

MINERAL LEASE

11-86475

Peeples, Inc.
909 Sunset Ridge Drive
Franklin, Tennessee 37069
615-400-1099

T13N, R4W, Section 11
Lots 1 thru 10
Yavapai County, AZ

Term
May 2, 2003 – May 1, 2023

STATE LAND DEPARTMENT
STATE OF ARIZONA



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**STATE OF ARIZONA
MINERAL LEASE**

Lease No. 11-86475

This mineral lease ("Lease") is entered into by and between the State of Arizona ("Lessor"), Arizona State Land Department ("Department"), through the State Land Commissioner ("Commissioner"), and Peeples, Inc. ("Lessee"), pursuant to A.R.S. § 27-254. In consideration of the payment of rent and royalties and of performance by the parties of each of the provisions set forth herein, the parties agree as follows:

**Article 1
LEASED LAND**

1.1 Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, for the term, at the rent and royalty rate and in accordance with the provisions of this Lease, the State Land described below and in Appendix A ("the Leased Land"), and as generally depicted in Appendix B ("Location Map") attached hereto.

Township 13 N, Range 4 W, Section 11, Yavapai County, 377.11 Acres
Legal Lots 1 Thru 10

1.2 Lessee takes the Leased Land "as is" and Lessor makes no expressed or implied warranties as to the physical condition of the Leased Land.

**Article 2
TERM**

2.1 The term of this Lease:

Commences the 2nd day of May, 2003

Expires the..... 1st day of May, 2023

unless sooner canceled or terminated as provided herein or as provided by law.

2.2 Upon the sale, exchange, redemption, reconveyance, relinquishment or taking, whether by eminent domain or institutional use, lease of all or any portion of the Leased Land shall terminate on the date of such taking as to the property so taken.

**Article 3
RENT**

3.1 Lessee shall pay rent to Lessor as follows for the use and occupancy of the Leased Land during the term of this Lease without offset or deduction and without notice or demand, as established on an annual basis.

3.2 The annual base rent shall be set by Lessor based on an appraisal of the land and in no event less than \$2.00/acre. Rental for this Lease shall be: \$1,644.00 per year subject to annual adjustments based on changes in land use and the Consumer Price Index or a reappraisal of the land value. In the event the total area of disturbance should exceed 5 acres, the base rent of \$1,644.00 shall be adjusted as follows: Total Disturbed Area (i.e. surface area of placer mine, process area and roads) multiplied by the appraisal value of the land (\$3,600.00 per acre) multiplied by 5% plus the area of undisturbed land multiplied by \$2.00 per acre.

Article 4
COMMODITIES and UNITS OF PRODUCTION

4.1 Mineral commodities and production units

<u>Commodity</u>	<u>Production units</u>
1. Gold	Troy Ounces

Article 5
ROYALTY

5.1 **Royalty Rate.** Lessee shall pay the Lessor a royalty fee equal to a percentage of the gross value for all 'Minerals' (as defined in A.R.S. §27-231) 'Produced and Sold' (as that term is used in A.R.S. §27-234) from the Leased Land subject to such adjustments as may be permitted by the terms of this Lease.

5.1.1 **Sliding Scale Factor** The Upper and Lower Limits (as defined in sections 5.1.2 and 5.1.3) utilized to determine the range of gold values upon which the Sliding Scale Factor (SSF) is established, shall be re-evaluated and fixed on each January 1 over the Term of the Lease. The SSF shall range between two and six percent. The SSF shall be calculated according to the following equation:

$$SSF = 6\% / (\text{Upper Limit} - \text{Lower Limit})$$

where: 6% represents the difference between the highest possible Royalty Rate (8%) and the lowest possible Royalty Rate (2%).

5.1.2 **Upper Limit.** Prior to January 1, 2010, the Upper Limit shall be \$1,117.00 per troy ounce. From and after January 1, 2010, the Upper Limit shall be fixed annually on each January 1 such that it equals the sum of the average monthly gold price, defined in section 5.2 as the Gold Index Price (GIP), calculated for the prior 60 months plus one standard deviation of the average GIP for the prior 60 months.

5.1.3 **Lower Limit.** Prior to January 1, 2010, the Lower Limit shall be \$430.00 per troy ounce. However, from and after January 1, 2010, the Lower Limit shall be a cumulative average (reaching a total of 5 years) of an annually adjusted gold value equal to the 'Modified Break-Even Gold Price'. The Lower Limit shall be fixed on each January 1. The Modified Break-Even Gold Price is defined as the gold price at which the mining project associated with the Leased Land has a net present value (NPV) of zero (as reported annually by Lessee to Lessor and to the Arizona State Department of Revenue pursuant to form 82061-C) taking into consideration the minimum Royalty Rate of 2% (based on the average monthly GIP for the prior calendar year).

5.1.4 **Royalty Rate.** The Royalty Rate for the period prior to January 1, 2010 shall be two percent whenever the monthly average GIP is \$430.00 per troy ounce or less (Lower Limit) and shall be eight percent whenever the monthly average GIP is \$1,117.00 per troy ounce or more (Upper Limit). The Royalty Rate shall be calculated for any GIP that occurs within the range between \$430.00 per troy ounce and \$1117.00 per troy ounce as follows:

$$\text{Royalty Rate} = [(GIP - \text{Lower Limit}) \times SSF] + \text{Minimum Royalty Rate}$$

where: GIP = monthly Gold Index Price
 Lower Limit = gold price fixed each January 1
 SSF = Sliding Scale Factor
 Minimum Royalty Rate = 2% (according to A.R.S. § 27.234.C)

- 5.2 **GIP.** The GIP shall be the average monthly 'Handy & Harmon Gold Price' as reported by *Platts Metals Week Price Notification Monthly Report*¹.

In the event that the above price ceases to be published, becomes unrepresentative of the true market value, or for any reason becomes inappropriate for the purpose of this lease, a replacement GIP shall be selected by the Commissioner.

