

FACILITY USE AGREEMENT

THIS AGREEMENT is made and entered into as of the date of the last signature below (hereinafter the "Effective Date") by and between _____, located at _____ (hereinafter the "Company"), and The Board of Regents of the University of Nebraska, a public corporate body, acting by and on behalf of the University of Nebraska-Lincoln (hereinafter the "University"), located at 1400 R Street, Lincoln, NE 68588. Company and University are sometimes referred to herein individually as a "Party" and collectively as the "Parties."

PREAMBLE

WHEREAS, University has facilities requested for use by Company for the purpose of _____ (the "Scope of Use");

WHEREAS, Company desires to access and use the facilities of the University, at the discretion of and under the supervision of the University;

WHEREAS, University is willing to allow access to and use of its facilities as defined below and in Exhibit A hereof, to Company.

NOW, THEREFORE, in consideration of the mutual covenants of the Parties hereinafter contained and for good and valuable consideration, the legal sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

SECTION 1. TERM AND TERMINATION.

1.1 This Agreement shall commence as of the Effective Date and shall end _____, 20__ , unless sooner terminated as provided for herein (hereinafter the "Term"). The Parties may extend the Term at any time prior to its termination upon mutual written agreement.

1.2 Either Party may terminate this Agreement immediately at any time upon written notice to the other, with or without cause.

SECTION 2. LICENSE AND USE OF PREMISES.

2.1 The University hereby licenses _____ (the "Premises") to the Company, and the Company hereby licenses the Premises from the University, for the sole purposes outlined as the Scope of Use, and for no other purpose, for the Term of this Agreement.

2.2 Company agrees to use the Premises in such a manner as to not interfere with the rights of the University's use of the building in which the Premises are located, to comply with all applicable laws, ordinances, and regulations in connection with its use of the Premises, to keep the Premises in a clean and sanitary condition, and to use all reasonable precaution to prevent waste, damage, or injury to the Premises.

SECTION 3. REPRESENTATIONS, WARRANTIES AND INSURANCE

3.1 The University hereby represents that it is free to enter into this Agreement and, in doing so will not violate any other agreement to which it is a party.

3.2 THE UNIVERSITY MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE MARKETABILITY, USE OR FITNESS FOR ANY PARTICULAR PURPOSE OF THE PREMISES PROVIDED UNDER THIS AGREEMENT.

3.3 Company agrees to indemnify and hold harmless the University and its employees and agents against any and all costs, damages, and expenses, including attorneys' fees, arising from any claims, damages, or liabilities asserted by third parties arising from Company's use of the Premises hereunder. In no event shall University or its employees or agents be liable for any loss, claim or damage which may arise from or in connection with this Agreement.

3.4 Throughout the Term of this Agreement, Company shall obtain and maintain at its own cost policies of insurance from a qualified insurance company sufficient to support the indemnification, loss and damage obligations assumed herein, but the amount shall not be less than \$1 million for each occurrence and \$3 million aggregate for any injury, personal injury or death, and for any damage to the Premises. Such policies shall name the University as an additional insured. Such insurance shall be comprehensive general liability insurance or such other forms of insurance that shall include coverage for contractual liability and broad form property damage and any specific activities contemplated by the use of the Premises not delineated herein. Company agrees to furnish University a certificate of insurance evidencing the same prior to its use of the Premises.

SECTION 5. INDEPENDENT CONTRACTOR.

The relationship between the Parties is that of an independent contractor and neither Party shall have the authority to bind or act on behalf of the other Party without its prior written consent. This Agreement shall not constitute, create, or in any way be interpreted as a joint venture, partnership or business organization of any kind.

SECTION 6. AMENDMENTS.

This Agreement and any exhibits shall constitute the entire understanding of the Parties hereto relating to the subject matter hereof and shall not be changed or modified except in writing and signed by authorized representatives of the Parties. All prior agreements, whether written or oral between the Parties relating to the subject matter hereof are superseded and are of no further force or effect.

SECTION 7. FORCE MAJEURE.

