

1                                   **GUAM CONSOLIDATED COMMISSION ON UTILITIES**  
2   **RESOLUTION NO. 21-FY2016**

3                                   **RELATIVE TO APPROVAL OF THE LICENSE AGREEMENT**  
4   **TO OPERATE THE TUMON MAUI WELL**

5  
6                   **WHEREAS**, under 12 G.C.A. § 14105, the Consolidated Commission on Utilities  
7 (“CCU”) has plenary authority over financial, contractual and policy matters relative to the  
8 Guam Waterworks Authority (“GWA”); and  
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10  
11                   **WHEREAS**, the Guam Waterworks Authority (“GWA”) is a Guam Public Corporation  
12 established and existing under the laws of Guam; and

13  
14                   **WHEREAS**, the Guam Waterworks Authority (GWA) and the Department of Defense  
15 (DoD) independently own and operate separate water and wastewater systems for their  
16 respective customers. Both entities signed a Memorandum of Understanding (MOU) in 2010,  
17 and agreed to evaluate opportunities towards integrating military and civilian water systems on  
18 Guam; and

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20                   **WHEREAS**, the parties have been meeting regularly to identify opportunities to  
21 collaborate, to share resources where appropriate and to identify steps toward the integration  
22 and consolidation of water delivery to the island community. The parties have identified  
23 opportunities that support an integrated and interconnected water system in the “One Guam  
24 Vision” ; and

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26                   **WHEREAS**, the operation of the Tumon Maui Well and the interconnection between  
27 GWA and the Department of the Navy (DoN) at Route 3 and Potts Junction will be pilot projects  
28 in this effort to integrate the water systems; and

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30                   **WHEREAS**, the Tumon Maui will provide approximately 800 gallons per minute (1.15  
31 million gallons per day) directly into the Northern GWA system (GU000006); and  
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1           **WHEREAS**, the water produced by the Tumon Maui Well will enable GWA and DoD to  
2 work more collaboratively in protecting the Northern Guam Lens Aquifer (NGLA), potentially  
3 reduce the levels of chlorides in the overall water well systems, mitigate adverse impacts to the  
4 NGLA, provide additional water supply to GWA's customers, and support growth and  
5 responsible development for the island. This additional capacity will enable GWA to shut down  
6 four (4) of its wells where chloride reading is undesirably high; and

7  
8           **WHEREAS**, as part of this integration project, GWA will construct all required  
9 infrastructure for a new waterline interconnection with meter along Route 3 and Potts Junction  
10 with commitment to provide a maximum of 210 gpm to the DoN via the intertie; and

11  
12           **WHEREAS**, the details of this agreement are captured in the License Agreement (See  
13 Attachment 1) as well as through "Exhibit A" of the 2010 Memorandum of Agreement which  
14 is still being finalized and will be submitted for CCU Approval in the March 2016 CCU  
15 Meeting; and

16  
17           **NOW BE IT THEREFORE RESOLVED**, the Consolidated Commission on Utilities  
18 does hereby approve and authorize the following:

19           **Section 1.** The foregoing recitals hereto are hereby ratified, confirmed, and  
20 incorporated herein by reference.

21           **Section 2.** The CCU approves and supports GWA's collaboration with DoD relative to  
22 shared resources and a common goal of achieving a "One Guam" vision for the water systems.

23           **Section 3.** The CCU approves GWA management entering into a license agreement  
24 with DoD to operate the Tumon Maui Well (Attachment 1).


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26           **RESOLVED**, that the Chairman certified and the Board Secretary attests to the  
27 adoption of this Resolution.  
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1 **DULY AND REGULARLY ADOPTED**, this 23<sup>rd</sup> day of February 2016.

