

STATE OF SOUTH CAROLINA

ss. LEASE AGREEMENT

COUNTY OF BARNWELL

This lease agreement made and entered into, in duplicate, this 6th day of April 1976, by and between the State of South Carolina, acting through the State Budget and Control Board, hereinafter called the Lessor, and Chem-Nuclear Systems, Inc., hereinafter called the Lessee, a corporation duly organized and existing under the laws of the State of Washington, and, heretofore, on August 4, 1969, was authorized to do business in the State of South Carolina, having its registered office in Barnwell, South Carolina, and authorized to engage in the business of storing and disposing of radioactive wastes and materials by Radioactive Material License Number 097 issued by the South Carolina Department of Health and Environmental Control.

WHEREAS, Lessor, by and through the State Budget and Control Board, has determined that a facility for the storage and disposition of radioactive wastes should be opened in the State of South Carolina to assist in the development of the peaceful benefits of nuclear energy in the State; and

WHEREAS, Lessee has procured and caused to be conveyed to the Lessor the real estate hereinafter described, which real estate is hereinafter referred to as the "Site;

NOW, THEREFORE, in consideration of the payments reserved herein and the mutual covenants made by the parties, it is agreed as follows:

WITNESSETH

1. That the said Lessor for and in consideration of the rents, covenants and agreements of the Lessee, as hereinafter set forth, does hereby rent, lease, and demise unto the said Lessee the following described premises:

All that certain piece, parcel or tract of land, with improvements thereon, situate, lying and being in Barnwell County, State of South Carolina, as shown on plat prepared by J. J. Foy, R.L.S., dated January 7, 1976, and, according to said plat, having the following metes and bounds, to-wit: Beginning at a point located on the North side of South Carolina Road S-6-53 at SRO Monument No. 129 and running thence North 38 degrees 15 minutes East for a distance of 669.5 feet to a point; thence North 38 degrees 15 minutes East for a distance of 20.5 feet to SRO Monument No. 128; thence North 10 degrees 10 minutes West for a distance of 4132.43 feet to SRO Monument No. 123; thence North 65 degrees 43 minutes East for a distance of 1303.73 feet to an iron pipe; thence North 66 degrees 18 minutes East for a distance of 1508.67 feet to an iron pipe; thence North 58 degrees 22 minutes East for a distance of 82.42 feet; thence South 05 degrees 35 minutes East for a distance of 99.87 feet to an iron pipe; thence South 38 degrees 08 minutes West for a distance of 2516.94 feet to an iron pipe; thence South 02 degrees 24 minutes West for a distance of 344.45 feet to an iron pipe; thence South 88 degrees 06 minutes East for a distance of 1811.86 feet to a pipe; thence South 04 degrees 09 minutes East for a distance of 2443.68 feet; thence North 86 degrees 23 minutes West for a distance of 168.6 feet to an iron pipe; thence South 27 degrees 29 minutes West for a distance of 1063.01 feet; thence North 84 degrees 49 minutes West for a distance of 308.67 feet; thence North 07 degrees 22 minutes East for a distance of 159.94 feet; thence North 76 degrees 05 minutes West for a distance of 223.58 feet to an iron pipe; thence North 84 degrees 08 minutes West for a distance of 614.75 feet to a point; thence North 64 degrees 06 minutes West for a distance of 570.31 feet; thence south 39 degrees 39 minutes West for a distance of 283 .45 feet;

thence South 27 degrees 22 minutes West for a distance of 363.95 feet to a point; thence North 70 degrees 46 minutes West for a distance of 98.66 feet to a point thence North 68 degrees 47 minutes West for a distance of 41.62 feet to the point of beginning, being SRO Monument No. 129.

Together with all the rights, privileges and appurtenances thereunto belonging.

2. To Have and to Hold the said premises hereby demised unto the said Lessee, its successors and assigns, for a period of ninety-nine years, commencing on the 6th day of April, 1976, and to terminate on the 5th day of April 2075, unless sooner terminated in accordance with the terms of this lease, at a yearly rental of \$50.00 per year, the first annual payment being due and payable upon execution of this lease, receipt of which is hereby acknowledged, and succeeding payments to be payable annually within ten days after the anniversary date of this lease. The rental payments shall be payable in lawful money of the United States at the principal office of the State Budget and Control Board or as otherwise designated in writing by the Lessor.

