

# BOISE STATE UNIVERSITY TECHNOLOGY AND ENTREPRENEURIAL CENTER

## LEASE AGREEMENT Resident Tenant

This Lease Agreement (the "Lease") is entered into as of \_\_\_\_\_ (the "**Effective Date**"), between the Boise State University Technology and Entrepreneurial Center, a department of Boise State University, an Idaho state institution of higher education (the "**TECenter**") and \_\_\_\_\_ (the "**Client**").

### RECITALS

- A. It is the purpose of the TECenter to foster economic development within the State of Idaho by supporting the formation and growth of new companies that will commercially develop the results of innovative technology.
- B. The Client has applied for and has been granted acceptance as a "Resident Tenant" in the TECenter on the basis of bringing a synergistic value to the existing companies in the TECenter in contributing to the TECenter's purpose set forth above.
- C. In furtherance of such purpose, the Client wishes to lease from the TECenter, and the TECenter wishes to lease to the Client, space located in the TECenter facility based on the terms and conditions set forth in this Lease.
- D. In conjunction with the execution of this Lease Agreement, the Client and the TECenter are also entering into a TECenter Nondisclosure Agreement (the "**Nondisclosure Agreement**").

NOW, THEREFORE, in consideration of the premises and the mutual promises made herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

### 1. Leased Premises

- 1.1 The TECenter, in consideration of the rents to be paid and the agreements to be performed by the Client, hereby leases to the Client and the Client hereby leases from the TECenter the space located on the Boise State University West Campus, **5465 East Terra Linda Way**, Nampa, Idaho 83687 which space is described on Exhibit 1.1 attached hereto. The building in which the space is leased to the Client is referred to in this Agreement as the "**Building**" and the space in the Building leased to the Client is referred to as the "**Leased Premises.**" Any special provisions concerning improvements to be made to the Leased Premises as specified in Exhibit 1.1 The TECenter reserves the right to relocate the Client to comparable space within the Building during the Lease Term so long as the number of square feet and the nature of the installed utilities so substituted equals or exceeds the number of square feet and the nature of the installed utilities in the Leased Premises so long as the comparable space is acceptable in the reasonable discretion of the client.

- 1.2 The Client shall also have a nonexclusive right to access such common areas as the TECenter may provide for the use of its clients and tenants.
- 1.3 This Lease is subject to all easements, mortgages, zoning, governmental restrictions, encumbrances and restrictions of record applicable to the Building.
- 1.4 The Client acknowledges that neither the TECenter nor anyone on its behalf has made any representations, warranties or promises with respect to the Leased Premises or this Lease, except as expressly set forth in this Lease and the exhibits attached hereto.

## 2. Lease Term

- 2.1 Unless terminated earlier as provided in this Lease, the "**Lease Term**" shall consist of the Initial Term and any Renewal Terms.
- 2.2 The Initial Term of this Lease shall begin on the Effective Date specified above, and shall automatically renew for an additional one (1) month periods unless terminated as provided herein.
- 2.3 Upon the expiration of the Initial Term, this Lease may be renewed for successive Renewal Terms of one month each, on the following conditions:
  - (a) The Client is current in the payments due to the TECenter under this Lease, the Services Agreement and;
  - (b) No event shall have occurred and be continuing which is a default of the Client under this Lease or under the Services Agreement, or which would be such a default upon the giving of notice or the passage of time, or both if such default is such that it could not be cured within the cure period and Client has commenced to remedy such default and been proceeding diligently to remedy such default; and
  - (c) The TECenter shall have determined in its reasonable discretion that continued tenancy of the Client would be consistent with the purposes of the TECenter; and
  - (d) The TECenter requires and the client accepts subsequent increases in rent of 10% for year two and an increase of 20% for year three.
- 2.4 The parties to this Lease may terminate this Lease at any time without incurring any additional liability by giving the other party written notice at least 30 days prior to the effective date of such termination. Such termination shall not affect the obligations of the parties under this Lease arising through the date of such termination.