3 Certified by:

Attested by:

4   
5 **JOSEPH T. DUENAS**  
6 Chairperson

  
7 **J. GEORGE BAMBA**  
8 Secretary

9 I, J. George Bamba, Board Secretary of the Consolidated Commission on Utilities, as  
10 evidenced by my signature above do hereby certify as follows:

11 The foregoing is a full, true and accurate copy of the resolution duly adopted at a regular  
12 meeting by the members of the Guam Consolidated Commission on Utilities, duly and  
13 legally held at a place properly noticed and advertised at which meeting a quorum was  
14 present and the members who were present voted as follows:

15 AYES:	<u>5</u>
16 NAYS:	<u>0</u>
17 ABSTENTIONS:	<u>0</u>
18 ABSENT:	<u>0</u>

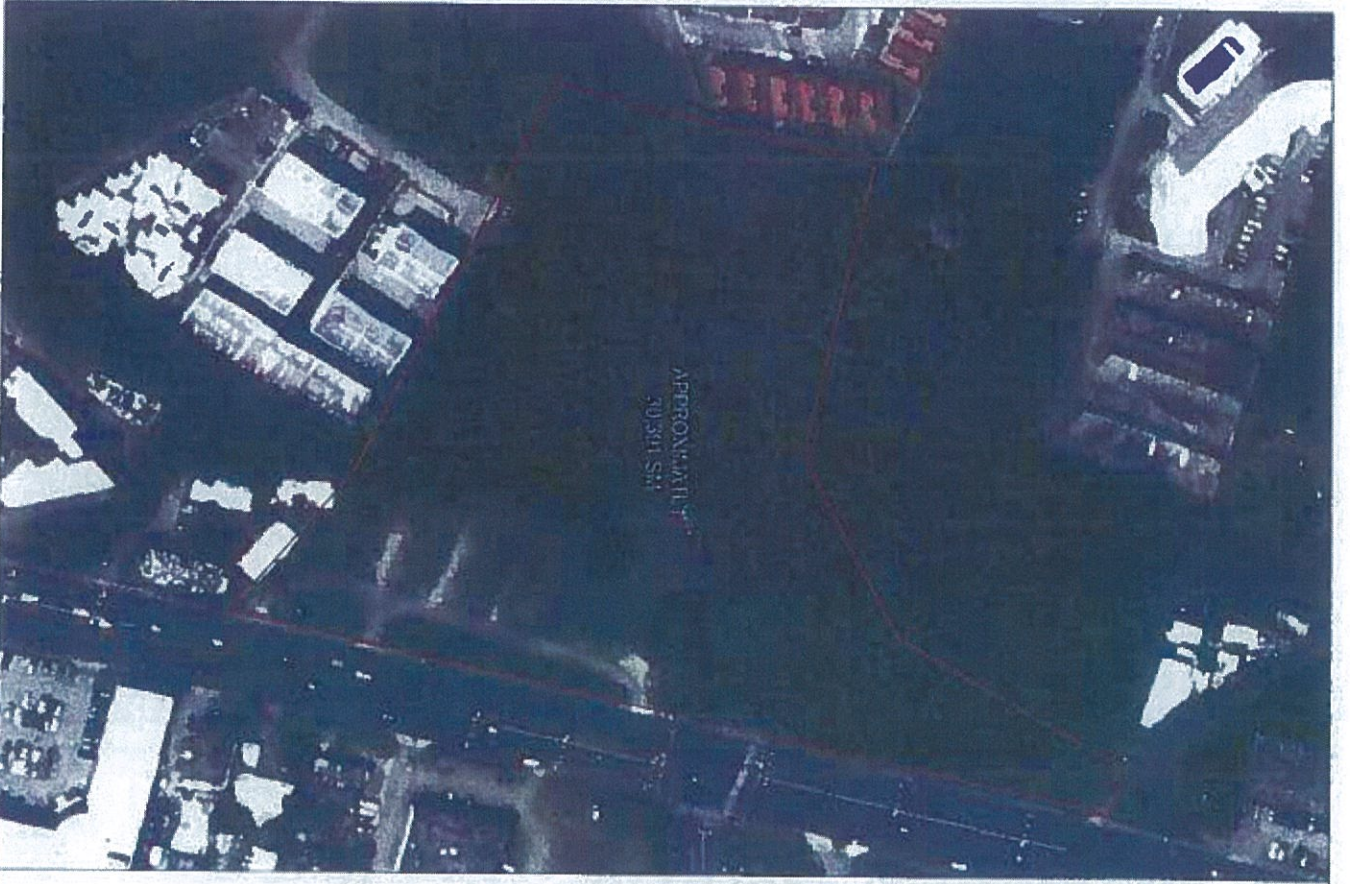


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# ATTACHMENT 1

<b>LICENSE FOR NONFEDERAL USE OF DEPARTMENT OF THE NAVY REAL PROPERTY</b>  THIS LICENSE TO USE THE U.S. GOVERNMENT PROPERTY HEREIN DESCRIBED IS ISSUED BY THE DEPARTMENT OF THE NAVY TO THE LICENSEE NAMED BELOW FOR THE PURPOSE HEREIN SPECIFIED UPON THE TERMS AND CONDITIONS SET FORTH BELOW AND IN THE ATTACHED GENERAL PROVISIONS. BY ITS EXECUTION, THE LICENSEE AGREES TO COMPLY WITH ALL THOSE TERMS, CONDITIONS, AND GENERAL PROVISIONS.		<b>1a. WORK ORDER NO: 1391697</b>  ALL CORRESPONDENCE MUST REFERENCE: <b>1b. FILE NO: N/A</b>  <b>1c. LICENSE (CONTRACT) NO: N40192-16-RP-00001</b>	
<b>2. PROPERTY LOCATION</b> ( <i>Installation Name and Address</i> )  Tumon Maui Well, Tumon, Naval Base Guam		<b>3. DATES COVERED</b> <b>FROM: 1 MARCH 2016</b> <b>THROUGH: 28 FEBRUARY 2017</b> Provided Licensee has delivered the required insurance certificates to the Licensor.	
<b>4. DESCRIPTION OF PREMISES</b> ( <i>Room and building numbers where appropriate</i> ) Property with an area of 7.50 Acres. Premises include water well with a tunnel/vent house facility.			
