

When recorded, please return to:
School and Institutional
Trust Lands Administration
675 East 500 South, Suite 500
Salt Lake City, Utah 84102

CERTIFICATE OF SALE NO. *

Fund: [*]

This Certificate of Sale No. [*] (this “**Certificate**”), dated _____ (the “**Certificate Date**”), is between the School and Institutional Trust Lands Administration, on behalf of the State of Utah as trustee for the trust land beneficiaries (“**SITLA**”), with an address at 675 East 500 South, Suite 500, Salt Lake City, Utah 84102 and [Purchaser’s Name, if an entity include incorporation information, and address] (“**Purchaser**”).

RECITALS

- A. SITLA manages lands held in trust by the State of Utah for the benefit of certain named beneficiaries (“**Trust Lands**”), pursuant to Sections 6, 8, and 12 of the Utah Enabling Act, Article XX, Section 2 of the Utah State Constitution, and Title 53C of the Utah Code.
- B. SITLA has agreed to sell and Purchaser has agreed to purchase Trust Lands located in [*] County, Utah (the “**Property**”), as the Property is more particularly described on *Exhibit A*.
- C. Purchaser acquired the Property at auction on [*].

The parties agree as follows:

1. Definitions.

1.1. “**Applicable Environmental Law**” means: (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq., the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 et seq., the Clean Air Act, 42 U.S.C. §§ 7401 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. §§ 1801 et seq., the Toxic Substances Control Act, 15 U.S.C. §§ 2601 et seq., and the Safe Drinking Water Act, 42 U.S.C. §§ 300f through 300j-26, as such Acts have been or are hereafter amended; (b) any so called Superfund or Superlien law; and (c) any other federal, state and local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material as now or any time hereafter in effect

1.2. “**Applicable Laws**” means Applicable Environmental Law and any other federal, state, or local statute, regulation, ordinance, rule, order, or judicial decree applicable to this Lease, Property, the Project, Lessee, or Lessee’s activities under this Lease, as now or any time hereafter in effect.

1.3. “**Certificate**” is defined in the introductory paragraph.

1.4. “**Certificate Date**” is defined in the introductory paragraph.

1.5. “**Claims**” means claims, demands, causes of action, proceedings, debts, liens, obligations, liabilities, damages, Losses, judgments, orders, penalties, fines, settlements, costs, and expenses (including attorneys’ fees and related costs).

1.6. “**Gross Value**” means the actual compensation received by Purchaser or an Affiliate under an arm’s length transaction, on the basis of U.S. Dollars, including all payments, bonuses and allowances received, plus the value of all services, payments-in-kind and all other compensation whether monetary or non-monetary, received by Purchaser from the buyer or from other parties for the sale or disposal of the Sand and Gravel, without any deductions whatsoever.

1.7. “**Hazardous Substance**” means any hazardous or toxic substance, material, or waste that is or becomes regulated by any local governmental authority, the State of Utah, or the United States Government, including, without limitation: (i) any substance, chemical or waste that is or may be listed or defined as hazardous, toxic or dangerous under Applicable Environmental Law; (ii) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any federal, state, or local Governmental Authority pursuant to Applicable Laws and which could pose a hazard to the health and safety of occupants or users of the Property or any part of the Property, any adjoining property or cause damage to the environment; (iii) any petroleum products; (iv) PCB’s; (v) leaded paint; and (vi) asbestos.

1.8. “**Indemnified Parties**” means the State of Utah, its affiliates, agencies, directors, officers, trustees, employees, agents, consultants, advisors, and other representatives, and their heirs, executors, successors, and assignees.

1.9. “**Litigation Expense**” means any reasonable out-of-pocket expense incurred in defending a Third-Party Claim or in any related investigation or negotiation, including court-filing fees, court costs, arbitration fees, witness fees, and attorneys’ and other professionals’ fees and disbursements.

1.10. “**Losses**” means any amount awarded in, or paid in settlement of, any Third-Party Claim.