### 3. Use of the Leased Premises

- 3.1 The Leased Premises shall be used and occupied only as office or light industrial space for research and commercial development as designated in Exhibit 1.1 attached hereto.
- 3.2 The TECenter reserves the right from time to time in its reasonable discretion to make, modify and revoke rules and regulations applicable to the Building in which the Leased Premises are located. The Client agrees to comply with such rules and regulations once the Client has received notice of them from the TECenter. The making, modification or revocation of such rules and regulations will not be deemed an amendment of this Lease, but the Client's failure to comply with such rules and regulations will be a default under this Lease. The initial rules and regulations are, and any changes to the rules and regulations will be posted in the TECenter; such posting shall constitute notice to the Client.

### 4. Possession and Quiet Enjoyment

- 4.1 Possession of the Leased Premises shall be given to the Client on the Effective Date specified above.
- 4.2 So long as the Client fully and promptly pays the rent provided for in this Lease and performs all of the other terms of this Lease, the Client shall at all times during the Lease Term peacefully and quietly enjoy the Leased Premises without any disturbance from the TECenter or from any other person claiming through the TECenter, subject, however, to the reservations and conditions of this Lease, any underlying leases, and any mortgages and encumbrances to which this Lease is subordinate.
- 4.3 The Client agrees to prevent, correct or abate, within a reasonable time after receiving notice from the TECenter, any excessive noise, vibrations, odors, or other nuisances which interfere with the operations of one or more of the other clients of the TECenter.
- 4.4 The TECenter shall have at all reasonable times, and on reasonable notice, access to the Leased Premises for the purposes of examining the Leased Premises. The Client shall not install security systems or devices which impede the TECenter's right of access to the Leased Premises.

### 5. Rent

- 5.1 Rent shall be paid by the Client to the TECenter at the TECenter's address, unless the TECenter designates another place. The rent for the Leased Premises shall be as provided in Section 5 and shall be paid without abatement, deduction or set off for any reason except as specifically provided in this Lease.
- 5.2 For the Initial Term of this Lease, the Client shall pay the TECenter rent as per Exhibit 5.2. Payments are due in 12 equal installments on the

first day of each month. In addition, the Client shall pay the TECenter an adjusted portion of any single month's rent if and when the Client occupies the Leased Premises for a portion of time less than one month. The adjusted portion of any single month's rent due to the TECenter shall be the prorated amount of a single month's rent that corresponds to the portion of time less than one month that the Client occupied the Leased Premises.

- 5.3 If the Client fails to pay any monthly rental payment on or before the tenth day after the date on which it is due, the Client shall pay to the TECenter a penalty equal to 10% of the monthly rental payment that is delinquent.
- 5.4 The Client shall, prior to occupying the Leased Premises, post a security deposit with the TECenter equal to one month's rent. The TECenter shall return the deposit to the Client at the expiration of the Lease Term provided that the Client has vacated the Leased Premises promptly, leaving the Leased Premises in substantially the same condition in which the Leased Premises were received by the Client at the beginning of the Lease Term (ordinary wear and tear is excepted as are modifications pre-approved by the TECenter), has returned all security devices and is current in all of its obligations under this Lease. Without in any way limiting the TECenter's remedies, the TECenter may apply all or any part of the security deposit to repair or replace any missing or damaged fixtures or to perform any unfulfilled obligations of the Client under this Lease.

