

Tobacco Valley Industrial Park Incubator Lease Agreement

This Lease made at Eureka, Montana on _____, by and between the Tobacco Valley Industrial Park (TVIP) hereinafter referred to as Lessor and _____ hereinafter referred to as Lessee, is made to define the mutual promises, covenants, conditions and terms to be kept and performed by both parties. This Lease expires _____.

It is agreed between the parties hereto as follows:

GENERAL CONDITIONS

Section 1.

Notwithstanding anything to the contrary herein, this agreement consists of this document and the latest revision of "Attachment A" attached hereto.

Section 2.

Lessee hereby agrees to lease Bay # _____ and office space suite # _____ (hereinafter referred to as Leasehold) for a period of 12 consecutive months at the rental rate of \$ _____ per month which includes office use service charges as described in Attachment A. This rental payment is due the (1st) day of each month. Leases beginning other than the (1st) day of each month will be pro-rated accordingly for the (1st) month.

This lease agreement may be renewed for an additional 2 years (3 years total) as needed/requested by the Lessee, if all conditions are met and the business is showing growth. An additional 4th year may be available if approved by the US Dept. of Commerce Economic Development Administration.

Section 3.

If Lessee fails to pay a rental payment or office use service charge on or before the 10th day of the month for which it is due, the Lessor has the right to request a mandatory meeting with the Lessee to discuss delinquent payment status.

DEPOSIT

Section 1.

Lessee shall post a security deposit with Lessor equal to one month's rental payment and the last month's rent. One half of this deposit will be returned provided the Lessee

shall vacate the Leasehold following proper notice, leaving it and all equipment in the condition in which it was received, all keys returned, and be current in all rental and service payments. If leased space is not clean or is in need of repairs upon Lessee's move out, the Lessor has the right to deduct the cost of cleaning and/or repairs from the Lessee's Security deposit and reserves the right to charge the Lessee one additional month's rent to prepare the lease space for a new tenant/ lessee.

Section 2.

Lessor, without in any way limiting its remedied or right to recovery, may apply all or part of the security deposit to repair or replace any missing or damaged fixture or to perform any unfilled obligation of Lessee.

MAINTENANCE AND IMPROVEMENTS

Section 1.

Lessee shall provide at its own cost routine maintenance of the leased space. **It is expected that the bays and offices will be kept clean at all time.**

Section 2.

Lessor shall perform all necessary repairs, replacements and required maintenance with respect to general plumbing, wiring, roof, supporting structural members and heating. Lessee shall be responsible for any damage caused by Lessee which would include heat controls within leasehold and any damage to electric, plumbing or structure within leasehold and must notify Lessor prior to repair, replacement or maintenance of same. Lessee is not responsible for exterior damages/maintenance unless it is due to Lessee negligence or actions.

Section 3.

Lessee may, with the prior written consent of Lessor's management, make repairs that are the obligation of the Lessor. Reimbursement for these repairs will be limited to the specific item and specific dollar amount the Lessor's management approved in advance and both parties agreed to accept.

Section 4.

Lessee may, with the prior written consent of the Lessor's management, make alterations to the leasehold at his or her own expense, provided such alteration does not impair the structure in which the leasehold is situated. **There will be absolutely no drilling into the concrete flooring.**

Section 5.

At the termination of this lease, Lessee must remove any alteration which it has made pursuant to section 9. and repair any damage caused by removal. Any deviation from this requirement must be by written consent of Lessee management.

LEASE RENEWAL

Section 1. This lease may be renewed provided:

- a) Lessee will give at least 30 days written notice to Lessor of their intention to renew said lease.
- b) Lessee is current in his or her payments to Lessor and not in violation of any of the terms and other conditions of this lease.
- c) Rental rates are agreed upon. **It is expected that rates will increase 10% every year and all rates are based on an annual review of Fair Market Values conducted by the Board.**
- d) Lessor's building and space are available.

The term is for one year with options to renew annually, up to 3-years. Upon the conclusion of the third year, Lessee will need to seek approval from the TVID Board of Directors and the US Economic Development Administration, to extend lease beyond 3 years **for one additional year. As per US Economic Development Administration the lessee cannot occupy a space more than 4 years total.**

INSURANCE

Section 1.

Lessee shall carry at least the following minimum amounts of insurance which shall be maintained in full force and effect during the life of this agreement.

- a) Public Liability Insurance for damages and injuries in an amount not less than \$50,000 for any one person and in an amount of no less than \$500,000 for any one accident or occurrence.

Lessee shall furnish to Lessor a certificate showing that the insurance described is in full force and effect prior to the commencement of this lease agreement. Lessee must include Tobacco Valley Industrial District and Lincoln County as additional insurers.

Section 2.

Lessee shall indemnify and hold Lessor and all Board Members harmless from all claims or liabilities of any type of nature to any person, firm or corporation, including any agents or employees of Lessee, arising in any manner from Lessee's performance of operations and business covered by this agreement.

Section 3.