1.11. “**Notices**” is defined in Section 7 (*Notices*).

1.12. “**Patent**” is defined in Section 2.1 (*Purchase and Sale of Property*).

1.13. “**Purchase Price**” is defined in Section 2.1 (*Purchase and Sale of Property*).

- 1.14. “**Purchaser**” is defined in the introductory paragraph.
- 1.15. “**Royalty Report**” is defined in Section 2.3(c) (*Royalty Payment*).
- 1.16. “**Sand and Gravel**” means common varieties of sand and gravel and volcanic cinder located on the Property.
- 1.17. “**Sand and Gravel Royalty**” is defined in Section 2.3(b) (*Sand and Gravel Royalty*).
- 1.18. “**SITLA**” is defined in the introductory paragraph.
- 1.19. “**Third-Party Claim**” means any Claims brought or threatened by or on behalf of a non-party to this Agreement.
- 1.20. “**Transactions Fees**” means the costs incurred by SITLA to prepare the Property for sale, the amount of which is set forth in Section 2.1 (*Purchase and Sale of Property*).
- 1.21. “**Trust lands**” is defined in the Recitals.

2. **Purchase and Sale of Property.**

2.1. Purchase and Sale of Property. SITLA shall sell and Purchaser shall purchase the Property, subject to Sections 2.2 (*Reservations*), 2.4 (*Valid Existing Rights*), and 2.3 (*Sand and Gravel Royalty*), by patent issued by the State of Utah (the “**Patent**”) for \$[*] (the “**Purchase Price**”). In addition to the Purchase Price, Purchaser shall pay SITLA \$[*] (the “**Transaction Fees**”) as reimbursement for the costs SITLA incurred in preparing the Property for sale.

2.2. General Reservations. SITLA reserves to the State, for the benefit of the trust land beneficiaries:

2.2(a) all coal, oil, gas, and other hydrocarbons, all geothermal resources, and all other mineral deposits located in or on the Property, along with the right to reasonably access and use the Property to explore for, develop, and extract those mineral deposits;

2.2(b)

2.2(c) all sub-surface void and pore spaces in the Property whether naturally existing or created upon the removal of coal, oil and gas and other mineral deposits, and the right to reasonably access and use the Property and to use those sub-surface void and pore spaces for any purpose; and

2.2(d) an access and utility easement across the Property as may be necessary and reasonable to access other lands administered now or in the future by the School and Institutional Trust Lands Administration.

2.3. Reservation of Sand and Gravel Royalty.

2.3(a) Notice of Removal. Purchaser shall give SITLA Notice prior to removing Sand and Gravel from the Property.

2.3(b) Sand and Gravel Royalty. Purchaser shall pay SITLA 10% of the Gross Value, f.o.b. the mine, of the Sand and Gravel (the “**Sand and Gravel Royalty**”) removed from the Property. If Purchaser sells or removes the Sand and Gravel from the Property in a non-arm’s-length transaction or for its own use, Purchaser shall promptly give Notice to SITLA of such use or sale. SITLA may then determine and assign a Gross Value to the Sand and Gravel for royalty purposes after taking into account spot market prices, the value of similar or like Sand and Gravel reported by other Trust Lands lessees, the value of like mineral commodities as reported by the United States Geological Survey, and other pertinent economic data regarding the fair market value of the Sand and Gravel, f.o.b. the mine. For clarity, Purchaser does not owe SITLA the Sand and Gravel Royalty on Sand and Gravel used by Purchaser on the Property.

2.3(c) Royalty Payment. For all Sand and Gravel removed from the Property during a particular month, Purchaser shall pay the Sand and Gravel Royalty to SITLA on or before the end of the next succeeding month. SITLA may impose late fees and penalties for delinquent royalties in accordance with Utah Administrative Code R850-5-300. Purchaser shall include with each payment of the Sand and Gravel Royalty a report (a “**Royalty Report**”) in a form approved by SITLA setting forth the basis on which the payments were computed. The Royalty Report must include the amount of Sand and Gravel removed from the Property, the Sand and Gravel Royalty accruing to SITLA, and any other information reasonably required by SITLA to verify production and disposition of the Sand and Gravel and the amount of the Sand and Gravel Royalty accruing to SITLA.