## 6. Maintenance

- 6.1 The TECenter shall perform or cause to be performed all necessary repairs, replacements, and required maintenance with respect to the Building, including all plumbing, electrical, telecommunications, wiring, roofing, supporting structural members, locks, heating, ventilation and air conditioning, and shall provide or cause to be provided routine cleaning, janitorial services and exterior maintenance, including snow removal and outside lighting. The TECenter shall have at all reasonable times, and on reasonable notice, access to the Leased Premises for the purposes of performing any such repairs, replacements or maintenance. The TECenter shall have no other repair, replacement or maintenance obligations.
- 6.2 The Client agrees to maintain the Leased Premises, as well as all of the Client's fixtures and the Client's improvements, in good condition and repair during the Lease Term, to the reasonable satisfaction of the TECenter. If the Client fails to perform such maintenance and after Client fails to take action upon request by TECenter, the TECenter shall have the right to enter the Leased Premises and to perform such maintenance, and the Client shall reimburse the TECenter for the cost of such maintenance.

## 7. Utilities and Operating Expenses

- 7.1 The TECenter agrees that certain utilities and municipal services (including gas, water, sewer and non-hazardous waste disposal) shall be

available to the Leased Premises and in operating condition at the beginning of the Lease Term. These utilities and municipal services shall be included in the Client's rent at the outset of the Initial Term.

Telecommunication charges and electricity (prorated based on square footage) are excluded from the utilities provided by the TECenter. The TECenter reserves the right, in its sole discretion and upon 30 days written notice to the Client, to separately meter any utility or municipal service. If any utility or municipal service is separately metered, the TECenter may in its discretion, but shall not be obligated to, provide a reduction, proportional or otherwise, in the Client's rent.

- 7.2 The Client shall pay for any special fixtures, connection charges and office equipment (including phones) required for its use of utilities in the Leased Premises.
- 7.3 The TECenter shall have the right to grant easements in areas of the Leased Premises for the installation of utilities provided the use of such easement areas for such purposes does not interfere with the Client's use of the Leased Premises. The Client shall not be entitled to any compensation or abatement of rent for the use of such easement areas.

## 8. Client's Assistance

- 8.1 The Client shall permit the TECenter and any party designated by the TECenter to erect, use, maintain and repair pipes, cables, conduits, plumbing, vents and wires in, to and through the Leased Premises, to whatever extent the TECenter may deem reasonably necessary or appropriate for the proper operation, maintenance or repair of the Building or any connection with easements granted under this Lease so long as this does not result in the substantial interference with the use of the leased premises. All such work will be done so as is practicable in such manner as to avoid interference with the Client's use of the Lease Premises. The Client agrees to report immediately to the TECenter any defective condition in or about the Leased Premises.

## 9. Alteration by the Client

- 9.1 The Client shall make no alterations in or additions to the Leased Premises without the prior written consent of the TECenter, which the TECenter may withhold in its sole discretion. The TECenter may consent to alterations to the Leased Premises on the condition that the TECenter perform the work or arrange for such work to be performed, in either case at the Client's expense.
- 9.2 At the termination of the Lease Term, and with the prior written consent of the TECenter, the Client may remove any alterations or additions which it has made pursuant to this section, so long as such removal is done without damaging the Leased Premises or the Building. Any alterations or additions left after termination of the Lease Term shall become the property of the TECenter without cost to the TECenter.

## 10. Renovation by the TECenter

- 10.1 If the TECenter determines that it is necessary to effect renovations of the Building in which the Leased Premises are located, or of the improvements of which the Building is a part, such action shall be made at the TECenter's expense under this Lease. Renovation shall be done as far as is practicable in such a manner as to avoid substantial interference with the Client's use of the Leased Premises.

## 11. Property of the Client

- 11.1 So long as the Client is not in default under this Lease, the Client may, prior to the expiration of this Lease, remove all fixtures and equipment which it has placed in the Leased Premises, but the Client shall repair all damage at its own expense to the Leased Premises caused by such removal.
- 11.2. If the Client fails to remove all of its effects from the Leased Premises upon the termination of this Lease for any cause whatsoever, the TECenter may, at its option, remove the same in any manner that the TECenter shall choose and may store such effects without liability to the Client for the loss thereof. The Client agrees to pay the TECenter all expenses incurred in such removal and storage, including court costs, attorney's fees and storage charges for any length of time such effects are in the TECenter's possession. The TECenter may, at its option, without notice, sell all or any part of such effects at a private sale and without legal process for such price as the TECenter may obtain, and may apply the proceeds of such sale to the amounts due under this Lease from the Client and to the expenses incident to the removal, storage and sale of such effects.

