

LEASE AGREEMENT
BETWEEN
UNIVERSITY OF IDAHO FOUNDATION, INC.
AND
BECHTEL BWXT IDAHO, LLC
FOR
TECHNICAL LIBRARY SPACE
IN
IDAHO FALLS, IDAHO

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LEASE AGREEMENT NO. 3031
 BETWEEN
 UNIVERSITY OF IDAHO FOUNDATION, INC.
 AND
 BECHTEL BWXT IDAHO, LLC
 FOR

THIS LEASE, effective the first day of January 2001, by and between University of Idaho Foundation, Inc., whose business address is PO Box 443143, Moscow, ID 83844-3143 (hereinafter called the "Lessor"), and BECHTEL BWXT IDAHO, LLC (hereinafter called the "Lessee"), an Idaho corporation with operating offices in Idaho Falls, Idaho, acting under its Contract No. DE-AC07-99ID13727 with the United States of America, represented by the United States Department of Energy (called "DOE" or the "Government");

WITNESSETH THAT

The parties hereto, for the considerations hereinafter set forth, covenant and agree as follows:

ARTICLE 1 – BASIC LEASE PROVISIONS

Below is a summary of certain lease provisions that follow. The summary information of this article shall not prevail in the event of conflicting content of articles to follow:

- A. Landlord: University of Idaho Foundation, Inc.
- B. Tenant: Bechtel BWXT Idaho, LLC
- C. Premise Size: 13,772 sq. ft. approximate gross area
- D. Term: 10 years
- E. Rent: \$134,277 per annum, (\$9.75/ft/yr)/; \$11,189.75 per month in arrears
- F. Services:

| | <u>Landlord</u> | <u>Tenant</u> |
|-------------------------|-----------------|---------------|
| Building Maintenance | X | |
| Grounds Maintenance | X | |
| Facility Insurance | X | |
| Real Estate Taxes | X | |
| Utilities | X | |
| Janitorial Service | X | |
| Parking Lot Maintenance | X | |
| Snow Removal | X | |
- G. Landlord Property Manager: Joy Fisher Phone: 208-885-4000

ARTICLE 2 – DESCRIPTION OF PREMISES

The premises that are the subject of this Lease consist of:

Approximately 13,772 square feet space in the University Place building, comprised of space commonly known as the exhibit module, access hallways, lavatories, part of the main exhibit hallway, and staff/customer parking as further depicted in Attachment A, "Lease No. 3031 Floor Plan," dated May 3, 2002, and made a part hereof by this reference.

As part of the lease, Lessor will provide, without additional cost, parking adjacent to or near the Lessee's Technical Library location, for Lessee's library staff (up to 16 permits), and for its patrons and visitors. In reciprocity, the University Place (Lessor) personnel, students, and visitors are granted evening parking privileges (after 5:30 p.m.), without cost, in Lessee's Willow Creek Building (WCB) west-side parking lot located adjacent to the University Place property.

The parties will require their staff, students, patrons and visitors to observe traffic and parking regulations established by Lessor and Lessee for their respective parking lots.

ARTICLE 3 – TITLE

The Lessor warrants it has title to the property covered by this Lease, or sufficient interest and rights in the property to guarantee the Lease agreement with no interference to the Lessee's rights of possession under the Lease. Should the Lessee suffer any damages or expenses as the result of any defect in the Lessor's title or rights and interests in the property, the Lessor shall reimburse the Lessee for all such damages or expenses.

ARTICLE 4 – APPLICABLE CODES AND ORDINANCES

The Lessor, as part of the rental consideration, agrees to comply with all codes and ordinances applicable to the ownership and establishment of the premises at its own expense, to obtain all necessary permits and related items. The Lessee agrees to comply with all codes and ordinances applicable to its tenancy and use of the said premises.

ARTICLE 5 – TERM OF LEASE

The lease term shall be ten years, from January 1, 2001, through December 31, 2011

ARTICLE 6 – CANCELLATION TERMS

Lessee shall have the right to cancel the lease annually, effective at midnight on December 31st of each year, provided Lessee gives advance written notice to Lessor of such cancellation at least 120 days prior to the annual cancellation date. In the event such notice is not timely, cancellation shall not be effective until the succeeding December 31st.