<b>5. PURPOSE AND USE AUTHORIZED</b> ( <i>Specific use, times and recurring/part-time basis, and land use controls</i> ) For operation of Tumon Maui Well to include the extraction of water limited to 800 gallons per minute (GPM).			
<b>6. LICENSOR</b> UNITED STATES OF AMERICA BY THE SECRETARY OF THE NAVY		<b>6a. NAVY/USMC LOCAL REPRESENTATIVE</b> ( <i>Name, Title, Address, Telephone, Email</i> ) Cynthia Jackson Blas, Realty Specialist AMI, PSC 455 Box 195 FPO AP 96540-2937; Tel: (671)339-6415, Email: <a href="mailto:cynthia.jackson@fe.navy.mil">cynthia.jackson@fe.navy.mil</a>	
<b>7. LICENSEE</b> ( <i>Name, Address, Telephone, Email</i> ) Guam Waterworks Authority, Gloria B. Nelson Public Service Building 688 Route 15 Mangilao, Guam 96913		<b>7a. LOCAL REPRESENTATIVE OF LICENSEE</b> ( <i>Name, Title, Address, Telephone, Email</i> ) Miguel Bordallo, General Manager, Gloria B. Nelson Public Service Building 688 Route 15 Mangilao, Guam 96913. (671)300-6845. <a href="mailto:mcbordallo@guamwaterworks.org">mcbordallo@guamwaterworks.org</a>	
<b>8. CASH PAYMENT BY LICENSEE - DUE IN ADVANCE</b>			
<b>a. AMOUNT</b> ( <i>Each payment</i> ) N/A as per SECNAVINST 11011.47C and ASN (E&F) Memo, dtd 6 MAR 15	<b>b. FREQUENCY</b> <b>PAYMENTS DUE</b> N/A	<b>c. FIRST DUE DATE</b> N/A	<b>d. SEND PAYMENT TO:</b> ( <i>Name and Mailing Address</i> ) N/A
<b>9. EXHIBITS: The following are attached and incorporated into this License –</b> <b>A. MAP/DRAWING/OTHER DESCRIPTION OF LICENSED PREMISES</b> <b>B. GENERAL PROVISIONS</b> <b>C. ENVIRONMENTAL CONDITION OF PROPERTY – RECEIPT HEREBY ACKNOWLEDGED</b> <b>D. JOINT INSPECTION AND INVENTORY REPORT (NON-ENVIRONMENTAL)</b>			
<b>10. EXECUTION OF LICENSE</b>			
<b>FOR THE SECRETARY OF THE NAVY</b>	<b>NAME: C.HOPE MARINI</b>  Real Estate Contracting Officer	<b>SIGNATURE:</b>	<b>DATE:</b>
	<b>NAME, ADDRESS AND EMAIL OF NAVFAC REAL ESTATE POINT OF CONTACT:</b>		
<b>LICENSEE</b> I represent that I am authorized to bind Licensee	<b>NAME: MIGUEL C. BORDALLO</b>  General Manager	<b>SIGNATURE:</b>	<b>DATE:</b>