Neither Party shall be held liable or responsible to the other Party for failure or delay in fulfilling or performing any term of the Agreement, and for so long as, such failure or delay is caused by or results from causes beyond the reasonable control of the affected Party including but not limited to fires, earthquakes, floods, embargoes, wars, acts of war (whether war is declared or not), insurrections, riots, civil commotions, strikes, lockouts, acts of God, pandemics or epidemics, or acts, omissions or delays in acting by any governmental authority or other Party.

SECTION 8. WAIVER.

No failure or delay of one of the Parties to execute any of its rights or powers under this Agreement will operate as a waiver thereof, nor any other single or partial exercise of such right or power preclude any other further exercise of any rights or remedies provided by law.

SECTION 9. APPLICABLE LAW.

The validity, interpretation, performance, rights and duties with respect to this Agreement shall be determined by the laws, and within the jurisdiction, of the state of Nebraska, without regard to its or any other jurisdiction's conflicts of law rules.

SECTION 10. GENERAL PROVISIONS.

10.1 If any provision of this Agreement is deemed void in whole or in part for any reason whatsoever, the remaining provisions will remain in full force and effect.

10.2 Equal Opportunity Employment. In relation to the course of its business conducted in the Premises, Company agrees to comply with all existing federal, state and local laws prohibiting discrimination. Further, the Company agrees to abide by all Company and University policies regarding discrimination.

10.3 Sexual Harassment. Federal law and the policies of the Company and University prohibit sexual harassment of any University student, faculty, staff or employee. Sexual harassment includes any unwelcome sexual advance, any request of a sexual nature that is so pervasive as to create a hostile or offensive working environment or a hostile or offensive academic environment. Company, and any contractors, subcontractors and suppliers for Company's activities described in this Agreement are required to exercise control over their employees so as to prohibit acts of sexual harassment of University students, faculty, staff, employees or guests. Should Licensor, in its reasonable judgment, determine that any employee of the Company or of its contractors, subcontractors or vendors has committed an act of sexual harassment, Company agrees as a term and condition of this Agreement to cause such person to be removed from the Premises and from the property of Licensor and to take such other action as may be reasonably necessary to cause the sexual harassment to cease.

10.4 Drug Free Workplace. Company agrees that in the performance of this Agreement neither the Company nor any employee of the Company shall engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity related to the Premises. Licensor reserves the right to request a copy of the Company's Drug Free Workplace Policy.

10.5 Weapons Policy. Possession of dangerous weapons (concealed or unconcealed) on University property, in University vehicles, or in personal vehicles when on University property shall be a violation of University policy. A dangerous weapon shall include guns, knives, explosives, or any other device as determined by University, which in the manner used or intended is capable of producing death or bodily injury. Devices authorized by the Vice Chancellor for Business and Finance and/or provided to University's employees for the purpose of discharging work responsibilities shall not be deemed dangerous weapons for the purpose of this policy. Violations of this policy shall make the offender subject to appropriate disciplinary action. Should University, in its reasonable judgment, determine that Company or its employee or agent has committed an act in violation of this policy, Company agrees as a term and condition thereunder to cause such person and weapon to be removed from University property and to take such other action as may be reasonably necessary to ensure compliance with this weapons policy.

10.6 Youth Safety Policy. Company agrees that in the performance of this Agreement, Company will comply fully with all terms and conditions of the University Youth Safety Policy.

10.7 This Agreement may be executed in counterpart originals. There are no representations or understandings of any kind not expressly set forth herein. Any amendments or modifications to this Agreement must be in writing and executed by both parties.

10.9 No right or license is granted under this Agreement by University to Company, either expressly or by implication.

10.10 This Agreement constitutes the entire agreement and understanding between the parties, and supersedes all offers, negotiations and other agreements concerning the subject matter contained herein. This Agreement may not be assigned by either Party without the prior written consent of the other Party.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date set forth below.

[COMPANY]

BOARD OF REGENTS OF THE UNIVERSITY OF NEBRASKA
ON BEHALF OF THE UNIVERSITY OF NEBRASKA-LINCOLN

Signature of Authorized Official

Signature of Authorized Official

Typed or Printed Name and Title

Vice Chancellor for Business and Finance

Date: _____

Date: _____