Lessor shall have the right to cancel the lease at any time, without cause, upon a one year advance written notice to Lessee. In the event Lessor elects to effect such cancellation; it shall abate the rent in an amount equivalent to the annual base rate for each of the last two months of the lease.

ARTICLE 7 – RENTAL PAYMENTS

A. The Lessee will pay the Lessor rent at the annual rate of \$134,277.00 (\$9.75/ft/yr), which computes to the rate of \$11,189.75 per calendar month, subject to adjustments specified in this article.

B. Annual Base Rate Escalation

Of the initial lease rate of \$9.75/ft/yr, an annual escalation rate of 3% shall apply to the base rate of \$8.50/ft/yr, and \$1.25/ft/yr shall be fixed, subject to treatment under clause C and clause D of this article. A rate schedule follows:

| Term | Annual Base Rate | Fixed Utility Rate | Annual Lease Rate |
|----------------------|------------------|--------------------|-------------------|
| Jan. 1 – Dec.31/2001 | \$8.50/ft | \$1.25/ft | \$ 9.75/ft |
| Jan. 1 – Dec.31/2002 | \$8.75/ft | \$1.25/ft | \$10.00/ft |
| Jan. 1 – Dec.31/2003 | \$9.01/ft | \$1.25/ft | \$10.26/ft |
| Jan. 1 – Dec.31/2004 | \$9.28/ft | \$1.25/ft | \$10.53/ft |
| Jan. 1 – Dec.31/2005 | \$9.56/ft | \$1.25/ft | \$10.81/ft |
| Jan. 1 – Dec.31/2006 | \$9.85/ft | \$1.25/ft | \$11.10/ft |
| Jan. 1 – Dec.31/2007 | \$10.15/ft | \$1.25/ft | \$11.40/ft |
| Jan. 1 – Dec.31/2008 | \$10.45/ft | \$1.25/ft | \$11.70/ft |
| Jan. 1 – Dec.31/2009 | \$10.76/ft | \$1.25/ft | \$12.01/ft |
| Jan. 1 – Dec.31/2010 | \$11.09/ft | \$1.25/ft | \$12.34/ft |

C. Rate Adjustments for Utilities

Of the initial lease rate of \$9.75/ft/yr, a portion in the amount of \$1.25/ft/yr (\$17,215.00 based on leasehold square footage), is established as utilities costs. Within 90 days of each lease year end, Lessor shall submit to Lessee a statement of costs charged by utilities' provider(s) for the lease year. Lessee shall be assessed a portion of such charges equal to the percentage of the building leased by Lessee, which leased space is 38% of the whole. Within 90 days of such billing, Lessee shall either pay a lump sum annual utilities adjustment amount for the subject lease year, or shall offset a subsequent rent payment, depending on whether the chargeable amount exceeds or is less than the baseline of \$1.25/ft/yr already paid in the lease rate.

D. Separate Utilities Metering

It is agreed that upon request by Lessee, the Lessor shall obtain competitive bids and with the written concurrence of Lessee, shall cause the installation of separate utilities metering of Lessee's Premises. Lessee will reimburse Lessor for the installation expense.

Thereafter, Lessee shall pay utilities expenses based on the separately metered usage, and the portion of the lease rate associated with utilities switched to separate meters, shall be deleted from the rent amounts.

- E. All rental payments under this Lease will be made by the Lessee on a calendar month basis, in arrears, beginning at the end of the first calendar month of the Lease term, without submission of invoices or vouchers.
- F. If the commencement date or term ending date of this Lease is not on the first or last day of the month, respectively, the rental payment for partial month(s) occupancy by Lessee shall be determined on a pro rata basis predicated on the number of days in the applicable month.
- G. Payment by Lessee and acceptance of payment by Lessor of the first months rent for Lessee option term(s) (if applicable) shall constitute exercise of the option, irrespective of timely submittal by Lessee of advance written notice.

ARTICLE 8 – AVAILABILITY OF FUNDS

The Lessee's obligation hereunder is contingent upon the availability of appropriated funds from the United States Congress from which payment for the Lease purposes can be made.

No legal liability on the part of the Lessee or the Government for payment of any money shall arise unless and until the funds are made available to the Lessee from year-to-year for this Lease.