Lessee shall promptly execute and comply with all statutes, rules, orders, ordinances, requirements and regulations of the County, State, or Federal Government and any and all of its departments and bureaus applicable to said demise premises for the correction, prevention or abatement of nuisances or other grievance in, upon or connected with said premises, during the said term, and that periodic no-notice safety inspections may be conducted by Fire Departments, Insurance Companies or other lawful inspectors,

except that all structural alteration or additions shall be made by Lessor at Lessor's expense.

SUBLETTING

Section 1.

Assignment and subletting are not permitted under this lease without prior written approval of the Economic Development Administration and the Lessor management. Lessee may not occupy the premises for residential use, or permit or suffer the said premises to be occupied for any business, person or purpose deemed disreputable. Lessee is responsible for damages caused by Lessee's use – including its agents, employees and visitors – including damages to other areas of the building and property.

Section 2.

Lessee for itself, its successor and assigns and for all persons claiming or to claim sublet it or them, hereby expressly covenants and agrees that if at appointed in solvency proceedings, then in that event this lease forthwith shall terminate and be at an end at the opinion of the Lessor, this covenant being one of the considerations whereby Lessor is induced to make this lease.

PAYMENT

Section 1.

If Lessee defaults in payment of rent or in the performance of any of the covenants continued in this lease or in the event Lessee fails to prevent, correct or abate nuisances or other grievances, which directly or indirectly interferes with, harms or dangers the operations or products of another tenant or tenants of Lessor building or in the event that Lessee shall become insolvent or bankrupt or shall make an assignment for the benefit of creditors, Lessor may terminate this lease, and at the expiration of (10) days the term of the lease shall cease and expire as if it were the expiration of the original term.

That in case this lease shall be terminated, cancelled or forfeited by sublet, any of the terms and conditions herein contained or demised premise be vacant for a period of ten (10) days. Lessor shall immediately have the right to re-enter and take possession of said premises and re-occupy the same without notice and without being liable for damages, and also any part of the premises herein demised that may have been sub-leased. Lessor may re-let the premises for the remainder of the term at the best rent it can obtain for the account of the Lessee who shall make good any deficiency, which shall be payable monthly.

ACCESS and PERFORMANCE

Section 1.

That Lessor, its employees or agents, shall have at reasonable times, access to any part of said premises for the purpose of examining same or make any necessary repairs or changes in plumbing, electric wiring, or pipes, heating or other alterations and repairs in

any part of the premises hereby leased, which it may be incumbent upon Lessor to make. At any time during normal business hours and as frequently as is deemed necessary, the Lessee shall make available to the Lessor and the Economic Development Administration or EDA's authorized agents, for their examination, all of its' records pertaining to matters covered by this Lease Agreement and only matters relating to the Lease Agreement.

Section 2.

The Lessee covenants both for itself and its agents and employees faithfully to observe and keep all necessary rules and regulations of the building which affect said premises and will at its own cost and expense make any and all necessary alterations or changes in the premises which may be necessary because of any act of Lessee, it's employees and agents in violation of any law, ordinance, rule or regulation of any city, State or Government body, except that all structural alterations or additions may only be made upon the prior written approval of the Lessor; that upon the failure of Lessee to make or proceed to make, any such changes or alterations within thirty (30) days after being required to by any other order, rules, regulation ordinance or listed above referred after receipt of said order or notice, that then and in that event the said Lessor may enter the premises at its option and do and perform said alterations or make such changes at the cost and expense of Lessee, which said expense shall be deemed as rent and added to the next monthly installment of rent then accruing and be collectable as such.

Section 3.

In case of any damages or injury to the glass in demise premises or damage or injury to the same premises of any kind whatsoever, said damage or injury being caused by the carelessness, negligence or improper conduct of Lessee, its agents, guests, or employees, then said Lessee shall cause said damage or injury to be repaired in equal quality and type as speedily as possible at its own cost and expense, otherwise the same shall be replaced and repaired by Lessor at the cost of Lessee.

Section 4.

The Lessee shall not discriminate against any qualified employee or applicant for employment because of race, color, national origin, religion, sex, age or physical or mental disability.

Section 5.

All records in the possession of the Lessee pertaining to this lease shall be retained by the Lessee beginning with the date upon which this lease is executed and for a period of three (3) years after the expiration of the lease and any renewals thereto. All records shall be retained beyond the three (3) year period if audit findings have not been resolved within that period or if other disputes have not been resolved.

Section 6.

Lessor warrants and represents to the Lessee that they have no knowledge of the presence or of the release, now or in the past, of any hazardous substance or material on the premises. Lessor agrees to hold the Lessee free, harmless and indemnified from any penalty, fine, liability, cost or charge whatsoever related to any damage or condition that might be caused by any existing environmental condition that currently exists on the premises.

Lessee covenants and agrees that throughout the Term its' use and occupancy of the premises will at all times be in strict compliance with all governmental regulations, be they federal, state or local, that pertain to the use and storage of hazardous materials and substances, and Lessee shall save and hold Lessor free, harmless and indemnified from any penalty, fine, liability, cost or charge whatsoever which Lessor may incur by reason of Lessee's failure to comply with this paragraph. Such covenants, however, shall not apply to any condition that existed at the time Lessee first took possession of any part of the premises, or which is caused or results from acts of others, including Lessor.