DLR Division of Land and Natural Resources OFFICE OF LAND MANAGEMENT APPROVED BY DIVISION COUNTY OF HAWAII SUBSECTION NO. PROJECT NO. 1001-00000	DEPT OF THE NAVY, NAVAL FACILITIES ENGINEERING COMMAND  <b>TUMON MAUI WELL LICENSE LICENSE</b>  DATE: 10/20/2018 SCALE: 1/8" = 1'	REAL ESTATE DRAWING NO. <b>RE 16-02</b> SHEET 1 OF 1
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FILE NO:  
LICENSE (CONTRACT) NO: N40192-16-RP-00001

EXHIBIT "B"

GENERAL PROVISIONS TO LICENSE FOR NON-FEDERAL USE OF REAL PROPERTY

1. **USE OF AND ACCESS BY LICENSEE.** The Licensor grants to the Licensee the right to use the premises or facilities described in block 4 and Exhibit "A" ("Premises"), together with the necessary rights of ingress and egress authorized by the Installation Commanding Officer. Any parking that accompanies the use of and any routes of access to and from, the Premises are subject to change at the sole discretion of the Installation Commanding Officer.
2. **TERM.** This License shall be effective for the period stated in block 3 and is revocable at any time without notice at the option and discretion of the Licensor or its authorized representative.
3. **USE OF PREMISES.** The use of the Premises shall be limited to the purposes specified in block 5, and no other.
4. **ASSIGNMENT/TRANSFER OF RIGHTS.** This License is neither assignable nor transferable by the Licensee, and grants no interest in the real property of the Licensor.
5. **UTILITIES AND SERVICES.** If utilities and services are furnished to the Premises, the Licensee agrees to reimburse the Licensor for the cost as determined by the Licensor in accordance with applicable statutes and regulations.

Reimbursement for Utilities and Services			
Amount (Each Payment)	Frequency Payments Due:	First Due Date	To (Mailing Address)
As billed	Monthly, as billed	As billed	NAVFAC MARIANAS PSC 455 Box 195 FPO AP 96540-2937 ATTN: FM SECTION
Utilities / Services Furnished Are:			
<input checked="" type="checkbox"/> Electricity	<input type="checkbox"/> Gas/Oil	<input type="checkbox"/> None	<input type="checkbox"/> HVAC/ Steam Heat
<input type="checkbox"/> Telephone	<input type="checkbox"/> Internet	<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Garbage/Refuse/Recycling
		<input type="checkbox"/> Other:	