ARTICLE 9 – TAXES, UTILITIES AND BUILDING SERVICES

- A. The Lessor shall pay all real estate taxes and other assessments that may be made against the premises leased hereunder.
- B. The Lessee will pay when due, all communication expenses which may become due and payable by reason of the Lessee's use and occupancy of said premises.
- C. The Lessor shall pay for all heating and ventilating, electrical power, water, sewer, and garbage disposal as required by the Lessee's use and occupancy of said premises.
- D. The Lessor shall install/provide, at its expense, light bulbs, replacement of fluorescent tubes and ballasts, electrical fuses, air filters for forced air ventilating system and janitorial supplies.
- E. The Lessor shall provide day-to-day janitorial services.
- F. The Lessor shall provide snow removal.

ARTICLE 10 – WARRANTY AS TO MECHANICAL EQUIPMENT AND UTILITIES

The Lessor warrants the mechanical equipment and the utilities to be in good serviceable and proper operating condition, and agrees it will maintain such equipment and utilities (including all plumbing, heating, cooling systems, and all electrical and mechanical devices and fixtures) in this condition during the term, including any extension periods of this Lease.

ARTICLE 11 – MAINTENANCE OF PREMISES

- A. The Lessor shall maintain the demised premises, including the building, grounds, parking area, and any and all equipment, fixtures, and appurtenances furnished by the Lessor under this Lease in good repair and tenantable condition, except in case of damage arising from the act or the negligence of the Lessee's agents or employees.
- B. The Lessor shall perform maintenance and repairs in compliance with municipal, state and federal codes and regulations. To minimize disruption of Lessee operations, Lessor may at reasonable times, and with reasonable advance notice to the authorized

Lessee Technical Representative in charge, enter and inspect the same and perform any necessary maintenance or repairs thereto.

- C. Lessor must obtain advance concurrence from Lessee Technical Representative regarding planned work on power systems, plumbing, or any other item that may affect the facility function, or potentially affect the working ability, safety and/or health of the occupants.

ARTICLE 12 – ADMINISTRATION

- A. Unless Lessee is otherwise notified in writing, Joy Fisher (208-885-4000) is named as Lessor's duly authorized representative with overall responsibility and authority under the Lease, and unless a change in assignment is made by the Lessor, he/she and/or his/her duly authorized representative will be available at all reasonable times in connection herewith.
- B. Unless the Lessor is otherwise notified in writing, W. (Bill) Shelton (208-526-0695) shall be Lessee's Technical Representative, responsible for day to day operations within the terms of the Lease.
- C. Unless the Lessor is otherwise notified in writing, Lessee's contract and administration responsibilities under this Lease shall be administered by Dennis G. Miller, or an authorized Procurement Agent/Subcontract Administrator (terms considered interchangeable) named herein, or Procurement Manager.

ARTICLE 13 – NOTICES

Any notice or order given under the terms of this Lease shall be considered as having been given:

- A. To the Lessee, if delivered personally to designated Procurement Agent or Procurement Manager, or if mailed by U. S. Mail, certified letter return receipt requested, addressed to Bechtel BWXT Idaho, LLC, Procurement Manager, P.O. Box 1625, Idaho Falls, Idaho 83415-3521 or
- B. To the Lessor, if delivered personally to its duly authorized representative, or if mailed by U. S. Mail, addressed to Trust & Investment Office, University of Idaho, PO Box 443143 Moscow, ID 83844-3143.

ARTICLE 14 – INSURANCE

It is agreed that the Lessor and Lessee shall respectively obtain whatever insurance that they may consider prudent and necessary to protect their respective and separate best interests and that neither party shall be obliged to obtain insurance as regards the other party's real or personal property; provided however, that this provision shall not be constructed as a waiver of any rights of subrogation or entitlements in law by either party.

ARTICLE 15– ASSIGNMENT AND/OR SUBLEASING

The Lessee shall have the right, at any time, to assign or sublet the premises hereby leased or any part thereof to the Government or the Government's management and operating type contract designee without the consent of the Lessor, and any other designee with the consent of the Lessor. Any assignment or subleasing hereunder will be conditioned upon the use of any part of the leased premises being compatible with the function and purposes of the total facility.