Section 7.

The spraying of flammable materials or mixtures or compounds used for painting, varnishing, staining or similar purposes is expressly prohibited without written consent of Lessor management. Consent will be given only when compliance to Section 416 of the International Building Code has been demonstrated and construction and equipment comply with the International Fire Code.

Section 8.

Lessee agrees at the term of this lease to keep the floor of these premises in a clean and sanitary condition, to use all necessary and approved safeguards and fire prevention, to maintain drip pans under any of its vehicles or machinery to prevent oil, grease, ink or other materials from sinking/absorbing into leased premises or common areas including excessive situations within the parking area beyond normal wear and tear. Lessee shall not cause any holes to be made in said floor or walls for the purpose of anchoring machinery, shelving, office partitions or for any other reason whatsoever, unless express authorization is obtained from Lessor.

SIGNAGE

Section 1.

Lessee will be charged for all signage per "Attachment A" and only Lessor will provide and install this signage. No other signage shall be utilized. If Lessee violates this stipulation and installs signage (including door signs), and damage occurs from the signage removal, the Lessee will be responsible for all repair costs associated with the removal of the unauthorized signage.

INJURY and DAMAGES

Section 1.

It is expressly understood and agreed by and between the parties to this Agreement that Lessor shall not be liable for any damages or injury caused by water which may be sustained by Lessee or other person; or any damage or injury resulting from the carelessness, negligence, or improper conduct on the part of any other lessee or agents or employees, or by reason of the breakage, leakage, or obstruction of water sprinkler of said pipes , electrical conduits or wiring or other leakage or breakage in or about said building, unless due to Lessor's negligence or neglect.

Section 2.

Lessee further agrees that it will not encumber or obstruct the sidewalk or accessways in front of or adjacent to said building or allow the same to be obstructed, and that no goods, materials or machinery or other articles shall be stored on said sidewalk or in the hallways of the leased premises, or left there for a period longer than shall be absolutely necessary to transport them to or from premises of Lessee.

TRASH REMOVAL

Section 1.

Lessor agrees to provide suitable trash containers in the common office and to remove the office trash as required to maintain a clean area. Lessee is responsible for the removal of all trash generated within its Leasehold. If an accumulation of Lessee's trash exceeds a reasonable level, Lessor will remove the trash and charge the Lessee \$60.00 per hour for the removal plus any extraordinary charges for hazardous waste handling etc. Lessee will store nothing outside without written permission of Lessor management.

SMOKING

Section 1.

Lessee is responsible for the smoking of all of its employees, agents and representatives within 50 feet of the building. The only smoking permitted consistent with the Lincoln County Health Department regulation is in the designated smoking areas outside the building. All smoking products, including cigarette butts, are to be properly disposed in the smoking container at this designated site. All other wrappings and smoking debris are to be properly disposed in a garbage container.

RESPONSIBILITY

Section 1.

Lessee is responsible for the use of the premises – including protection of all building keys – by any of its employees, agents and representatives. All such persons shall maintain locked building premises whenever entering or leaving the building prior to 8:00 A.M. on normal business days; entering or leaving the building after 4:00 P.M. on normal business days; and at all times during weekends and holidays. No building keys

shall be copied or made available to others not specifically approved – in writing – by incubator management.

Section 2.

The Lessor has the right to charge the Lessee \$25.00 per lost or damaged key. If Lessor determines that the door must be re-keyed, there will be a \$100.00 fee charged to the Lessee.

Section 3.

Lessee agrees to follow scheduling procedures for the use of the conference room, including posting Lessee's name on the master calendar to include the date and time in which the conference room will be used. Lessee also agrees to clean all common meeting areas immediately following Lessee's use of such areas. Lessee shall abide by the written cleaning instructions provided in the room and appropriately clean all other common areas after Lessee's use.

PARKING

Section 1.

Lessee agrees to park all vehicles, including private automobiles of employees and visiting guests, in designated parking areas.

OTHER

Section 1. This Lease is non-assignable. Parties agree that in event of any dispute concerning this contract, venue shall be in Lincoln County.

Section 2.

If Lessee is a corporation or other entity, the individual signing this Lease will also be personally and individually responsible for all rent, service or other obligations arising out of this lease.

Section 3.

In the event that a dispute arises between the parties and either party secures the assistance of legal counsel, the non-prevailing party shall pay the prevailing party his or her actual attorney's fees and costs incurred, with or without suit or other legal proceeding. For the purposes of this clause, the term "prevailing party" is defined as the party in whose favor a net monetary judgment or settlement is awarded or secured after all offsets, claims, counterclaims and allowances have been resolved, exclusive of the attorney fee award.

SIGNATURES

In witness whereof, Lessor has presented this signed and sealed, and Lessee has signed and sealed, the day and year first above written. SIGNED AND ACKNOWLEDGED

LESSEE :

Business/Organization Name _____

Signature _____ Title _____

Date: _____

LESSOR:

Organization Name : Tobacco Valley Industrial Park

Signature _____ Title _____

Date: _____