## 12. Damage or Theft of Property

- 12.1 The Client agrees that all fixtures, equipment and personal property brought into the Leased Premises shall be at the risk of the Client only, and that the TECenter shall not be liable for the theft thereof or for any damage thereto occasioned from any act of cotenants or other occupants of the Building or any other person. The Client understands and agrees that the TECenter has no obligation to provide security services for the Leased Premises or the Building. The Client agrees that provision by the TECenter of any security services for the Leased Premises or the Building shall not be deemed to imply a duty to provide security or continue to provide security and that the TECenter shall not be responsible for the Client's failure to properly use security systems or devices provided by the TECenter.

## 13. Holding Over

- 13.1 In the event of holding over by the Client subsequent to the expiration or other termination of this Lease, and without regard to the TECenter's acquiescence or consent, the Client shall pay for such holding over, as

liquidated damages and not as a penalty; a monthly rent payable immediately prior to such period. In addition, during such holding over with the TECenter's acquiescence and with any express agreement of the parties, the Client shall be a client on a month-to-month basis, and such tenancy shall be terminated absolutely and without remedy upon 30 days written notice of such intent by either party. There shall be no renewal of this Lease by operation of law.

#### 14. Governmental Requirements and Environmental Law Compliance

- 14.1. The Client agrees to promptly comply, at its own expense, with all requirements of any legally constituted public authority made necessary by reason of the Client's occupancy of the Leased Premises, including, but not limited to, all health, safety and fire codes and regulations of the Federal Government, the State of Idaho, Canyon County, the City of Nampa and Boise State University.
- 14.2. The Client shall obtain, at its own expense, all required licenses or permits for the conduct of its business within the terms of this Lease, and the TECenter will join with the Client, when necessary, in applying for all such licenses or permits. The Client shall on the TECenter's request, provide proof that all required licenses and permits have been obtained.
- 14.3. The TECenter and the Client acknowledge that there are certain federal, state and local laws, regulations and guidelines now in effect, and that additional laws, regulations and guidelines may hereafter be enacted, relating to or affecting the Leased Premises, the Building and the larger parcel of land of which the Building is a part, concerning the impact on the environment of construction, land use, maintenance and operation of structures, and the conduct of activities.
- 14.4. The Client will not cause or permit any act or practice, by negligence, omission or otherwise, that would adversely affect the environment or do anything or permit anything to be done that would violate any of such laws, regulations or guidelines. The Client agrees to follow all applicable hazardous and radioactive materials procedures and permit requirements, and the Client shall be responsible, with TECenter approval (which may be withheld in the TECenter's sole discretion) for obtaining any additional permits for the transportation, use and disposal of any such materials brought by the Client onto the Leased Premises, the Building or the larger parcel of land of which the Building is a part, or produced by any activity of the Client. The Client shall establish such safety and monitoring procedures as are necessary to ensure compliance with all federal, state and local laws, regulations and guidelines.
- 14.5. The Client agrees not to use any radioactivity or radioactive materials or processes without the TECenter's prior written consent, which the TECenter may withhold in its sole discretion.
- 14.6. The TECenter reserves the right to enter and inspect the Leased Premises from time to time to ensure the Client's compliance with these

covenants. Any violation of these covenants shall be an event of default under this Lease. The Client shall have no claim against the TECenter by reason of any changes that the TECenter may make in the Leased Premises, the Building and the larger parcel of land of which the Building is a part, pursuant to applicable laws, regulations or guidelines.