ARTICLE 16 – DESTRUCTION OF PREMISES

- A. In the event of a partial destruction of the said premises during the said term, or any extension thereof, from any cause, Lessor shall forthwith repair the same, provided such repairs can be made within sixty (60) days from the date of said partial destruction; but such partial destruction shall in no way annul or void this Lease, except that the Lessee shall be entitled to a proportionate reduction of rent from the date of such partial destruction and continuing until such repairs are made, such proportionate reduction to be based upon the extent to which the making of such repairs shall interfere with the business carried on by the Lessee in the said premises.
- B. In the event of partial destruction to such extent that the Lessor cannot, with normal effort, complete the necessary repairs to restore the premises within sixty (60) days as hereinabove provided, the Lessor shall, within fifteen (15) days after such partial destruction of the said premises, advise the Lessee of its inability to complete the necessary repairs and restoration within sixty (60) days. In such event, the parties shall agree as to a reasonable time in which the repairs will be completed. Should the parties fail to agree as to an acceptable time to complete such repairs, the failure to agree shall constitute a "dispute" within the "Disputes" article of this Lease. If Bechtel BWXT

Idaho, LLC, DOE or one of its other prime contractors is then the Lessee, or alternatively at the option of either party, the Lease may be terminated if agreement is not reached within thirty (30) days.

- C. A total destruction of the building in which said premises may be situated shall terminate this Lease.

ARTICLE 17 – ALTERATIONS

- A. The Lessee shall have the right, during the term of this Lease, to make alterations or modifications, or to attach fixtures and erect signs in or upon the premises hereby leased, which fixtures, alterations and/or signs so placed in or upon or attached to the said premises shall be and remain the property of the Lessee or the Government as the case may be, and may be removed therefrom by the Lessee prior to the expiration of this Lease. At the option of the Lessee, subject to other provisions in this Article, such improvements may be left upon the premises upon termination or expiration of the term or extended term of this Lease; in which case, such improvements shall become the property of the Lessor. If Lessee does not remove improvements or fixtures within 30 days of termination or expiration of the lease, Lessor can remove said improvements or fixtures without liability.
- B. Plans for structural change shall be submitted to the Lessor for approval, which approval shall not be unreasonably withheld.
- C. Title to property of the United States Government shall not be affected by the incorporation of the property into or the attachment of it to any property not owned by the Government, nor shall such Government property, or any part thereof, be or become a fixture or lose its identity as personality by reason of affixation to any realty.

ARTICLE 18 – CONDITION REPORT

A joint physical survey and inspection report of the demised premises shall be made as of the effective date of this Lease, reflecting the then present condition, and will be signed on behalf of the parties hereto. Upon termination of occupancy by the Lessee, a terminal survey of the then present condition of the leased premises shall be made by the parties.

ARTICLE 19 – COVENANT AGAINST CONTINGENT FEES

The Lessor warrants that no person or selling agency has been employed or retained to solicit or secure this Lease upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Lessor for the purpose of securing business. For breach or violation of this warranty, the Government shall have the right to annul this Lease without liability or in its discretion to deduct from the rental price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee. (Licensed real estate agents or brokers having listing on property for rent, in accordance with general business practice, and who have not obtained such licenses for the sole purpose of effecting this Lease, may be considered as bona fide employees or agencies within the exception contained in this article.)

ARTICLE 20 – OFFICIAL NOT BE BENEFIT

No member of or delegate to Congress or resident Commissioner shall be admitted to any share or part of this Lease, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this Lease if made with a corporation for its general benefit.

ARTICLE 21 – ASSIGNMENT OF CLAIMS

Pursuant to the provisions of the Assignment of Claims Act of 1940, as amended (31 U.S. Code 203, 41 U.S. Code 15), if this Lease provides for payments aggregating One Thousand Dollars (\$1,000.00) or more, claims for monies due or to become due to the Lessor from the Government under this Lease may be assigned to the bank, trust company, or other financing institution, including any Federal lending agency, and may thereafter be further assigned and reassigned to any such institution. Any such assignment or reassignment shall cover all amounts payable under this Lease and not already paid, and shall not be made to more than one party, except any such assignment or reassignment may be made to one party as agent or trustee for two (2) or more parties participating in such financing. Notwithstanding any provisions of this Lease, payments to an assignee of any monies due or to become due under this Lease shall not, to the extent provided in said Act, as amended, be subject to reduction or set-off.