6. **PROTECTION AND MAINTENANCE OF PREMISES.** The Licensee, at its own cost and expense, shall protect, maintain, and keep the Premises under its control in good order. Licensee is responsible for repairing any damage to the Premises caused by Licensee, or its agents, employees, contractors, guests or invitees. Repairs and maintenance activities must not diminish the integrity of the historic property per provisions 7 and 8.
7. **IMPROVEMENTS AND RESTORATION.** No additions to, or alterations of, the Premises shall be made without the prior consent of the Licensor. Upon revocation or surrender of this License, to the extent directed by the Licensor and in accordance with Section 106 of the National Historic Preservation Act, the Licensee shall remove all alterations, additions, betterments and improvements made, or installed, and restore the Premises to the same or as good condition as existed on the date of entry under this License, reasonable wear and tear excepted.
8. **INDEMNIFICATION.**
  - a. The Licensee releases the Licensor and its employees from liability for death or injury to persons at the Premises.
  - b. The Licensee, to the extent allowed by law, agrees to release and hold the Licensor and its employees harmless from, and to indemnify and defend them against, loss or damage to property caused by or arising from its use of the Premises, regardless of any contributory fault of the Licensor.
  - c. The Licensee shall indemnify and save harmless the Licensor, its officers, agents, servants and employees from, and defend it and them against, all liability under the Federal Tort Claims Act (28 U.S.C. §§ 2671 and 2680) or otherwise, for death or injury to all persons, or loss or damage to the property of all persons resulting from its use of the Premises.

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d. The Licensee agrees that the Licensor, its officers, agents and employees shall be released from all liability on all suits, claims, actions or demands in any way related to or arising under the Licensee's use of the property. This release includes, but is not limited to, all environmental suits, claims, and enforcement actions, whether arising during the Licensee's construction on or use of the property, or after such use has ended.

9. INSURANCE. The Licensee shall procure and keep continuously in effect during the term of this License the insurance required as follows on terms and conditions satisfactory to the Licensor, with an insurer whose rating is acceptable to the Licensor.

Insurance Required from Licensee (If any or all insurance requirements have been waived, enter "None" as appropriate)			
Type	Amount (Per Occurrence)	Type	Amount (Per State Law)
Commercial General Liability (Occurrence Policy Only) Bodily Injury (Single Limit) Property Damage Fire/Legal Liability Deductible	\$3,000,000 \$100,000	Worker's Compensation	

- Licensor shall be named as additional insured.
- The insurer must be authorized to write insurance in the state where the Premises is located.
- Proceeds of policies shall be made payable to "Treasurer of the United States".
- Each policy of insurance covering bodily injuries and third party property damage shall contain an endorsement waiving the insurer's right of subrogation against the United States of America.
- No cancellation, reduction in amount, or material change in coverage shall be effective until at least sixty (60) days after receipt by the Licensor of written notice.
- Notwithstanding the foregoing, any cancellation of insurance coverage based on nonpayment of the premium shall be effective only upon thirty (30) days' written notice to the Licensor.
- The Licensee shall provide proof of insurance to the Licensor throughout the term of this License.

The Licensee will not be allowed entry on the Premises until it first delivers a certificate or certificates of required insurance to the Licensor.

10. DAMAGE TO THE PREMISES.

a. In the event of damage, including damage by contamination, to any Government property by the Licensee, its officers, agents, servants, employees, or invitees, the Licensee, at the election of the Licensor, shall promptly repair, replace, or make monetary compensation for the repair or replacement of that property to the satisfaction of the Licensor. That obligation includes any damage discovered from the physical condition and environmental condition inspections notwithstanding the expiration or earlier termination or revocation of this License.

b. In the event that any item or part of the Premises shall require repair, rebuilding or replacement (collectively, "repair") resulting from loss or damage, the risk of which is assumed under this License, the Licensee shall promptly give notice to the Licensor and, to the extent of its liability as provided in this paragraph, shall either compensate the Licensor for any loss or damage within thirty (30) days of receipt of a statement, or repair the lost or damaged item or items of the Premises, as the Licensor may elect. If the cost of repair exceeds the liability of the Licensee for any loss or damage, the Licensee shall effect the repair if required to do so by the Licensor, and the excess of cost shall be reimbursed to the Licensee by the Licensor within thirty (30) days of receipt of a statement provided that appropriations are available for that purpose. In the event the Licensee shall have effected any repair that the Licensee is required to effect, the Licensor shall direct payment to the Licensee of so much of the proceeds of any



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insurance carried by the Licensee and made available to the Licensor on account of loss of or damage to any item or part of the Premises that may be necessary to enable the Licensee to effect the repair. In the event the Licensee shall not have been required to effect the repair, and the insurance proceeds allocable to the loss or damage that has created the need for the repair have been paid to the Licensee, the Licensee shall promptly refund to the Licensor the amount of the proceeds.