2.3(d) Audit. SITLA may reasonably inspect Purchaser’s books and records to confirm the accuracy of the Royalty Report by giving Notice to Purchaser within seven years of any one Royalty Report.

2.3(e) Notice of Sale. Purchaser shall give SITLA Notice of any sale of any or all of the Property or the Sand and Gravel (if severed from the Property) including the date of the sale, the interests transferred, and the name and contact information of the transferee.

2.4. Valid Existing Rights. Purchaser takes the Property subject to all valid, existing rights including without limitation those encumbrances listed on **Exhibit B**, and any other encumbrance in existence as of the Certificate Date.

2.5. Preservation Easement for Archaeological Specimens. SITLA reserves to the State a preservation easement on all archaeological specimens, values, contexts, features,

and deposits located on the Property as more fully described in *Exhibit C*. Purchaser shall comply with the restrictive covenants in Exhibit C.

2.6. Payment of Funds. All payments must be made by certified check or by wire transfer of immediately available United States Dollars and made payable to SITLA, as appropriate.

2.7. Purchaser Responsible for Taxes. Purchaser acknowledges that the Property has not been subject to taxes during the period it was held by the State of Utah, but that such Property may be subject to general and special real estate and other ad valorem taxes and assessments, including Farmland Assessment (Greenbelt) rollback taxes, and charges for utilities, and other charges. Purchaser is responsible to pay any taxes or other charges assessed against the Property.

3. **Inspection; Disclaimer of Warranties; Release.**

3.1. Inspection. Purchaser has had the opportunity to inspect the Property to determine its condition and suitability for Purchaser's intended purposes, and for the presence or absence of any Hazardous Substances or hazardous conditions. Purchaser has not relied on any disclosures or information from SITLA, its agent, employees, directors, officers or other representatives and acknowledges that such information may be inaccurate. Purchaser acquires the Property in an "As-Is" condition with all faults and defects, including latent and patent defects.

3.2. Disclaimer of Warranties. SITLA disclaims all warranties of title and any representations made by SITLA or its agents, employees, directors, officers or other representatives as to zoning, legal or physical access, location or availability of utilities, soil conditions, floodplains and watercourses, the presence or absence of any Hazardous Substances or hazardous conditions, or other physical or legal attributes of the Property or Purchaser's ability to obtain approvals for Purchaser's development of the Property, or the physical conditions of the Property. **SITLA HEREBY DISCLAIMS ANY AND ALL WARRANTIES WHATSOEVER WITH RESPECT TO THE PROPERTY IT IS CONVEYING.** Purchaser assumes the risk that adverse past, present, or future physical characteristics and conditions of the Property have not been revealed by inspection or investigation.

3.3. Release and Waiver of Claims. Purchaser hereby irrevocably and unconditionally releases the Indemnified Parties from all Claims (and waives all Claims), whether known or unknown, existing now or in the future, arising from, based upon, or related to, whether directly or indirectly: (a) any existing or future condition, defect, matter, or thing in, on, or about the Property or any equipment or appurtenance; (b) any existence of Hazardous Substances located in, on, or about the Property; (c) any unintended cause, including accidents, in, on, or about the Property; or (d) any act, omission, or negligence of any of the Indemnified Parties or of any other person or entity, including the Indemnified Parties, except to the extent caused by the gross negligence, willful misconduct, or bad faith of the Indemnified Parties.

4. **Conveyance of Title.**

4.1. **Payment to SITLA.** On or before execution of this Certificate, Purchaser shall pay to SITLA the Purchase Price and Transaction Fees.