3. The Lessee agrees that this lease shall not be assigned without the Lessor's written consent, which consent will not be unreasonably withheld. This lease may be assigned to a wholly owned subsidiary of the Lessee organized under the laws of the State of South Carolina. The State of South Carolina, specifically the Budget and Control Board and the Department of Health and Environmental Control must be notified prior to any assignment.

4. The Lessee agrees that it will not without the written consent of the Lessor, which consent will not be unreasonably withheld, sublet the premises or any part thereof or permit the use of the premises by any party other than the Lessee or a wholly owned subsidiary of the Lessee organized under the laws of the State of South Carolina. The State of South Carolina, specifically the Budget and Control Board and the Department of Health and Environmental Control, must be notified prior to any sublease.

5. The Lessee covenants and agrees that it will use the leased premises in all respects in accordance with the laws of the United States Government, the laws of the State of South Carolina, and also in accordance with the requirements specified in South Carolina Radioactive Material License Number 097 and all amendments thereto. It is expressly understood that the lessee shall comply with all requirements of the United States Nuclear Regulatory Commission, and the State of South Carolina, and applicable laws and rules as the same are promulgated and amended from time to time.

6. The Lessor or any person authorized by it shall at all times have access to the leased premises for all reasonable purposes including, without limitation, the protection of the health and safety of the public or of the employees, personnel, or contractors of the Lessee, for taking readings samples to facilitate research and taking readings or samples to gain information needed for the Lessor's promotion of nuclear industrial development, and for inspecting the premises and determining if the Lessee is complying with the obligations imposed by this lease.

7. The Lessee understands that the storage and burial of radioactive wastes requires perpetual surveillance and maintenance, and so long as it occupies the site, the Lessee will undertake all surveillance and maintenance as required by all applicable laws, regulations, and licensing requirements for the protection of the public health and safety. The Lessee further understands that if for any reason at any time the Lessee should default or fail to comply with the terms of its license or for any reason withdraw from the premises, the Lessor would be required to assume surveillance and maintenance obligations and pay the surveillance and maintenance costs. The Lessee, therefore, covenants and agrees to pay to the Lessor, at quarterly intervals, the sum of 16

cents for each cubic foot of radioactive waste buried at the Site during the preceding quarter. Said sum shall be increased every three years on the anniversary date of this lease in accordance with the following formula:

In accordance with the Consumer Price Index for all items for the "South" region as published by the Department of Labor in the Current Labor Statistics - Monthly Labor Review utilizing the March, 1976 index as the base.

The parties expressly agree hereby that upon expiration or earlier termination of this lease, all materials buried at the Site prior to such expiration or termination shall remain so buried and shall be thereupon owned by and the sole and exclusive responsibility of Lessor, its successors or assigns. The parties also recognize that the escrow fund set up by the parties pursuant to agreement dated April 21, 1971, for perpetual care of the waste buried at the Site shall continue to be maintained and the payments made pursuant to this paragraph shall be added to such fund. Interest earned upon said fund shall accrue to the fund. In order for the Lessor to determine the proper payments of the Lessee, the Lessor shall have access to and the right to examine any pertinent books, documents, papers, accounts and records of the Lessee involving operations on the leased premises. Lessee further covenants to surrender all receipt and burial records to Lessor five (5) years after the ending of the fiscal or calendar year to which the records pertain or within one (1) year after vacating the Site. Surrendered records will be made available at the request of the Lessee. **(EDITOR'S NOTE: Paragraph 7 was later amended in 1979 and again in 1985. Therefore, this language is no longer current. Both sets of amendments are available on the SCEO website, www.state.sc.us/energy)**