11. OFFICIALS NOT TO BENEFIT. No member of, or Delegate to Congress, or Resident Commissioner shall be admitted to any share or part of this License or to any benefit that may arise from it; but this provision shall not be construed to extend to this License if made with a corporation for its general benefit.

12. COVENANT AGAINST CONTINGENT FEES. The Licensee warrants that it has not employed any person to solicit or obtain this License upon any agreement for a commission, percentage, brokerage or contingent fee. Breach of this warranty shall give the Licensor the right to annul this License or in its discretion to recover from the Licensee the amount of that commission, percentage, brokerage or contingent fee in addition to the consideration for this license. This warranty shall not apply to commissions payable by the Licensee upon contracts or sales obtained or made through *bona fide* established commercial or selling agencies maintained by the Licensee for the purpose of acquiring business.

13. NON-DISCRIMINATION. In connection with the performance of work under this License, the Licensee agrees not to discriminate against any employee or applicant for employment because of race, religion, color, or national origin. Non-discrimination shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Licensee agrees to post in conspicuous places available for employees and applicants for employment, notices to be provided by the Licensor setting forth the provisions of the nondiscrimination clause. The Licensee further agrees to insert the foregoing provision in all subcontracts for work under this License, except subcontracts for standard commercial supplies or raw materials.

14. APPLICABLE RULES AND REGULATIONS.

- a. All activities authorized under this License shall be subject to rules and regulations regarding supervision or otherwise, that may, from time to time, be prescribed by the local representative of the Licensor.
- b. Upon request, the Licensee shall submit to the Licensor evidence of compliance with local, state, and Federal environmental laws and regulations.

15. FEDERAL FUNDS. This License does not obligate the Licensor to expend any appropriated funds. Nothing in this License is intended or should be interpreted to require any obligation or expenditure of funds in violation of the Anti-Deficiency Act (31 U.S.C. § 1341).

16. STORAGE OF TOXIC OR HAZARDOUS CHEMICALS. Storage, treatment, or disposal of toxic or hazardous materials on the Premises is prohibited except as authorized by the Licensor in accordance with 10 U.S.C. § 2692. Any hazardous materials that the Licensor authorizes the storage, treatment, or disposal of in connection with the use of the Premises shall be identified on a Hazardous Materials List and made a part of this License. Any such approved storage, treatment, or disposal of toxic or hazardous material by Licensee on the Premises shall be strictly limited to that material required or generated in connection with the authorized and compatible use of the Premises and shall be conducted in a manner consistent with the best interest of national defense as determined by the Secretary of the Navy and applicable law and regulations. As and to the extent caused by or attributable to the Licensee, Licensee shall have continued financial and environmental responsibility or liability for any and all direct or indirect consequences of the storage, treatment, or disposal of toxic or hazardous material within the Premises. Licensee will manage, control and dispose of its hazardous waste and hazardous materials in accordance with Federal, state, and local laws. In addition, Licensee shall implement the environmental requirements of applicable facility plans including but not limited to Spill Plans, Emergency Response Plans, and Hazardous Waste Management Plans. In the event the

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Licensor approves the storage, treatment, or disposal of toxic or hazardous materials; the Licensee shall obtain insurance or post a bond in an amount sufficient to cover possible cleanup costs.

17. ENVIRONMENTAL CONDITION OF PREMISES. Exhibit "C", Environmental Condition of Property, sets forth the existing environmental condition of the Premises as represented by a baseline survey conducted by the Licensor. Licensee is hereby made aware of the notifications contained in Exhibit "C" and shall comply with all restrictions set forth therein.