4.1(a) **Patent.** On payment in full of the Purchase Price and Transaction Fees and compliance with all other terms of this Certificate, SITLA shall request the Governor of the State of Utah to issue a Patent to Purchaser for the Property, containing the reservations and exceptions set forth in Section 2 (*Purchase and Sale of Property*). Title does not transfer to Purchaser until issuance of the Patent; nevertheless, on Purchaser's payment of the Purchase Price and Transaction Fees, the State of Utah is obligated to issue the Patent and its issuance is an administrative step only.

4.2. **Possession.** As of the date that Purchaser pays the Purchase Price and Transaction Fees in full, Purchaser may enter and possess the Property and will bear the risk of title and loss, destruction, and expenses of the Property.

5. **Purchaser's Representations.** Purchaser hereby represents to SITLA that:

5.1. it is an entity in good standing and licensed to do business in Utah;

5.2. it has all necessary corporate and governmental authorizations to purchase the Property and execute this Certificate;

5.3. Purchaser is not liable to pay any broker's or finder's fees with respect to its acquisition of the Property; and

5.4. there are no judgments, actions, decrees or other legal restraints or causes of action that would prevent Purchaser from acquiring the Property.

6. **Indemnification and Defense.**

6.1. **Indemnification.** The Indemnified Parties have no responsibility for and Purchaser shall indemnify the Indemnified Parties from and against all Losses arising out of:

6.1(a) Purchaser's acts or omissions resulting in death, bodily injury, or damage to real property; or

6.1(b) any use, generation, storage, disposal, release or threatened release of Hazardous Substances on the Property at any time before or after issuance of this Certificate, including without limitation (i) all foreseeable and unforeseeable consequential damages, and (ii) the cost of any investigation, repair, cleanup, remediation or detoxification of the Property and other affected property and the preparations of any corrective action, closure or other required plans or reports.

6.1(c) Purchaser is not responsible to indemnify the Indemnified Parties to the extent that the Indemnified Party caused the Losses.

6.2. Defense.

6.2(a) Purchaser to Defend. The Purchaser shall defend an Indemnified Parties against any Third-Party Claim. To be entitled to defense from Purchaser, an Indemnified Party must notify Purchaser within a reasonable time of a Third-Party Claim and deliver to Purchaser a copy of all documents and information related to the Third-Party Claim. The Indemnified Parties' failure to notify Purchaser of a Third-Party Claim within a reasonable time does not relieve Purchaser of its defense obligations unless Purchaser is materially prejudiced by the Indemnified Party's failure to give reasonable notice.

6.2(b) Independent Counsel. On notice of a Third-Party Claim from an Indemnified Party, Purchaser shall promptly retain independent legal counsel that is reasonably acceptable to the Indemnified Party requesting defense.

6.2(c) Indemnified Party's Participation in Defense. An Indemnified Party is entitled to participate in the defense of a Third-Party Claim with counsel of its own choosing and without Purchaser's participation if: (i) Purchaser notifies the Indemnified Party that it does not wish to defend the Third-Party Claim or does not promptly retain independent counsel on notice of a Third-Party Claim; or (ii) representation of the Indemnified Party and Purchaser by the same counsel would, in the opinion of that counsel, constitute a conflict of interest.

6.2(d) Litigation Expenses. Purchaser shall pay any Litigation Expenses that an Indemnified Party incurs in connection with defense of a Third-Party Claim before Purchaser assumes the defense of that Third-Party Claim, except with respect to any period during which the Indemnified Party fails to timely notify Purchaser of that Third-Party Claim. Purchaser is not liable for any Litigation Expenses that an Indemnified Party incurs in connection with defense of a Third-Party Claim after Purchaser assumes the defense of that Third-Party Claim. Purchaser shall promptly pay all Litigation Expenses as they are incurred.