#### 15. Eminent Domain

- 15.1. If the whole of the Leased Premises, or such portion of the Leased Premises as will make the Leased Premises unusable for the purpose of this Lease, is condemned by any legally constituted authority for any public use or purpose, then in either of such events the Lease Term shall cease from the time when possession thereof is taken by public authorities, and rent shall be accounted for between the TECenter and the Client as of that date.
- 15.2. Any lesser condemnation shall in no way affect the respective rights and obligations of the TECenter and the Client under this Lease.
- 15.3. It is expressly agreed that the Client shall not have any right or claim to any part of any award made to or received by the TECenter for such taking. However, the Client shall have the right to make its independent claim for any damages to which it is entitled by law.

#### 16. Destruction of or Damage to Leased Premises

- 16.1. If the Leased Premises are totally destroyed (or so substantially damaged as to be untenable) by storm, fire, earthquake or other casualty, this Lease shall be terminated as of the date of such destruction or damage, and rent shall be accounted for between the TECenter and the Client as of that date.
- 16.2. If the Leased Premises are damaged but not rendered wholly untenable by any such casualty, rent shall abate in such proportion as the Leased Premises have been destroyed until the TECenter has restored the Leased Premises to substantially the same condition as before such damage, whereupon full rent shall resume. Nothing in this Lease shall require the TECenter to make such restoration if, in its sole discretion, the TECenter deems such restoration not to be advisable. The TECenter shall make known to the Client in writing within 90 days of such occurrence whether or not the TECenter intends to restore the Leased Premises to substantially the same conditions as before such damage. If the TECenter decides against such restoration or fails to provide such notice within the 90-day period, then the Client may, at its option, terminate this Lease as of the date of the event causing such damage.

#### 17. Indemnification and Insurance

- 17.1. The Client agrees to defend, indemnify and hold harmless the State of Idaho, Boise State University, the TECenter, and their service providers, advisors, employees, agents, representatives and contractors, from all costs, expenses (including attorney's fees), liabilities,

obligations, damages and claims (including any claims for injury to the person or property of any other tenant of the Building and claims by any governmental authority) arising, directly or indirectly, from the negligence, misconduct or breach of any provision of this Agreement by Client or any other person participating in or using the TECenter's services by the express or implied invitation of the Client.

- 17.2 The TECenter agrees to defend, indemnify and hold harmless the Client, its members, directors, officers, employees, agents, representatives and contractors, from all costs, expenses (including attorney's fees), liabilities, obligations, damages and claims (including any claims for injury to the person or property of any other tenant of the Building and claims by any governmental authority) arising, directly or indirectly, from the negligence, misconduct or breach of any provision of this Agreement by the TECenter or any person acting in the capacity of a TECenter service provider, employee or advisor.
- 17.3 The TECenter shall at all times during the Lease Term maintain or cause to be maintained, for its benefit, a policy or policies of insurance (which may include self-insurance by the TECenter or its lessor) insuring the Building against loss or damage by fire, explosion or other hazards and contingencies, but the TECenter shall not be obligated to insure any furniture, equipment, machinery, goods or supplies not covered by this Lease which the Client may bring or obtain upon the Leased Premises, or any additional improvements which the Client may construct on the Leased Premises. If the premiums payable for such casualty insurance exceed the standard rates due to actions or additional hazards created as a result of the Client's occupancy of the Leased Premises, then the Client shall, upon receipt of appropriate premium invoices, reimburse the TECenter for such increase in premiums.
- 17.4 The Client shall, at its own expense, at all times during the term of this Lease, maintain in force a policy or policies of insurance, written by one or more responsible insurance earners approved by the TECenter, which will insure the State of Idaho, Boise State University, the TECenter, and their employees, service providers and advisors against liability for injury to or death of persons or loss or damage to property occurring as the result of the Client's use of the Leased Premises, the Building or the larger parcel of land of which the Building is a part. The State of Idaho and Boise State University shall be named as additional insured's under the policy. The liability under such insurance shall not be less than \$1,000,000 combined single limited. All liability insurance obtained by the Client under this Lease shall contain a provision by which the insurance company waives any right of subrogation it may have against the State of Idaho, Boise State University, TECenter, and their members, directors, officers, employees, agents, representatives and contractors TECenter, and their members, directors, officers, employees, agents, representatives and contractors.
- 17.5. The Client shall maintain and keep in force all workers' compensation insurance required under the laws of the State of Idaho, and such other insurance as may be necessary to protect the TECenter against any