18. JOINT INSPECTION AND INVENTORY REPORT (NON-ENVIRONMENTAL). A Joint Inspection and Inventory Report (JIIR) has been conducted by representatives of the Licensor and the Licensee documenting the condition of the Premises. The report is attached to this License and made a part hereof as Exhibit "D". The Premises shall be delivered to the Licensee on an "As Is, Where Is" basis, and, as such, Licensor makes no warranty relative to the Premises as to its usability generally or as to its fitness for any particular purpose. Any safety and/or health hazards identified and listed as such in the JIIR shall be corrected at the Licensee's expense prior to use and occupancy of the relevant portion of the Premises. Such safety and/or health hazards shall be limited to those identified in the JIIR. In the event this License is terminated and the parties have not agreed to enter into a new License, or another agreement, Licensee shall return the Premises to the Licensor in the same condition in which it was received, reasonable wear and tear and Acts of God excepted. Licensee may, at its expense and with prior written approval of the Licensor: (a) replace any personal property with personal property of like kind and utility, (b) replace any personal property in a good and workmanlike manner, and (c) dispose of any worn out, obsolete or non-functioning personal property, in accordance with applicable laws and regulations. Licensor shall not unreasonably withhold or delay granting its approval to Licensee's request for such actions.

19. ADMINISTRATIVE COSTS. At the termination or expiration of this License, at the Licensor's discretion, Licensee shall be responsible for administrative costs associated with completing a final inspection of the premises and updating the Environmental Condition of Property.

20. NOTICES. Correspondence concerning this License shall be provided to both the Local Representative identified in Block 6a. and the Real Estate Contracting Officer identified in Block 10.

21. STATEMENT OF COMPLIANCE. Pursuant 10 U.S.C. § 2662:

- a. This license is not subject to the requirements of this section; or,
- b. This license is subject to the requirements of this section and said requirements have been met.

22. ADDITIONS, MODIFICATIONS AND DELETIONS. Prior to the execution of this License, the following provisions were added, modified or deleted:

- a. Licensor reserves the right to terminate this license within 30 days based on emergent need for the use of Tumon Maui Well.
- b. Licensor agrees to amend their current Guam EPA issued operator's permit to include Licensee as an operator.
- c. Licensor reserves the right to limit the extraction capacity of the Tumon Maui Well to prevent adverse groundwater availability conditions.
- d. A Performance Work Statement (PWS) between Licensor and Licensee must be agreed upon prior to execution of this license. PWS will be in effect for the duration of this License term.
- e. Licensed property has been determined to be eligible for listing on the National Register of Historic Places. Any non-routine repair or alteration is subject to the Navy approval in compliance with Section 106 of the National Historic Preservation Act. Any maintenance activity that alters, damages, destroys or compromises the integrity of the property may be grounds for revocation.

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- f. Licensee shall be responsible for the maintenance, monitoring, and operation of the Tumon Maui Emergency Generator Emissions Unit Identification (EUID) #477, 400kW. Licensee is responsible for repairing any damage to the emergency generator caused by Licensee, or its agents, employees, contractors, guests or invitees.
- g. Licensor agrees to transfer the Guam EPA air permit for the Emergency Generator to the Licensee. The Licensee shall be designated as the Responsible Official on the transfer application. Guam EPA Administrator approval is required for the transfer of the permit.
- h. Licensee shall be responsible for obtaining and complying with the appropriate air pollution control permit from Guam Environmental Protection Agency, the 22GAR Division, Chapter 1 Guam Air Pollution Control Standards and Regulations, and all applicable Federal regulations.
- i. Licensee shall comply with the requirements of the Clean Air Act Section 112 (r) (1) General Duty Clause.
- j. Licensee shall update their Chlorine Spill Response Plan and Spill Pollution Control and Countermeasure Plan to include the Chlorine cylinders being stored at the Tumon Maui well.
- k. This License is subject to all outstanding easement and rights of way for any purpose with respect to the licensed premises or any portion thereof.

DELETED:

~~1. USE OF AND ACCESS BY LICENSEE ... "The Licensee and its invitees and contractors agree to absorb all costs, including time and expense, associated with gaining access to the installation under the RAPIDGATE or similar program."~~