6.2(e) Settlement. After Purchaser assumes the defense of a Third-Party Claim, Purchaser may contest, pay, or settle the Third-Party Claim without the consent of the Indemnified Party only if that settlement (i) does not entail any admission on the part of the Indemnified Party that it violated any law or infringed the rights of any person, (ii) has no effect on any other claim against the Indemnified Party, (iii) provides as the claimant's sole relief monetary damages that are paid in full by Purchaser, and (iv) requires that the claimant release the Indemnified Party from all liability alleged in the Third-Party Claim.

7. Notices.

7.1. Notices. The parties shall give all notices, consents, and other communications ("Notices") under this Certificate in writing and addressed as follows:

To SITLA:

Utah School and Institutional Trust Lands Administration
675 East 500 South, Suite 500
Salt Lake City, Utah 84102
Attention: Director

To Purchaser:

[*]
[*]

7.2. Method of Notification. Notices must be given by (a) established express delivery service that maintains delivery records, (b) hand delivery, or (c) certified or registered mail, postage prepaid, return receipt requested. Notices are effective upon receipt, or upon attempted delivery if delivery is refused or if delivery is impossible because of the recipient's failure to provide a reasonable means for accomplishing delivery.

8. **Miscellaneous.**

8.1. Assignment. Purchaser may not assign this Certificate without prior consent of SITLA and only after Purchaser provides SITLA a writing in which the assignor assumes all obligations and liabilities of Purchaser under this Certificate. An assignment made without SITLA's prior consent is void. An assignment does not relieve Purchaser from its obligations and liability under this Certificate and SITLA may continue to look to Purchaser to fulfill all obligations under this Certificate, including those that survive termination of this Certificate or issuance of the Patent.

8.2. No Merger. This Certificate does not merge with the Patent.

8.3. Survival. Sections 2.2 (General Reservations), 2.3 (Reservation of Sand and Gravel Royalty), 2.6 (Payment of Funds), 2.7 (Purchaser Responsible for Taxes), 3 (Inspection; Disclaim of Warranties), 5 (Purchaser's Representations), 6 (Indemnification and Defense), 7 (Notices), 8.2 (No Merger), 8.6 (Governing Law), 8.12 (No Waiver of Governmental Immunity) survive termination of this Certificate and issuance of the Patent.

8.4. Entire Agreement. This Certificate and attachments constitute the entire agreement between the parties with respect to the subject matter of this Certificate. The parties may only amend this Certificate in a subsequent writing executed by both parties.

8.5. Waivers. A waiver of any provision of this Certificate does not constitute a waiver of any other provision, whether or not similar, and does not constitute a continuing waiver. Except as expressly provided in this Certificate, a waiver is not binding unless it is documented in a writing signed by both parties.

8.6. Governing Law. This Certificate is governed by the laws of the State of Utah, without regard to its choice or conflicts of laws principles. The parties may only bring an action arising out of this Certificate or the Patent in the Third Judicial District Court, Salt Lake County, Utah and both parties submit to the exclusive jurisdiction of that court.

8.7. Captions. The captions in this Certificate are for convenience only and have no legal effect.

8.8. Applicability. If any term of this Certificate or the application of it to any person, entity or circumstance is deemed invalid and unenforceable by a court with jurisdiction, the remainder of this Certificate or the application of such term to persons or circumstances other than to those that are determined invalid or unenforceable continue and are enforceable to the extent permitted by law.

8.9. Authority. The individuals executing this Certificate represent that they are authorized to sign on behalf of the respective parties.

8.10. Numbering of Days. If the last day of any time period stated in this Certificate falls on a Saturday, Sunday or federal or Utah legal holiday, then such time period will be extended to the next succeeding day that is not a Saturday, Sunday or a federal or Utah legal holiday.

8.11. Allocation of Professional Fees. The parties are responsible for their own legal and professional fees related to preparation of this Certificate and issuance of the Patent.

8.12. No Waiver of Governmental Immunity. Nothing in this Certificate constitutes a waiver of SITLA's governmental immunity from suit.