- 5.3 **Gross Value.** The gross value for each calendar month shall be the sum, expressed in United States dollars, of all minerals produced and sold during the pervious calendar month. The gross value for gold produced and sold during a calendar month shall be calculated as follows:

$$\text{Gross Value} = \text{GIP} \times \text{Troy Ounces of Gold Produced and Sold}$$

where: GIP = Gold Index Price

Troy Ounces of Gold Produced and Sold = Troy Ounces of Gold produced and sold for the previous calendar month

- 5.4 **Monthly Royalty.** Each calendar month, Lessee shall pay the Lessor the Royalty (the 'Monthly Royalty') calculated based on minerals produced and sold from the Leased Land during the prior calendar month. The amount of the Monthly Royalty shall be calculated as follows:

$$\text{Monthly Royalty} = \text{Gross Value} \times \text{Royalty Rate}$$

where: Gross Value = calculated as defined in Section 5.3

Royalty Rate = percentage as defined in Section 5.1

- 5.5 **Other Minerals.** In the event that other minerals or mineral products are produced and sold from the Leased Land, they shall be valued in accordance with A.R.S. §27-234 and similarly included in the computation of Gross Value. Should the mineral or mineral product not have a published price, the gross value shall be based on an appraisal that estimates the fair market price of the mineral (A.R.S. §27-234.B).

- 5.6 **Production Reports.** Monthly production reports, including documentation when required, shall be submitted to the Lessor for each month, including reports for negative production, after the first month of production. Reports are due on or before the 15th of each month following the month of production.

- 5.7 **Minimum Annual Royalties.** Lessee shall pay to Lessor a minimum annual royalty of **\$500.00**. The minimum annual royalties shall be paid at the time of the execution of this Lease, and each year thereafter, annually in advance, on or before the anniversary of the commencement date of this Lease until such time as the minable reserves are exhausted. The minimum annual royalty shall be a credit for Lessee, fully recoupable against production royalties (the Monthly Royalty in Article 5.4) due to Lessor for material used or removed; however, the entire portion of the minimum annual royalty unused or not recouped upon termination or expiration of the Lease shall be the sole property of Lessor. Lessee shall pay said advance royalties each year regardless of use or removal of materials.

- 5.8 **Royalty Payments .** Royalty payments shall be due within thirty (30) days after billing by the Department.

- 5.9 **Appraisal Costs .** Lessee shall pay to Lessor within 30 days of the Lessor's request, the costs of all appraisals undertaken for determination of land rental and royalty rates. The cost of appraisals required to be paid by the Lessee shall occur no more frequently than every five years from and after the execution of this Lease.

- 5.10 **Failure to Pay .** If Lessee fails to pay rent, royalty, or appraisal costs described in this Article, on or before the date the payment is due, the amount due accrues interest at the rate and in the manner determined pursuant to A.R.S. §42-1123. If it is determined that failure to pay rent is not due to reasonable cause, a penalty of five percent (5%) of the amount found to be remaining due shall be added to the rent or royalty for

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each month or fraction of a month elapsing between the due date and the date on which it is paid. The total penalty shall not exceed one-third (1/3) of the rent or royalty remaining due. The penalty so added to the rent or royalty is due and payable within (10) days of notice and demand from the Commissioner. If any rent, royalty, appraisal assessment, interest, or penalty is not paid by the Lessee when due, the unpaid amounts constitute a lien from the date the amounts become due on all property and rights to property belonging to the Lessee that are located on State land.

- 5.11 Automatic Termination** . If in addition to 5.9 of this article the annual rent, monthly royalty, or appraisal fee is at any time one calendar year in arrears, this Lease shall automatically terminate, without right of appeal by Lessee or any leasehold mortgage, and Lessor shall proceed to cancel this lease from the records of the Department.

Article 6 **USE OF LEASED LAND**

- 6.1 Purpose** . The Leased Land is leased to the Lessee for the purposes of mineral extraction and for uses related thereto and no other use.

This Lease confers the right to extract and ship minerals, mineral compounds, and mineral aggregates from the Leased Lands within planes drawn vertically downward through the exterior boundary lines thereof.

- 6.2 Consistent With Mine Operating Plan** . Any use of the Leased Lands must be performed in a manner consistent with the approved Mine Operating Plan as required under the provisions of Article 26.

Article 7 **RECORDS AND INSPECTION**

- 7.1** Lessee shall provide the following records on an annual basis to the Lessor on or before each anniversary of the effective date of this Lease:

1. Itemized statement of mineral production.
2. Relevant Arizona State Department of Revenue form(s) (82061-A for copper, 82061-B for non-copper, 82061-C for small-scale mines).
3. Any additional records pertinent to appraisal, compliance with the Lease and mineral production deemed necessary by the Commissioner.

Tax records and trade secrets, as defined in A.R.S. §27-234 (H), obtained under Articles 7 and 11 shall be kept confidential by the Department

Article 8 **TAXES; ADDITIONAL AMOUNTS**

- 8.1** Lessee shall pay all assessments and charges for utilities and communication services, and assessments imposed pursuant to any construction on the Leased Land, all permit and authorization fees, all taxes, duties, charges and assessments of every kind or nature imposed by any public, governmental or political subdivision authority pursuant to any currently or subsequently enacted law, ordinance, regulation or order, which during the term of this Lease, becomes due or are imposed upon, charged against, measured by or become a lien on (a) the Leased Land, (b) any improvements or personal property of the Lessee located on the Leased Land, and (c) the interest of the Lessee to this Lease or in the proceeds received by Lessee from any assignment or sublease of the Leased Land.

- 8.2** Lessee shall pay or cause to be paid all amounts required to be paid under Paragraph 8.1 before any interest, penalty, fine or cost accrues for nonpayment.

Article 9
WAIVER

- 9.1 Acceptance of rent payments by Lessor shall not constitute a waiver by Lessor of any violation by Lessee of the provisions of this Lease.
- 9.2 No waiver of a breach of any provision of this Lease shall be construed as a waiver of any succeeding breach of the same or any other provision.

Article 10
IMPROVEMENTS

- 10.1 This lease confers the right to the Lessee to place non-permanent improvements consistent with the approved Mine Operating Plan as required under the provisions of Article 26, and this lease agreement, with the right to remove the same upon the expiration, termination or abandonment of the Lease, if all monies owing to the State under the terms of this Lease have been paid.

