible for road maintenance. Purchasers may be required to join a road users association when deemed necessary by the State to manage maintenance responsibilities.

_____28) Lessee is expressly not authorized to proceed with adding new improvements, and/or changes to the property or improvements (including but not limited to utilities) until the sale has closed.

_____29) If, at any time during the sale process, Lessee becomes non-compliant with lease terms and conditions, Department may at its discretion withdraw Lessee's lot from the sale program.

_____30) Lease fees must be paid through the closing date of the sale.

_____31) Once in private ownership, cabin and home site lots are subject to all existing easements or claim of easements, rights of way, protective covenants, zoning ordinances and applicable building codes, laws and regulations, encroachments, overlaps, or boundary line disputes.

_____32) Once in private ownership, cabin and home site lots are subject to applicable state, federal, and local laws and regulations, including the Montana Department of Environmental Quality requirement for review of any new or increased use of water supply or sewage disposal system and the Montana Natural Streambed and Land Preservation Act (310 Law).

_____33) Cabin and Home Site lots are sold according to survey. The Department of Natural Resources and Conservation will not modify any lot boundaries once the survey is filed or an appraisal has been completed for the sale.

By signing this document, you indicate that you have read the form and understand the disclosures therein.

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Lessee/Improvement Owner Signature _____ Date _____

Printed Name _____

Lessee/Improvement Owner Signature _____ Date _____

Printed Name _____

Lessee/Improvement Owner Signature _____ Date _____

Printed Name _____

Lessee/Improvement Owner Signature _____ Date _____

Printed Name _____

Lessee/Improvement Owner Signature _____ Date _____

Printed Name _____

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