

## MANAGEMENT SERVICES AGREEMENT

THIS AGREEMENT dated the \_\_\_\_ day of \_\_\_\_\_, 2011, between The University of Montana, a state institution of higher education ("UM" or "Agent" herein), and the Montana Technology Enterprise Center, a Montana corporation ("MonTEC" or "Owner" herein).

WHEREAS, Owner has been organized as a public benefit corporation in the State of Montana for the purpose of developing a technology incubator facility; and

WHEREAS, Owner owns the real property located at 1121 East Broadway, Missoula, MT 59802 ("Property") which is currently used as a technology incubator facility; and

WHEREAS, Agent is willing to provide or cause to be provided property management services to Owner as described below and in accordance with the terms set forth below.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth in this Agreement, the parties hereto agree as follows:

### I. DUTIES AND RESPONSIBILITIES OF AGENT

#### A. Property Management

1. Agent's principal duties shall include the management, maintenance, and leasing of Owner's Property.
2. In connection with Agent's principal duties, Agent has the right and responsibility to enter into and terminate tenant leases, collect rents and miscellaneous payments from tenants, pay all bills it reasonably deems necessary and appropriate, including (but not limited to) real estate taxes and assessments, mortgage interest, and insurance.
3. Agent shall have the authority in its capacity as agent to:
  - a) Administer the Property in accordance with Policies and Procedures adopted by Owner's Board of Directors (hereafter "Board").
  - b) Take applications for occupancy from prospective tenants and negotiate potential lease agreements.
  - c) Contract for and monitor maintenance of exterior and interior common areas.
  - d) Select potential tenants, and forward to Board for final approval.
  - e) Administer all accounts, deposit rents and other income, and disburse payments as required.
  - f) Terminate leases for tenants who have breached their lease agreement.
4. Agent shall be responsible for securing, at Owner's expense, all necessary insurance coverage for Owner and the Property as deemed appropriate by the Board and shall provide copies of the policies to Owner.

5. Agent agrees to carry general business insurance coverage on Agent and its employees at its expense.
6. Agent and Agent's staff shall devote their best efforts at the times and places they deem appropriate to their duties hereunder. However, it is expressly agreed that Agent or Agent's staff may serve as a consultant, manager, developer, investor, or employee to other persons, without limitation, on Agent staff's personal time.

B. Reporting Requirements

1. Agent shall schedule, coordinate and facilitate Board meetings and maintain Owner's financial and corporate records.
2. Agent shall prepare bi-monthly progress reports and recommend to the Board actions needed for effective and efficient operation of the facility.
3. Agent shall prepare bi-monthly financial statements for the Board's review.
4. Agent shall prepare the annual budget for the Board's review and approval.
5. Agent shall arrange for the annual audit and presentation of the audit report to the Board.

**II. COMPENSATION TO AGENT**

A. Management Fee. Agent shall receive no-monthly management fee.

B. Reimbursement for Out-of-Pocket Expenses

1. In the event Agent incurs out-of-pocket expenses on behalf of Owner, Owner shall reimburse Agent for all amounts within sixty (60) days of presentation of receipts for such expenses. Any purchase exceeding \$5,000 must be approved by the Board prior to purchase. Out of pocket expenses may include, but are not limited to, the following:
  - a) Receptionist/Secretary
  - b) Furniture, Fixtures & Equipment
  - c) Office and Cleaning Supplies
  - d) Telecommunications
2. Owner shall be responsible for any and all ordinary and necessary business expenses which Agent reasonably incurs in performing its duties hereunder. The Agent shall be responsible to provide reasonable corroboration to the Owner of any such expense.

**III. DUTIES AND RESPONSIBILITIES OF OWNER**

A. Responsibility Remaining With Owner. Nothing in this Agreement shall be construed as:

1. An assumption by Agent of any obligation to increase the sales or profits of the Owner or otherwise to guarantee the success of Owner's operations;
  2. An assumption by Agent of any financial obligation of Owner;
  3. The creation of any relationship of employment between Owner and employees or consultants of Agent, its departments, or divisions;
  4. An assumption by Agent of any responsibility for the work performed by outside contractors, consultants, vendors, or business at the suggestion or recommendation of Agent; or
  5. The delegation of any function or authority of Owner to Agent; it being understood that Agent will make recommendations and offer advice pursuant to this Agreement but that all decisions with respect to the recommendations and advice and otherwise shall be and remain dependent on appropriate action of the Board or the authorized officers of Owner.
- B. Provide Office Space for Agent. Owner shall provide Agent with furnished office space within the Property, described as Suite \_\_\_\_, which shall be used as the Leasing Office and shall be the principal place of business for Agent. If Agent moves the administrative function of this Agreement onto UM campus, Agent shall give Owner such notice thereof and Owner shall be free to lease such office space to tenants.

#### IV. TERM AND TERMINATION

- A. Term. The term for which Agent shall be retained hereunder shall begin on October \_\_\_\_, 2011 ("Effective Date") and shall terminate upon the earlier of:
1. Cessation of Owner's business;
  2. Bankruptcy or dissolution of Owner; or
  3. Last day of the 12<sup>th</sup> month following the Effective Date of this Agreement, unless this Agreement is renewed as herein provided.
- B. Termination. If Agent shall be terminated by Owner, Agent shall be entitled to any amounts due and owing as compensation under this Agreement to the extent earned, on a pro-rata basis, plus reimbursement for costs.
- C. Extension. If neither party hereto terminates this Agreement before the last day of the 12<sup>th</sup> month following the Effective Date, then the term of this Agreement may be extended by mutual agreement of the parties for up to two (2), three-year periods.

#### V. NOTICES

- A. Method and Addresses. All notices and other communications hereunder shall be in writing and shall be deemed to have been received by the party addressed: (a) immediately on personal delivery; (b) one business day after notice given by a national overnight courier; or (c) 10 business days after the date of posting of notice by either registered mail or certified mail, return receipt requested, to the parties hereto at the addresses listed herein, or at such other address as shall be specified by notice given pursuant hereto.

**VI. MISCELLANEOUS**

- A. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the services described in this Agreement to be provided by the Agent to Owner and supercedes all previous negotiations, commitments, and writings. This Agreement may not be modified or amended except by a writing duly signed by the authorized representatives of the parties to this Agreement.
- B. Titles and subtitles. The titles and subtitles used in this Agreement are for convenience only and are not to be considered in construing or interpreting this Agreement.
- C. Amendments and Waivers. Any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retrospectively or prospectively), only with the written consent of Agent and Owner.
- D. Montana Law. This Agreement shall be construed in accordance with the laws of the State of Montana.
- E. Assignment. Neither party may assign this Agreement absent the other party's prior written consent, which may not be unreasonably withheld.

IN AS MUCH as the parties hereto have agreed to the above terms and conditions, the parties now set their hand this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

**OWNER:**  
MonTEC  
1121 East Broadway, Suite 100  
Missoula, MT 59802

**AGENT:**  
The University of Montana  
32 Campus Drive  
Missoula, MT 59812

By: \_\_\_\_\_  
Dr. Joe Fanguy, President

By: \_\_\_\_\_  
Robert A. Duringer, Vice President  
for Administration and Finance