Article 11
LESSEE'S COOPERATION; INGRESS AND EGRESS

- 11.1 Representatives of the Department may enter, and the Lessee shall maintain access to the State land held under Lease at reasonable times to inspect the workings, improvements and other facilities used to extract or sever minerals from State property. Representatives of the Department may enter at reasonable times to obtain factual data or access to records pertinent to mineral production required to be kept under the terms of the Lease and otherwise ascertain compliance with law and the terms of this Lease.
- 11.2 Inspections, investigations, and audits conducted under Article 11.1 shall be on reasonable notice to the Lessee unless reasonable grounds exist to believe that notice would frustrate the enforcement of law or the terms of the Lease.
- 11.3 The Commissioner may require a Lessee to appear at reasonable times and on reasonable notice at the Commissioner's office and produce such records and information as are specified in the notice to determine compliance with the terms of the Lease.
- 11.4 Lessee shall cooperate with Lessor in Lessor's inspection, appraisal and management of the Leased Land and permit reasonable access by Lessor's employees to isolated State Land across Lessee's private land during the term of this Lease.
- 11.5 Lessee shall not unreasonably interfere with the authorized activities of Lessor's employees, agents, licenses or other lessees or permittees on the Leased Land.
- 11.6 This Lease is made subject to all legally established rights-of-way heretofore granted or that may hereafter be granted over and across such Leased Land.
- 11.7 This Lease confers the right of ingress and egress to other State lands, whether or not leased for purposes other than mining.

Article 12
LOSS OR WASTE

- 12.1 Lessee shall not cause nor grant permission to another to cause any waste in or upon the Leased Land.

Article 13
NATIVE PLANTS AND ARCHAEOLOGICAL RESOURCES

- 13.1** Lessee shall comply with the provisions of the Arizona Native Plant Law (A.R.S. '3-901) et seq., or any successor statutes. Lessee shall not disturb any cacti or other protected native plants except as may be permitted by this law.
- 13.2** Prior to initiating any operations requiring surface disturbing activity, Lessee shall provide a document that satisfies the Lessor in writing that no Register eligible prehistoric, historic, or vertebrate paleontological sites, including fossilized footprints, inscriptions made by human agency or any other archaeological, paleontological or historical feature has the potential to be destroyed. Lessee may arrange for a permittee of the Arizona State Museum to complete a cultural resources inspection and submit the results in a document to the Lessor. Lessee shall ensure avoidance of all Register eligible sites, or submit a mitigation plan to recover all scientific information according to the standards established by the Arizona State Museum, the State Historic Preservation Act, and the Arizona State Land Department prior to surface disturbing activity.

Lessee further agrees that:

- 13.2.1** Lessee shall ensure that all cultural resource investigations on the premises are permitted pursuant to A.R.S. §41-841, *et seq.*, and that the investigations and resulting reports satisfy the terms of the permit.
- 13.2.2** Lessee shall ensure that two copies of the report describing the results of the completed cultural resource survey of the premises are submitted to the Lessor for Lessor's use in consulting with the State Historic Preservation Office pursuant to A.R.S. §41-861, *et seq.*
- 13.2.3** Lessee shall cause no surface disturbance within the boundaries of any known archaeological sites without Lessor approval.
- 13.2.4** If any previously unknown human remains, funerary objects, scared ceremonial objects or objects of tribal patrimony, archaeological, paleontological or historical site or object that is at least 50 years old are encountered during surface disturbing activities, Lessee shall cease operations immediately and report the discovery to the Lessor and to the Director of the Arizona State Museum pursuant to A.R.S. §41-844.

Article 14
PROTECT LAND, PRODUCTS AND IMPROVEMENTS

- 14.1** Lessee is hereby authorized to use means which are reasonable and which do not result in a breach of the peace or in creating a concealed hazard, to protect the Leased Land and improvements against waste, damage and trespass. In the event of known trespass on the Leased Land resulting in damage thereto, Lessee shall make reasonable efforts to notify Lessor and appropriate law enforcement authorities.
- 14.2** Lessee shall, at its expense, fence all shafts, prospect holes, adits, tunnels and other dangerous mine workings for the protection of public health and safety and livestock.
- 14.3** Any exploration, development, or mining operations under the terms of this lease shall be subject to a Reclamation and Damage Bond in the amount \$50,000, and which may be increased or decreased based upon the acreage needing to be reclaimed. The bond shall embrace both the implementation of measures to protect the public health and safety and livestock, and to ensure reclamation of the surface to a reasonable condition as determined by the Commissioner and in accordance with good mining practice. Reclamation shall commence and be completed in such manner as approved by the Commissioner.
- 14.4** Lessee shall comply with all requirements of any governmental agency having jurisdiction over Lessee's activities on the Leased Land, including but not limited to an ADEQ Storm Water Pollution Prevention Plan, AZPNES General Permit, NPDES Storm Water Multi-Sector General Permit, and any other applicable state, federal, or local laws. Lessee shall submit to the Lessor within 15 days copies of applications submitted to regulatory agencies and copies of permits received.

Article 15
ASSIGNMENT

- 15.1 Lessee, if not in default in the payment of any monies owed the State in regard to this Lease and having kept and performed all the conditions of this Lease, may, with the written consent of Lessor, assign this Lease.
- 15.2 Copies of all assignments pertaining to the Leased Land shall be filed with the Lessor.

Article 16
RESERVATIONS, RELINQUISHMENTS TO UNITED STATES

- 16.1 Lessor reserves the right to grant rights-of-way, easements and sites over, across, under or upon the Leased Land for public highways, railroads, utility lines, pipelines, irrigation works, flood control, drainage works and other purposes.
- 16.2 Lessor reserves the right to relinquish to the United States land needed for irrigation works in connection with a government reclamation project and to grant or dispose of rights-of-way and sites, for canals, reservoirs, dams, power or irrigation plants or works, railroads, tramway, transmission lines or any other purpose or use on or over the Leased Land.
- 16.3 In the event of such relinquishment, grants or disposals, the Lessee waives all right to any compensation whatsoever against the Lessor except as may be allowed under the provisions of Article 17 and as limited therein.