8.13. Counterparts and E-Signatures. The parties may execute this Certificate in counterparts, each of which when taken together will be deemed one and the same document. The parties may execute this Certificate by exchange of electronic signatures and such electronic signatures are enforceable against the signing party. The parties agree that an electronic version of this Lease, as amended, has the same legal effect and/or enforceability as a paper version as per Utah Code Ann. § 46-4-201.

[Remainder of page intentionally left blank]

The parties execute this Certificate as of the Effective Date.

**STATE OF UTAH, SCHOOL AND
INSTITUTIONAL TRUST LANDS
ADMINISTRATION**

By: _____

Its: _____

Date: _____, 20____

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this ____ day of _____,
20____, by _____, the _____ of the
School and Institutional Trust Lands Administration.

Notary Public

Seal:

Approved as to form:
Sean D. Reyes, Attorney General

By: _____
Special Assistant Attorney General

PURCHASER'S FULL NAME]

By: _____

Its: _____

Date: _____, 20____

STATE OF _____)

: ss.

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____,
20____, by _____, the _____ of the
_____.

Notary Public

Seal:

EXHIBIT A
To Certificate of Sale No. *

DESCRIPTION OF THE PROPERTY

The Property is located in * County, Utah and described as follows:

Township *, Range *, SLB&M
Section

Containing * acres, more or less

[water rights]

EXHIBIT B
To Certificate of Sale No. *

EXISTING ENCUMBRANCES

EXHIBIT C
To Certificate of Sale No. *

RESTRICTIVE COVENANTS ON ARCHAEOLOGICAL SPECIMENS

The areal limits of those portions of prehistoric archaeological sites * (referred to as the “**Sites**”) located within the Property, as generally depicted on the following map, are subject to these restrictive covenants, which run with the land in perpetuity and are binding between SITLA, or any successor agency, and each and every owner, lessee, or licensee and their heirs, successors, and assigns (referred to collectively as “**Purchaser**”).

1. Purchaser may not collect artifacts from the Sites or allow anyone else to collect such artifacts. Ownership of all archaeological contexts, data, artifacts, specimens, structural remains, and archaeological features and deposits is reserved to SITLA.
2. For all activities conducted within the Sites, Purchaser shall comply with the Utah Antiquities Act, Utah Code Annotated § 9-8-301 et seq. and § 9-8-404 (1953), as amended, or any amending or replacing legislation, as if SITLA held title to the Sites, including but not limited to:
 - A. Prior to commencing any undertaking (as defined in Utah Administrative Code R850-60-200), including any ground disturbing activities, within the limits of the Sites, Purchaser shall consult with SITLA and seek approval for the proposed undertaking. Purchaser may not commence the undertaking without SITLA prior written approval.
 - B. SITLA may impose conditions on an approval of an undertaking to protect the archaeological contexts, data, artifacts, specimens, structural remains, features, and deposits contained in the Sites being preserved, recovered, or otherwise treated in a manner satisfactory to SITLA.
 - C. Purchaser shall provide SITLA with all collections (i.e., specimens, unprocessed samples, notes and photographs) resulting from archaeological investigations at the Sites, and all subsequent data analyses and reports.
3. SITLA may, at its discretion, release the restrictive covenant in part or in its entirety if SITLA determines, in consultation with the Utah Division of State History, that an appropriate level of data recovery has occurred.
4. This restrictive covenant is for the benefit of the beneficiaries of the Property. SITLA or the Utah Division of State History may access the Property to monitor compliance with, seek enforcement of, and enjoin any violation of the restrictive covenant and recover damages caused by the violation.
5. SITLA reserves a right of access in perpetuity across the Property to the Sites for the purpose of monitoring compliance with this covenant or for facilitation of archaeological research within the Sites.

6. SITLA reserves the right to conduct archaeological investigations at the Sites, along with a right of access for the same.

[map follows]