other liability of person or property arising hereunder by operation of law whether such law is now in force or is adopted subsequent to the execution hereof, as the result of the Client's use of the Leased Premises, the Building or the larger parcel of land of which the Building is a part.

- 17.6. The policies in respect of insurance carried pursuant to this Lease shall provide that at least 30 days (or to the extent 30 days is not reasonably available, at least 15 days) prior written notice shall be given to the TECenter by the underwriters of any proposed termination, cancellation, lapse or modification of such insurance. If the Client receives any notice referred to in the preceding sentence, the Client shall promptly deliver a copy of such notice to the TECenter.
- 17.7. Should the Client fail to keep in effect and pay for such insurance as it is required to maintain under this Lease, the TECenter may do so, in which event the Client shall be required to reimburse the TECenter for the insurance premiums paid by the TECenter. If the TECenter receives notice of termination, cancellation or lapse of such insurance, it may elect to notify the Client to cease operations in the Leased Premises immediately and not to resume operations in the Leased Premises until the TECenter receives copies of policies evidencing that the insurance required under this Lease is in full force and effect.
- 17.8. All policies of insurance to be kept and maintained in force by the respective parties hereto shall be obtained from good and solvent insurance companies licensed under the laws of the State of Idaho.
- 17.9. The Client shall provide to the TECenter a copy of the insurance policies required under this Lease prior to the use or occupancy of the Premises.

## 18. Signs

- 18.1 The TECenter will provide all signs and signage and no others will be used.

## 19. No Assignment or Sublease

- 19.1 Without the prior written consent of the TECenter, which the TECenter may withhold in its sole discretion, the Client may not assign this Lease or any interest in this Lease, or sublet the Leased Premises or any part thereof, or permit the use of the Leased Premises by any party other than the Client. Consent by the TECenter to one assignment or sublease will not waive this provision with respect to any other assignments or subleases, and all other assignments and subleases shall be made only with the prior written consent of the TECenter, which the TECenter may withhold in its sole discretion. Assignees or subtenants shall become liable to the TECenter for all of the obligations of the Client under this Lease, without relieving the Client of any of its liabilities or obligations under this Lease.

## 20. Default of the Client

20.1. In the event that:

- (i) the rent specified herein is not paid at the time and place when and where due;
- (ii) the Leased Premises shall be deserted or vacated by the Client prior to the expiration or termination of the Lease Term in accordance with the terms of this Lease;
- (iii) the Client shall fail to comply with any provision of this Lease other than the payment of rent, or any of the rules and regulations now or hereafter established by the TECenter for the use of the Building;
- (iv) any event occurs which is a default of the Client under the Services Agreement, or which would become such a default with the giving of notice or the passage of time, or both;
- (v) any petition is filed by or against the Client under any federal or state bankruptcy or insolvency law, or the Client shall become insolvent, or the Client shall make a general assignment of its assets for the benefit of creditors, or a receivership is appointed for a substantial part of the Client's assets, and the Client shall not cure such event within 30 days after receiving written notice thereof from the TECenter or if the default is such that it could not be cured within said 30 days and client has not commenced to remedy such default and has not proceeded diligently to remedy such default, then the TECenter shall have the option to proceed according to any one or more of the following courses of action in addition to any other remedies at law or in equity:
  - (a) The TECenter may terminate this Lease, in which event the Client shall immediately surrender the Leased Premises to the TECenter, but if the Client shall fail to do so, the TECenter may, without further notice and without prejudice to any other remedy which the TECenter may have for possession or arrearages in rent, enter upon the Leased Premises and remove the Client and its effects, without being liable for any claim for damages, and the Client agrees to indemnify the TECenter for all loss and damages which the TECenter may suffer by reason of such termination, whether through inability to relet the Leased Premises, decrease in rent, or otherwise.
  - (b) The TECenter may declare the entire amount of rent which would become due and payable during the remainder of the Lease Term to be due and payable