Article 17
CONDEMNATION

- 17.1 **Definition: Division**. Lessor, any pertinent Leasehold Mortgagees and, if Lessee is not in default, Lessee, shall cooperate in prosecuting and collecting their respective claims for an award on account of a taking of all or any portion of the Leased Land and all damages or awards (with any interest thereon) to which Lessor, Lessee or any pertinent Leasehold Mortgagees may be entitled by reason of any taking of all or any portion of the Leased Land (herein referred to as "Condemnation Proceeds"). In the event of the taking or condemnation by any competent authority for any public or quasi-public use or purpose of all or any portion of the Leased Land at any time during the Lease Term, the rights of Lessor, Lessee, or any Leasehold Mortgagees, to share in the net proceeds of any award for land, buildings, improvements and damages upon any such taking, shall be apportioned as follows:

(i) Lessee shall receive that portion attributed to the then fair market value of the buildings and improvements constructed thereon and Lessee shall receive the fair market value immediately prior to such taking of Lessee's leasehold interest in the Leased Land so taken;

(ii) Lessor shall receive the fair market value of its reversionary interest under this Lease (exclusive of any value attributable to improvements).

The entire amount of the award, settlement or payment attributable to the value of buildings and improvements shall belong to Lessee.

- 17.2 **Termination**. If the whole or materially all of the Leased Land shall be taken or condemned, this Lease shall cease and terminate and all rental, additional rent and other charges hereunder shall be apportioned as of the date of vesting of title in such taking or condemnation proceedings. For the purposes of this Article, a taking or condemnation of materially all of the Leased Land, as distinguished from a taking or condemnation of the whole of the Leased Land, means a taking of such scope that (a) the untaken portion of the Leased Land is not reasonably usable for Lessee's purposes or is insufficient to permit the reclamation of the then existing improvement thereon or is insufficient to permit the recovery of the cost of reclamation of the then existing improvements thereon, or (b) the remaining untaken portion of the Leased land and the improvements thereon are incapable of producing a proportionately fair and reasonable net annual income, taking into

consideration the payment of all operating expenses thereof including but not limited to the net rental, additional rental and all other charges herein reserved and after the performance of all covenants, agreements and provisions herein provided to be performed by Lessee. The determination of what constitutes a fair and reasonable net annual income shall be governed by reference to the average net annual income produced by the Leased Land during the five-year period immediately preceding the taking (or, if the taking occurs during the first five years of the Lease term, during the Lease term to date). As used above, the term "operating expenses" does not include depreciation or income taxes. If there is any controversy as to whether materially all of the Leased Land has been taken, the controversy shall be resolved by arbitration.

If materially all of the Leased Land are taken or condemned, then Lessee, at its option, upon thirty (30) days prior notice to Lessor, given at any time within ninety (90) days after the vesting of title in the condemnor, may cancel and terminate this Lease as to the entire Leased Land. The Annual Rent and other charges hereunder shall be prorated as of this date of termination.

17.3 No Termination. In the event of a partial taking or condemnation, i.e., a taking or condemnation of less than materially all of the Leased Land, this Lease (except as hereinafter provided) shall nevertheless continue, but the Annual Rent for the Lease Year in which such condemnation occurs shall be pro-rated as of the date of such condemnation and that portion of the Annual Rent attributable to that portion of the Leased Land so taken shall be credited to Lessee's obligations next arising under this Lease and the Annual Rent shall thereafter be reduced proportionately to reflect the loss of the land taken. In the event that there be any controversy over such proportionate reduction in the Annual Rent, the controversy shall be resolved by arbitration.

17.4 Temporary Taking. If the whole or any part of the Leased Land or of the Lessee's interest under this Lease be taken or condemned by any competent authority for its or their temporary use or occupancy for a period which is fewer than four (4) months, this Lease shall not terminate by reason thereof and the Lessee shall continue to pay, in the manner and at the times herein specified, the full amounts of the annual rent and all additional rent and other charges payable by the Lessee hereunder, and, except only to the extent that the Lessee may be prevented from so doing pursuant to the terms of the order of the condemning authority, to perform and observe all of the other terms, covenants, conditions and obligations hereof upon the part of the Lessee to be performed and observed, as though such taking or condemnation had not occurred. If the whole or any part of the Leased Land or the Lessee's interest in this Lease be taken or condemned by a competent authority for its or their temporary use or occupancy for a period which is in excess of 4 months, this Lease may be terminated at the option of Lessee upon notice given within thirty (30) days of the taking or condemnation. Notwithstanding anything to the contrary herein, in the event of any temporary taking or condemnation the Lessee shall, if this Lease has not been terminated as provided in this Section, be entitled to receive the entire amount of any award made for such taking or condemnation, whether paid by way of damages, rent or otherwise, unless such period of temporary use or occupancy shall extend to or beyond the Expiration Date, in which case such award shall be apportioned between the Lessor and the Lessee as of such Expiration Date.

Article 18 **WATER RIGHTS**

18.1 The Lessee shall be entitled to the use on the Leased Land of groundwater as defined in A.R.S. §45-101, or any successor statute, for purposes consistent with this Lease. If the Lessee shall develop any groundwater on the Leased Land, he shall not acquire any rights with respect to the groundwater, except the right to use such water in accordance with applicable law, on the Leased Land during the term of this Lease.

18.2 If the Lessee uses, on the Leased Land, groundwater from a source not on the Leased Land, that use alone shall not (1) cause such water or any rights with respect to that water to be appurtenant to the Leased Land, or (2) affect in any way the Lessee's rights with respect to the water.

18.3 The rights of the Lessor and the Lessee concerning the application for an establishment of any rights with respect to surface water as defined in A.R.S. §45-101, or any successor statute, shall be governed by the laws of the State of Arizona.

- 18.4 Nothing in the provisions of this Lease shall affect the validity of any rights established by or for the Lessor or Lessee with respect to surface water, as defined in A.R.S. §45-101, prior to the commencement date of this Lease.
- 18.5 The application for and establishment by the Lessor or Lessee (as agent of the State of Arizona) of any water rights shall be for the State of Arizona; such rights shall attach to and become appurtenant to the Leased Land.
- 18.6 The Lessee shall promptly notify the Lessor in writing of any initial filings made by the Lessee with any governmental agency or court concerning the establishment or adjudication of any claim to a water right relating to the Leased Land. Upon request of the Lessor, the Lessee shall furnish copies of any document filed with the agency or court.