ARTICLE 22 – EXAMINATION OF RECORDS BY THE COMPTROLLER GENERAL

Except for purchase orders less than \$25,000, or subcontracts or purchase orders for public utilities services at rates established by law, the Lessor agrees that the Comptroller General or a duly authorized representative from the General Accounting Office shall, until three years after final payment under this Lease, or for any shorter period specified in FAR Subpart 4.7, Contractor's Records Retention, have access to, and the right to examine, any of the Lessor's directly pertinent books, documents, papers, or other records involving transactions related to this Lease.

ARTICLE 23 – HAZARDOUS SUBSTANCES

Lessor will indemnify and hold harmless Lessee, and the federal government from all claims, damages, fines, judgments, penalties, costs, liabilities, or losses (including, without limitation, all sums paid for settlement of claims, attorney fees, consultant and expert fees) arising during or after the Lease term for or in connection with the presence of preexisting hazardous substances that flow, diffuse, migrate or percolate into, onto, or under the premises after Lease term commences. Hazardous substances, as used in this article, shall include those substances within the definition for hazardous substances under CERCLA at 40 C.F.R. 300.5. Lessor shall remove or otherwise dispose of such hazardous substances in accordance with all federal, state and local laws, regulations, and ordinances.

ARTICLE 24 – FAILURE IN PERFORMANCE

In the event of failure by the Lessor to provide any service, utility, maintenance, or repair required under this Lease within a reasonable time after Lessee issues written notice to the Lessor regarding the performance deficiency, then Lessee shall have the right to secure said services, utility, maintenance, or repair and may at its discretion, deduct the cost thereof from rental payments.

ARTICLE 25 – FORCE MAJEURE

If either Lessor or Lessee is delayed, hindered or prevented from performing any act required under this Lease because of acts of God, failure of utility power, riots, civil commotion, insurrection, war, or other reasons not the fault of the party delayed, hindered or prevented, and is beyond their control (financial inability excepted), performance of the action in

question is excused for the period of delay and the period for performance of such act is extended for a period equivalent to the period of the delay.

ARTICLE 26 – LESSOR’S SUCCESSORS

The terms and provisions of this Lease and the conditions herein shall bind the Lessor, and the Lessor’s heirs, executors, administrators, successors, and assigns.

ARTICLE 27 – DISPUTES

- A. The parties agree that the appropriate forum for resolution of any dispute of claim pertaining to this Lease shall be a court of competent jurisdiction as follows:
 - 1. Subject to paragraph (a) (2) of this clause, any such litigation shall be brought and prosecuted exclusively in Federal District Court; with venue in the United States District Court for the District of Idaho in Pocatello, Idaho.
 - 2. Provided, however, that in the event that the requirements for jurisdiction in any Federal District court are not present, such litigation shall be brought in the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Bonneville, with venue in the District Court of the Seventh Judicial district for the District of Idaho Falls, ID.
- B. Any substantive issue of law in such dispute, claim, or litigation shall be determined in accordance with the body of law applicable to procurement of goods and services by the Federal Government. Nothing in this clause shall grant to the Lessor by implication any statutory rights or remedies not expressly set forth in this Lease.
- C. There shall be no interruption of this Lease during the pendency of any dispute that may arise between the parties hereto or between the Lessor and its subcontractors in support of this Lease.

ARTICLE 28 – ARTICLES INCORPORATED BY REFERENCE

The following Federal Acquisition Regulation (FAR) clauses, Department of Energy Acquisition Regulation (DEAR) clauses, and Federal Acts, and any revisions thereto as of the effective date of this lease, are incorporated herein by reference, and are applicable only as related to this lease:

- 1. Clean Air and Water, FAR 52.223-12 (\$100,000)

2. Affirmative Action for Handicapped Workers, FAR 52.222-36
3. Affirmative Action for Special Disabled and Vietnam Era Veterans FAR 52.222-35 (\$10,000)
4. Utilization of Small Business concerns and Small Business Concerns Owned and Controlled by Socially and Economically disadvantaged Individuals, FAR 52-219-8
5. Utilization of Women-Owned Small Businesses, FAR 52.219-13
6. Limitation on Payments to Influence Certain Federal Transactions (Jan. 1990) – FAR 52.203-12 (\$100,000).
7. Architectural Barriers Act
8. Americans with Disabilities Act
9. Randolph-Sheppard Act

ARTICLE 29 – ENTIRE AGREEMENT

This Lease contains the entire agreement between the parties and cannot be changed or terminated orally. There are no oral understandings, terms or conditions, and neither party has relied upon any representations, express or implied, not contained in this Lease. All prior understandings, terms or conditions, are deemed merged in this Lease. Any modification to this Lease shall be in writing, duly executed by the parties.