8. The Lessee will not, without the Lessor's consent, violate any of the terms and conditions of this Lease, will not violate the terms of authorizing licenses issued by the South Carolina Department of Health and Environmental Control and the Nuclear Regulatory Commission or any other appropriate authority, will not use any part of the lease premises in a manner not in compliance with the covenants and purposes of this lease, or will not fail to comply with any applicable laws, regulations, and ordinances of the United States and the State of South Carolina. If such violations, misuse, or non-compliance occurs, the Lessor shall have the right, upon giving the Lessee a reasonable time in which to effect good compliance and sixty days written notice of its intention to terminate this lease, re-enter and take possession of the premises, and lease the Site to a third party, at the option of the Lessor. However, in the event of changes in the laws or regulations applicable to the Site for disposal of radioactive waste which makes such continued operation by Lessee impossible or economically unfeasible, ceasing to use the Site for its present purpose and using the Site for another reasonable purpose shall not be considered a violation, misuse or noncompliance with this Lease: provided, however, in the event that changes in the applicable laws and/or regulations make continued operation economically impossible or unfeasible, prior to the use of the Site for any other reasonable purpose by the Lessee, the Lessor and the Lessee herein, shall enter into such agreements or amended agreements to be negotiated and agreed upon between the Lessor and the Lessee, as will insure the continuation of the escrow account and perpetual care fund established April 21 1971 and continued pursuant to paragraph 7 of this lease agreement.

Neither this Lease, nor any terms thereof, shall operate to restrain the Lessor, when acting in its capacity as Sovereign of the State of South Carolina, from fulfilling its responsibilities as Sovereign, including but not limited to a determination on the part of the Sovereign that a public emergency exists and that immediate State action is necessary.

In the event of condemnation of the Site, the fair market value of the Site shall be determined as the value of the highest and best use for such property, including, but not limited to, the use of the Site for disposal of radioactive waste and the Lessee shall be entitled to the portion of any condemnation award allocable to the use of the Site during the remaining term of this lease. **(EDITOR'S NOTE: Paragraph 8 was amended in**

1979, and this language is no longer current. The 1979 Amendments are available on the SCEO website at www.state.sc.us/energy.)

9. The Lessee agrees that the Lessor's failure to insist upon the strict performance of any provision of this lease, failure to exercise any right based upon a breach thereof, or the acceptance by the Lessor of any rent during such breach shall not waive any of the Lessor's rights under this lease.

In the event of any dispute between the parties with respect to any of the terms or provisions of this lease or alleged violations thereof, such disputes shall be submitted to arbitration by a disinterested person to be known as the Arbitrator, who shall be appointed as follows:

Either party may give written notice to the other of a dispute, briefly describing it and requesting arbitration thereof. Each shall, within ten (10) days after receiving such notice, appoint in writing one disinterested party and these disinterested parties as appointed, shall, within ten (10) days of their appointment, choose the Arbitrator, who shall determine the matters in dispute forthwith; the or determination as made by the Arbitrator shall be final and binding upon the parties hereto respectively and their respective successors or assigns.

10. The matter of whether any alleged violation of this Lease is substantial enough to warrant its termination under the provisions of paragraph 8 hereof shall be a proper subject for decision by the Arbitrator as described above. In the event that the Arbitrator concludes termination of this Lease would be warranted under the facts of the matter, Lessee shall have a reasonable time after the Arbitrator's decision to effect good faith compliance prior to sending of the sixty days written notice of intent to terminate this lease. The Arbitrator shall specify the items at issue on which good faith compliance is necessary to avoid termination and a reasonable time for such compliance.

11. Any notices, demands, requests, consents, approvals, and/or other communications which may be or are required to be given by either party to the other under this Lease shall be in writing and shall be deemed to have been sufficiently given for all purposes when delivered or mailed by certified mail, postage prepaid. Notices to the Lessor shall be given by mailing to the Budget and Control Board, 205 Wade Hampton Office Building, Columbia, South Carolina 29201 and to the Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201. Notices to the Lessee shall be given by mailing to Chem-Nuclear Systems, Inc. , Post Office Box 1866, Bellevue, Washington 98009.

12. Execution of this Lease by Lessor and Lessee shall terminate and replace any presently existing Lease between the parties related to the premises described herein and shall terminate and replace that certain agreement between the parties dated April 21, 1971, under which an escrow fund for perpetual care of waste buried at the Site was established.

13. That the Lessee shall provide all hazard and fire insurance at its own proper expense on all outbuildings, fixtures and other personal property situate on the leased premises, with loss payable provisions in favor of the Lessee. The proceeds from any hazard or fire insurance shall be used by the Lessee to replace all or so much of said outbuildings, fixtures or other personal property as may be economically reasonable and feasible.

IN WITNESS WHEREOF, the parties hereto have executed these presents in duplicate, the day and year first above written.