Article 19

DEFAULT AND CANCELLATION

- 19.1 Violation by Lessee of any provision of this Lease shall be a default hereunder entitling Lessor to any and all remedies it may have under Arizona law.
- 19.2 Upon any such default, the Lease may be canceled pursuant to A.R.S. §37-289 or any successor statute.
- 19.3 Lessor may cancel any contract made after September 4, 1978, by the State or any of its departments or agencies, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the State or any of its department or agencies is, at any time while the contract or any extension of the contract is in effect, an employee of any other party to the contract in any capacity or is a consultant to any other party of the contract with respect to the subject matter of the contract. The cancellation shall be effective when written notice from the Governor is received by all other parties to the contract unless the notice specifies a later time.
- 19.4 Lessee may terminate the Lease at any time during its term by giving the Commissioner thirty (30) days written notice of the termination, if Lessee is not delinquent in the payment of rent, royalty or appraisal fees to the date of termination, and if the land has been reclaimed to a condition satisfactory to the Commissioner.

Article 20

HOLDOVER LESSEE

- 20.1 Within one hundred twenty days after expiration or termination of this Lease, Lessee agrees to surrender to Lessor peaceful and uninterrupted possession of the Leased Land. Holdover tenancy by the Lessee is prohibited and shall be deemed a trespass for which Lessor may seek all appropriate legal remedies; except that a Lessee in good standing who has filed a timely application for renewal may continue to occupy and use the Leased Land, pursuant to the terms of this Lease, pending action on the renewal application by Lessor.

Article 21

INDEMNIFICATION INSURANCE

- 21.1 Except as provided by A.R.S. '33-1551 (or its successor statutes), Lessee hereby expressly agrees to the following indemnity and insurance provisions:
1. Irrespective of any insurance carried by Lessee for the benefit of Lessor, the Lessee hereby expressly agrees to indemnify and hold Lessor harmless, or cause Lessor to be indemnified and held harmless, from and against all liabilities, obligations, damages, penalties, claims, causes of action, costs, charges and expenses, including attorney's fees and costs, which may be imposed upon or incurred by or asserted against Lessor by reason of the following: (i) any accident, injury or damage to any person or property occurring on or about the Premises or any portion thereof; (ii) any use, nonuse or condition of the Premises or any portion thereof; or (iii) any failure on the part of Lessee to perform or comply with any of the provisions of this Lease; except that none of the foregoing shall apply to Lessor's intentional

conduct or active negligence. In case any action or proceeding is brought against Lessor by reason of any such occurrence, Lessee, upon Lessor's request and at Lessee's expense, will resist and defend such action or proceeding, or cause the same to be resisted and defended either by counsel designated by Lessee or, where such occurrence is covered by liability insurance, by counsel designated by the insurer.

2. Lessee, at its expense, shall at all times during the term of this lease, and any extension thereof, maintain in full force a policy or policies of comprehensive liability insurance, including property damage, written by one or more responsible insurance companies licensed to do business in the State of Arizona, and each policy shall be written on an occurrence basis, which insure Lessee and Lessor against liability for injury to persons and property and death of any person or persons occurring in, on or about the Premises, or arising out of Lessee's maintenance, use and occupancy thereof. All public liability and personal property damage policies shall contain a provision that Lessor, named as an additional insured, shall be entitled to recovery under the policies for any loss occasioned to it, its servants, agents and employees by reason of the negligence or wrongdoing of Lessee, its servants, agents, and employees or sublessees. Further, the policies shall provide that their coverage is primary over any other insurance coverage available to the Lessor, its servants, agents and employees. All policies of insurance delivered to Lessor must contain a provision that the company writing the policy shall give to Lessor thirty (30) days notice in writing in advance of any cancellation or lapse, or the effective date of any reduction in the amounts of insurance. Insurance policies must be in the amounts set forth in paragraph 3 below.
3. The insurance described in paragraph 2 herein shall afford protection in amounts not less than **\$1,000,000** in combined single limits for all periods prior to the commencement of mining and **\$5,000,000** in combined single limits for all times after the commencement of mining. This insurance shall be for bodily injury and property damage and each liability policy shall be written on an occurrence basis. The minimum amount of coverage for the above shall be adjusted upward on Lessor's reasonable request so that such respective minimum amounts of coverage shall not be less than the amounts then required by statute or generally carried on similarly improved real estate in the County, whichever is greater. The minimum amount of coverage may be adjusted downward if Lessor, in its sole discretion, determines that a decrease is warranted and that the decreased amount is not less than the amounts then required by statute or generally carried on similarly improved real estate in the County, whichever is greater. If at any time Lessee fails, neglects or refuses to cause such insurance to be provided and maintained, then Lessor may, at its election, procure or renew such insurance and any amounts paid therefore by Lessor shall be an additional amount due at the next rent day.
4. Notwithstanding anything to the contrary in this Article, Lessee's obligations to carry the insurance provided for herein may be brought within the coverage of a so-called blanket policy or policies of insurance maintained by Lessee, provided, however, that the coverage afforded Lessor will not be reduced by reason of the use of such blanket policy of insurance.
5. Copies of certificates of insurance and the Insurance Policy shall be delivered to Lessor prior to Lessee's occupancy of the Premises. Lessee shall also submit proof of payment of premium.

21.2 In case an action or proceeding is brought against Lessor by reason of any such occurrence, Lessee, upon Lessor's request and at Lessee's expense, will resist and defend such action or proceedings, or cause the same to be resisted and defended either by counsel designated by Lessee or, where such occurrence is covered by liability insurance, by counsel designated by the insurer.