Lessee

BECHTEL BWXT IDAHO, LLC

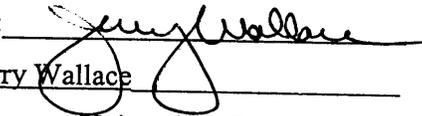
Signature: 

Name: S. W. Harrison

Title: Director, Supply Chain Management & Contracts

Lessor

UNIVERSITY OF IDAHO FOUNDATION INC.

Signature: 

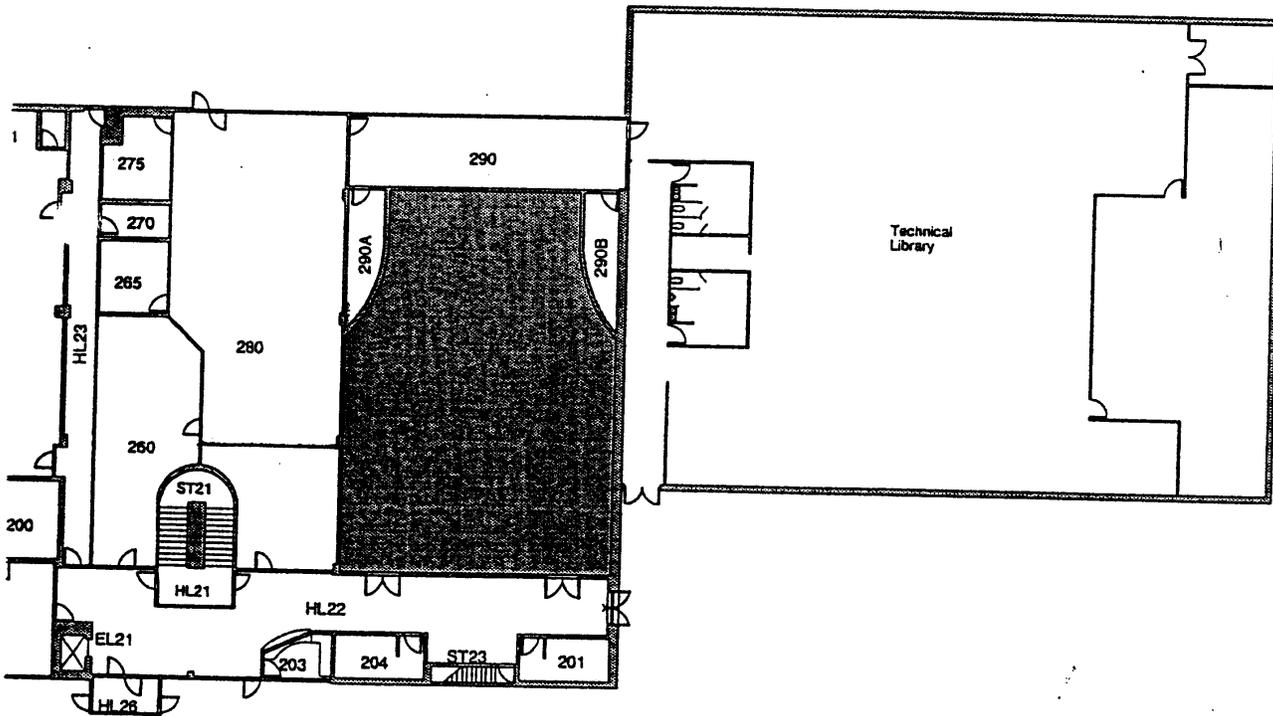
Name: Jerry Wallace

Title: Treasurer, University of Idaho Foundation

Attachment A

Lease No. 3031
Floor Plan
May 3, 2002

292 - University Place
Idaho Falls
Second Floor
April 1999



20 0 20 Feet