immediately, in which event the Client agrees to pay the same at once, together with all rents due, at the TECenter's address as provided in this Lease. Such payment shall not constitute a penalty or forfeiture or liquidated damages, but shall merely constitute payment in advance of rent for the remainder of the Lease Term. The acceptance by the TECenter shall not constitute a waiver of any subsequent failure of the Client to comply with any provision of this Lease. The TECenter has a duty to attempt to relet the Leased Premises to mitigate damages.

- (c) The TECenter may enter the Leased Premises as the agent of the Client, without being liable for any claim for damages, and relet the Leased Premises as the agent of the Client, and receive the rent for such reletting, and the Client shall pay the TECenter any deficiency that may arise by reason of such reletting.
- (d) As agent of the Client, the TECenter may do whatever the Client is obligated to do by the provisions of this Lease and may enter the Leased Premises, without being liable for any claim for damages, in order to accomplish this purpose. The Client agrees to reimburse the TECenter for any expense which the TECenter may incur in obtaining compliance with this Lease on behalf of the Client. The TECenter shall not be liable for any damages resulting to the Client from such action, whether caused by the negligence of the TECenter or otherwise. The TECenter has a duty to attempt to relet the Leased Premises to mitigate damages. Pursuit of any of the above remedies shall not preclude the TECenter from pursuing any of the other remedies provided in this Lease or any other remedies provided by law.

20.2. Nothing done by the TECenter or its agents during the Lease Term shall be deemed an acceptance or surrender of the Leased Premises, and no agreement to accept a surrender of the Leased Premises shall be valid unless it is made in writing and signed by the TECenter. Neither the mention in this Lease of any particular remedy that the TECenter might have, either at law or in equity, nor the waiver of, or redress for, any violation of any provision of this Lease or of any of the rules and regulations set forth in this Lease or subsequently adopted by the TECenter, shall prevent a subsequent act which would have originally constituted a violation from having all of the force and effect of an original violation. In case it should be necessary for the TECenter to bring any action for the enforcement of the TECenter's rights under this Lease, then the Client shall be liable for the reasonable attorneys' fees incurred by the TECenter in connection with such action. The receipt by the TECenter of rent with the knowledge of the breach of any provision of this Lease will not be deemed a waiver of such breach.

- 20.3. No termination of this Lease before the scheduled expiration of the Lease Term shall affect the TECenter's right to collect rent for the period prior to the termination of this Lease.
- 20.4. The Client hereby appoints as its agent to receive the service of all legal papers concerning possession of the Leased Premises, legal notices and notices required under this Lease, the person in charge of the Leased Premises at the time, or occupying the Leased Premises. If there is no person in charge of or occupying the Leased Premises, then such service or notice may be made by attaching the same on the main entrance of the Leased Premises.