Article 22

ENVIRONMENTAL MATTERS

- 22.1 Definition of Regulated Substances and Environmental Laws.** For purposes of this Lease, the term "Environmental Laws" shall include but not be limited to any relevant federal, state, or local environmental laws, and the regulations, rules and ordinances, relating to environmental matters, and publications promulgated pursuant to the local, state, and federal laws and any rules or regulations relating to environmental matters applicable to lessee's operations on the Leased Land. For the purpose of this Agreement, the term "Regulated Substances" shall include but not be limited to substances defined as "regulated substance," "solid waste," "hazardous waste," "hazardous materials," "hazardous substances," "toxic materials," "toxic substances," "inert materials," "pollutants," "toxic pollutants," "herbicides," "fungicides," "rodenticides," "insecticides," "contaminates," "pesticides," "asbestos," "environmental nuisance," "criminal littering," or "petroleum products" as defined in Environmental Laws.
- 22.2 Compliance with Environmental Laws.** Lessee shall strictly comply with all Environmental Laws, including, without limitation, water quality, air quality, and handling, transportation, storage, treatment, or disposal of any Regulated Substance on, under, or from the Leased Land. Without limiting the foregoing, compliance includes that Lessee shall: (i) comply with all reporting obligations imposed under Environmental Laws; (ii) obtain and maintain all permits required by Environmental Laws and provided a copy to Lessor within ten business days of receipt of the permit; (iii) provide copies of all documentation relating to the Leased Land as required by Environmental Laws to Lessor within ten business days of Lessee's submittal and/or receipt of the documentation; (iv) during the Term of this Lease, provide copies of all information it receives or obtains regarding any and all environmental matters relating to the Leased Land, including but not limited to environmental audits relating to the Leased Land regardless of the reason for which the information was obtained or whether or not the information was required by Environmental Laws; and (v) prevent treatment, storage, disposal, handling or use of any Regulated Substances within the Leased Land without prior written authorization from Lessor.
- 22.3 Designated Compliance Officer.** Lessee at all times shall employ or designate an existing employee, consultant or representative (the "Designated Compliance Officer") who is responsible for knowing all Environmental Laws affecting Lessee and Lessee's business and monitoring Lessee's continued compliance with applicable Environmental Laws. Upon request by Lessor, Lessee shall make the Designated Compliance Officer available to discuss Lessee's compliance, answer any questions, and provide such reports and confirming information as Lessor may reasonably request.
- 22.4 Audit.** At any time, Lessor may request the Lessee to provide an environmental audit of the Leased Land performed by an Arizona registered professional engineer or an Arizona registered geologist. Lessee shall pay the entire cost of the audit.
- 22.5 Environmental Assessment .** At any time during the Term of the lease, Lessor may require Lessee to obtain a Phase I environmental assessment of the Leased Land performed by an Arizona registered professional engineer or an Arizona registered geologist. If, based upon the Phase I environmental assessment or its own independent investigation, Lessor identifies any possible violation of Environmental Laws or the terms of this Lease, Lessor may require Lessee to conduct additional environmental assessments as Lessor deems appropriate for the purpose of ensuring that the Leased Land are in compliance with Environmental Laws. The Phase I assessment, or any other assessment required by Lessor, shall be obtained for the benefit of both Lessee and Lessor. A copy of the Phase I report shall be provided both to Lessee and Lessor. Lessor, in its sole discretion, shall have the right to require Lessee to perform additional assessments of any damage to the Leased Land arising out of any violations of Environmental Laws. If Lessee fails to obtain any assessment required by Lessor, Lessee shall pay the entire costs of any and all assessments required by Lessor, notwithstanding the expiration or termination of the Lease.
- 22.6 Indemnity for Environmental Damage .** Lessee shall defend, indemnify and hold Lessor harmless from and against any and all liability, obligations, losses, damages, penalties, claims, environmental response and cleanup costs and fines, and actions, suits, costs, taxes, charges, expenses and disbursements, including legal fees and expenses of whatever kind or nature (collectively, "claims" or "damages") imposed on, incurred

by, or reserved against Lessor in any way relating to or arising out of any non-compliance by Lessee, Lessee's successors or sublessees, with any Environmental Laws, the existence or presence from and after the Commencement Date of any Regulated Substance, on, under, or from the Leased Land, and any claims or damages in any way relating to or arising out of the removal, treatment, storage, disposition, mitigation, cleanup or remedying of any Regulated Substance on, under, or from the Leased Land by the Lessee, its agents, contractors, or subcontractors.

- 22.7 Scope of Indemnity** . This indemnity shall include, without limitation, claims or damages arising out of any and all violations of Environmental Laws regardless of any real or alleged fault, negligence, willful misconduct, gross negligence, breach of warranty, or strict liability on the part of any of the indemnitees. This indemnity shall survive the expiration or termination of this Lease and/or transfer of all or any portion of the Leased Land and shall be governed by the laws of the State of Arizona.
- 22.8 Lessee's Participation in the Defense** . In the event any action or claim is brought or asserted against Lessor which is or may be covered by this indemnity, the Lessee shall fully participate, at Lessee's expense, in the defense of the action or claim including but not limited to the following: (i) the conduct of any required cleanup, removal or remedial actions and/or negotiations, (ii) the conduct of any proceedings, hearings, and/or litigation, and (iii) the negotiation and finalization of any agreement or settlement. Lessor shall retain the right to make all final decisions concerning the defense.
- 22.9 Reclamation** . Prior to the termination of this Lease and in addition to those obligations set forth in this Lease, Lessee shall restore the Leased Land by removing any and all Regulated Substances. In addition, the restoration shall include, but not be limited to, removal of all waste and debris deposited by the lessee. If the Leased Land or any portions thereof are damaged or destroyed from the existence or presence of any Regulated Substance or if the Leased Land or any portions thereof are damaged or destroyed in any way relating to or arising out of the removal, treatment, storage, disposition, mitigation, cleanup or remedying of any Regulated Substance, the Lessee shall arrange, at its expense, for the repair, removal, remediation, restoration, and reconstruction to the Leased Land to the original condition existing on the date that the Lessee first occupied the Leased Land, to the satisfaction of Lessor. In any event, any damage, destruction, or restoration by Lessee shall not relieve Lessee from its obligations and liabilities under this Lease.

Article 23

ADDITIONAL CONDITIONS

- 23.1 Non-Availability of Funds**. Every obligation of the State under this Lease is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Lease, this Lease may be terminated by the State at the end of the period for which funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or any damages as a result of termination under this paragraph.
- 23.2 Cancellation for Conflict of Interest**. Pursuant to A.R.S. § 38-511, the state or any department or agency of the state may, within three years after its execution, cancel any lease, without penalty or further obligation, made by the state or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating the lease on behalf of the state or any of the departments or agencies of the state, is at any time while the lease is in effect, an employee or agent of any other party to the lease in any capacity or a consultant to any other party of the lease with respect to the subject matter of the lease. A cancellation made pursuant to this provision shall be effective when the Lessee receives written notice of the cancellation unless the notice specifies a later time.
- 23.3 Non-discrimination**. The Lessee shall comply with Executive Order 99-4, which mandates that all persons, regardless of race, color, religion, sex, age national origin or political affiliation, shall have equal access to employment opportunities, and all other applicable State and Federal employment laws, rules, and regulations, including the Americans with Disabilities Act. The Lessee shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin or disability.

- 23.4** Arbitration. The parties to this Lease agree to resolve all disputes arising out of or relating to this Lease through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. §12-1518, except as may be required by other applicable statutes.

Article 24 **RENEWAL**

- 24.1** Upon application to the Department not less than thirty (30) nor more than sixty (60) days prior to the Expiration Date, Lessee, if a bona fide resident of the State or legally authorized to transact business in the State, shall have a preferred right to renewal for a term as provided by law, bearing even date with the Expiration Date subject to requirements of A.R.S. § 37-284 and A.R.S. § 27-235 if applicable. The preferred right of renewal shall not extend to a Lessee if there has not been substantial compliance with the terms of this Lease or if the Leased Land has not been placed to the use prescribed in this Lease, unless for good cause, the failure to perform was given written authorization by the Department. If the Department determines the continued leasing of the land to the Lessee is not in the best interest of the State, the Lease shall not be renewed.

Article 25 **MISCELLANEOUS**

- 25.1** This Lease grants Lessee only those rights expressly granted herein.
- 25.2** This Lease is subject to all current and subsequently enacted rules, regulations and laws applicable to State Lands as though fully set forth herein.
- 25.3** The Lessor shall be forever wholly absolved from any liability for damages which might result to the Lessee in the event this Lease is found to be void, canceled, forfeited or terminated prior to the Expiration Date or in the event this Lease is not renewed.
- 25.4** If, for any reason, it is determined that the Lessor has failed to receive title to any of the Leased Land, the Lease is void insofar as it related to the Leased Land to which the Lessor has failed to receive title. In such event the Lessee waives all right to any compensation as against the Lessor, except prorated reimbursement for prepaid rent.
- 25.5** In any action arising out of this Lease, the prevailing party shall recover reasonable attorneys' fees incurred therein in addition to the amount of any judgment, costs and other expenses as determined by the court. In the case of Lessor, reasonable attorneys' fees shall be calculated at the reasonable market value for such services when rendered by private counsel notwithstanding that it is represented by the Arizona Attorney General's Office or by other salaried counsel.
- 25.6** No provisions of this Lease shall create any right or interest in Lessee to a fee interest in the Leased Land.
- 25.7** Any notice to be given or other documents to be delivered by one party to the other shall be in writing and served by personal delivery or by depositing same in the United States mail, postage prepaid. Correspondence to the Department shall be addressed as follows:

Arizona State Land Department
1616 West Adams
Phoenix, AZ 85007

Correspondence to the Lessee shall be made to the address of record as indicated following the Lessee signature line(s) herein. Each party is obligated to promptly notify the other party in writing of any change in the foregoing addresses. Notice shall be deemed adequate if sent to the last known address of record.

- 25.8** This Lease shall be governed by, construed and enforced in accordance with Arizona laws.

- 25.9** Any attempt to assign, sublease, convey, transfer or otherwise dispose of any estate or interest in this Lease, for a time period that exceeds the lease term, shall not be effective and shall be cause for cancellation.
- 25.10** This Lease, together with all attached Appendices, embodies the whole agreement of the parties. There are no other agreements or terms, oral or written. This document supersedes all previous communications, representations and agreements, oral or written, between the parties.
- 25.11** This document is submitted for examination. This is not an option or offer to lease or grant a permit. This document shall have no binding effect on the parties unless and until executed by the Lessor (after execution by the Lessee), and a fully executed copy is delivered to the Lessee.
- 25.12** The Department shall not be responsible for the supervision of any activities conducted under the terms of this Lease.

Article 26

MINE OPERATING PLANS

- 26.1** All development or mining operations, or any use of the Leased Lands shall be performed in a manner consistent with an approved Mine Operating Plan. Detailed Mine Operating Plans are to conform with the Department's plan requirements, and be submitted to and approved by the Department prior to the commencement of any operation upon the Leased Lands.
- 26.2** Upon approval lessee shall perform all operations in a manner and time consistent with the Mine Operating Plan.
- 26.3** Amendments to the Mine Operating Plan must be filed with and approved by the Department whenever the operation deviates from previously approved plans, including mine expansion.
- 26.4** Lessee shall comply with the provisions of the Arizona Native Plant Law (ARS § 3-901 et seq., or any successor statutes) and the Arizona laws relating to archaeological discoveries (ARS § 41-841 et seq., or any successor statutes). Measures to limit the introduction of invasive species and any additional non-native species will be accomplished using Best Management Practices. This will include the use of certified weed-free straw or fiber roll logs for use in reclamation and/or sediment containment.
- 26.5** Lessee shall comply and assure that its agents and subcontractors comply with the applicable transportation laws and ordinances pertaining to operation of trucks on roadways and Lessee shall consult with the Arizona Department of Transportation to address safety issues.
- 26.6** Overburden piles from mining shall be placed and maintained (with riprap if necessary) to prevent any eroded sediment from entering washes.
- 26.7** Lessee shall prepare and submit to the Lessor a drainage report which identifies appropriate steps required to control runoff, minimize erosion, maintain water quality and otherwise prevent any adverse impacts on perennial surface flow. Failure to comply with such requirements shall constitute a default hereunder. Such report is subject to Lessor's approval and Lessor may seek input from the Arizona Department of Environmental Quality. At no time will Lessee permit a permanent body of water to be maintained on the site, however it is acknowledged that heavy rain falls and/or wet seasons may result in storm water temporarily collecting on the leased land.