## 21. General Provisions

- 21.1. If any provision of this Lease is illegal, invalid or unenforceable under present or future laws effective during the Lease Term, then it is the intention of the parties that the remainder of this Lease shall not be affected, and it is also the intention of the parties that, in place of each provision of this Lease that is illegal, invalid or unenforceable, there be added as part of this Lease a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable. If such illegal, invalid, or unenforceable provision is, in the sole determination of the TECenter, essential to the rights of both parties, then the TECenter has the right to terminate this Lease on written notice to the Client.
- 21.2. All rights, powers and privileges conferred under this Lease on the parties shall be cumulative and not restricted to those given by law.
- 21.3. This Lease, the Nondisclosure Agreement, and the Services Agreement together contain the entire agreement of the parties with respect to the subject matter of such agreements. No representations, inducements, promises or agreements, oral or otherwise, between the parties shall be of any force or effect if not set forth in such agreements.
- 21.4. No failure of either party to exercise any right of such party under this Lease, or to insist upon strict compliance by the other party of any obligation under this Lease, and no custom or practice of the parties at variance with the terms of this Lease, shall constitute a waiver of such right to demand exact compliance with the provisions of this Lease.
- 21.5. Time is of the essence of this Lease.
- 21.6. The relationship of the parties under this Lease is solely that of landlord and tenant, and no partnership or joint venture between the TECenter and the Client shall arise as the result of this Lease.
- 21.7. The headings of each section are added as a matter of convenience only and shall not be considered in the construction of any provision of this Lease.

21.8. Any notice, demand, request or other communication provided for in this Lease shall be in writing and shall be effective when delivered personally or three business days after being deposited in the United States mail, certified mail, postage prepaid, return receipt requested, addressed to the address listed below or to such other address as may from time to time be designated by notice given to the other party in accordance with this section.

TECenter:

Attn: Director  
5465 East Terra Linda Way  
Nampa, Idaho 83687

Client:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

21.9. The Client shall, from time to time, upon reasonable notice from the TECenter, provide a written statement that this Lease has not been modified and as in full force and effect (or, if modified, that this Lease is in full force and effect as modified, listing the modifications), the dates to which the rent and additional rent is paid, and whether or not to the Client's knowledge the TECenter is in default under this Lease (specifying the default, if any). It is intended that any such statement may be relied upon by prospective purchasers or mortgagees of the TECenter's interest, the assignees of such mortgagees, or others.

21.10. This Lease shall be governed by, and construed in accordance with, the laws of the State of Idaho, without regard to the principles thereof concerning the choice of law.

21.11. This Lease may be executed in two or more counterparts, each of which shall be an original but all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF the parties hereto have caused this Lease Agreement to be executed as of the day and year first written above.

BOISE STATE UNIVERSITY TECHNOLOGY AND ENTREPRENEURIAL  
CENTER

By: \_\_\_\_\_

Name: John Glerum \_\_\_\_\_

Title: TECenter Director \_\_\_\_\_

CLIENT: [RESIDENT TENANT]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Exhibit 1.1: Leased Space Description

Building Location (Room # Suite Letter): \_\_\_\_\_

Square Feet: \_\_\_\_\_

Amenities: \_\_\_\_\_

Other: \_\_\_\_\_

Monthly Rent: \_\_\_\_\_

Extra Charge Services: \_\_\_\_\_

Exhibit 5.2: Rent Payment Schedule

Resident Clients Rent: Office space \$.75 to \$1.50 per square foot per month depending on the office size and location; Industrial/Lab space ranges from \$ .75 to \$2.00 per square foot per month depending on size and location.

Rent increases will occur after the company has been in the TECenter for one and for two years. These annual increases will be 10% and 20% of the initial rent per square foot per month respectively. Rate increases are necessary to gradually prepare the client company for prevailing market rates.

Exhibit 5.3: Key Procedures

**KEY PROCEDURES:**

- All Resident Clients will be or have been issued keys and fobs to enter the building and their offices.
- Non-resident Clients are issued fobs to the building common areas only.
- **PLEASE DO NOT LEND YOUR KEYS or FOBS TO ANYONE. THIS IS FOR SECURITY REASONS. CLIENTS ARE NOT AUTHORIZED TO MAKE COPIES OF ANY BUILDING KEYS. THE TECENTER KEEPS A LOG ON ALL KEYS AND FOBS ISSUED.**
- All TECenter companies are issued one mailbox key.

As of August, 2009, there will be a \$15 fee to reissue any lost office keys or fobs. Mailbox replacement keys are \$10.

Client Initials \_\_\_\_\_