Article 27
RECLAMATION-CLOSURE PLANS AND CONDITIONS

- 27.1 Detailed Reclamation and Closure Plan:** Lessee shall not commence mining activities unless or until Lessor shall have approved in writing a Reclamation and Closure Plan (“Approved Reclamation Plan”). Reclamation shall include contouring and landscaping the land to match in a natural manner the surrounding native landscape and landforms and shall be performed concurrent with ongoing mining activities to the extent practicable.
- 27.2 Final Reclamation:** Lessee shall complete final reclamation within one hundred twenty days following the end of the lease term. Such final reclamation shall be in accordance with the approved Reclamation Plan.
- 27.3 Approved Reclamation Plan:** Upon Lessor’s approval of the Approved Reclamation Plan and prior to the commencement of mining activities, Lessee shall provide Lessor with a bond or other form of security, in the amount of \$50,000, to insure the full performance of Lessee’s reclamation and closure activities. The form and amount of such security shall be subject to Lessor’s written approval. Every two years on the commencement of this Lease, Lessee shall, upon Lessor’s written request pay the Lessor an amount determined by Lessor for the expense of obtaining economic consulting on the bond amount. The consultant will provide Lessor with a recommendation as to the sufficiency of the security based upon current reclamation costs and the progress of concurrent reclamation efforts. Notwithstanding, such consultation, Lessor shall have the sole discretion to determine the acceptable amount of security from time to time during the term of the lease. When the Lessor notifies Lessee in writing the acceptable amount of the security, Lessee shall increase or decrease (as applicable) the security within thirty days thereafter.

Appendix A
LEGAL DESCRIPTION

STATE OF ARIZONA LAND DEPARTMENT
1616 W. ADAMS
PHOENIX, AZ 85007

RUN DATE: 09-MAR-2010
RUN TIME: 09:10:44
PAGE: 001
APPENDIX A

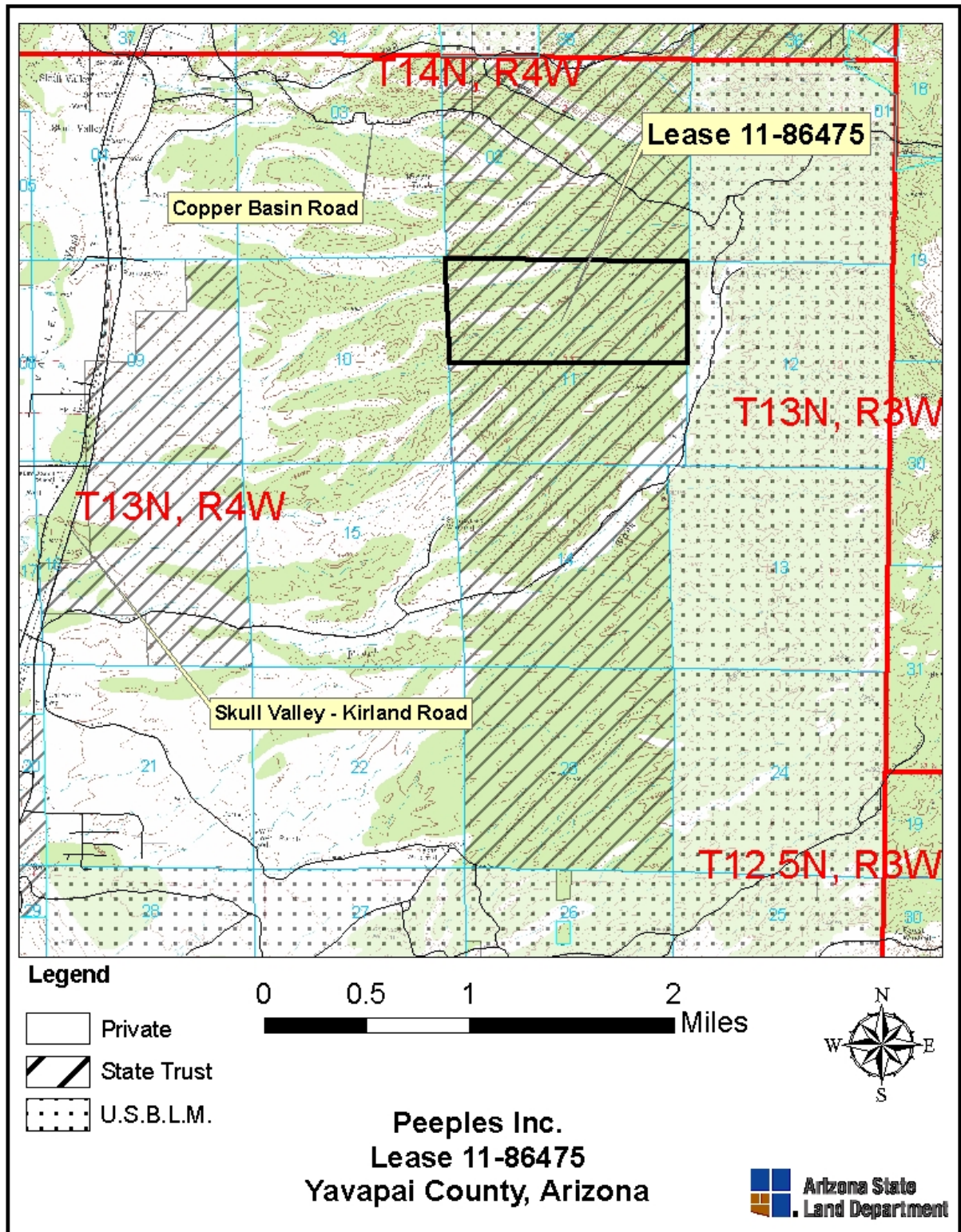
KE-LEASE#: 11-086475-00-000 APPTYPE: RENEWAL

AMENDMENT#: 0

<u>LAND #</u>	<u>LEGAL DESCRIPTION</u>	<u>ACREAGE</u>
13.0-N-04.0-W-11-13-031-1002	LOTS 1 THRU 10	377.11
	Totals:	377.11

Appendix B

GENERAL LOCATION MAP



IN WITNESS HEREOF, the parties hereto have signed this Lease Agreement effective the day and year set forth previously herein.

Peeples, Inc.
Lessee

Signature Date

Address

City State Zip

STATE OF ARIZONA, LESSOR
Arizona State Land Commissioner

By: _____
Date

(SEAL)