

AFFILIATION AGREEMENT
Between Utah State University and the Center for Growth and Opportunity

This Affiliation Agreement (this “Agreement”) is made effective on May 6, 2017 (the “Effective Date”), between **Utah State University** (the “University”), an instrumentality of the state of Utah by and on behalf of the Jon M. Huntsman School of Business (“HSB”), and the **Center for Growth and Opportunity** (“Center”), a Utah nonprofit corporation. The University and the Center are sometimes referred to in this Agreement individually as a “Party” and collectively as the “Parties.”

Preamble

WHEREAS, the mission of the University is to be one of the nation’s premier student-centered land-grant and space-grant universities by fostering the principle that academics come first, by cultivating diversity of thought and culture, and by serving the public through learning, discovery, and engagement (the “University Mission”);

WHEREAS, consistent with the University Mission, (i) the University is operated for the common good which depends upon the free search for truth and its free exposition; and (ii) the University works to uphold its collective values by fostering free speech, broadening fields of inquiry, and encouraging the generation of new knowledge that challenges, shapes, and enriches our collective and individual understandings;

WHEREAS, the mission of HSB is to develop leaders of distinction in commerce and public affairs (the “HSB Mission”);

WHEREAS, the Center’s mission is to explore, through research and education programs, the scientific foundations of the interaction between individuals, business, and government to improve well-being for individuals and society (the “Center Mission”);

WHEREAS, the University believes that affiliating with the Center will help advance the University Mission and the HSB Mission in many ways, including through increased student opportunities and engagement and increased opportunities for faculty research and collaboration;

WHEREAS, the Parties wish to facilitate ongoing, mutually beneficial collaboration by entering into an affiliation to advance the University Mission, the HSB Mission, and the Center Mission (the “Purpose”);

NOW THEREFORE, in consideration of the recitals set forth above and the promises set forth below, the Parties agree as follows:

1. **Affiliation with the University.** The University hereby grants the Center the non-exclusive right to be affiliated with the University through HSB subject to the terms and conditions of this Agreement. Reflective of this affiliation, the University and the Center will execute a Trademark License Agreement in substantially the form attached hereto as Exhibit A (the “License Agreement”) for the use of “at Utah State University” and/or “at USU” in the name of the Center. The Center’s use of “at

Utah State University” and “at USU” will be governed by the terms and conditions of the License Agreement. The purpose and intent of the University’s grant of this license to the Center is solely to recognize the affiliation of the Center with the University. The Center will develop its own distinct visual identity, including its own branding, logos, color schemes, etc. The Center will, and will cause its employees to, avoid engaging in any activity or making any statement that they are representing the University in public appearance or statements. Consistent with the University’s policy, any use of University marks, logos or names beyond the license provided in the License Agreement must be agreed to in writing by the University’s Office of Public Relations and Marketing and a separate license agreement.

2. Relationship of the Parties. The affiliation between the Parties does not alter the Center’s status as an independent, non-governmental entity recognized by the IRS under Internal Revenue Code sections 501(c)(3) and 509(a)(1). The Parties agree that they are, and will remain, separate entities. The University and the Center are not and will not be considered joint ventures, partners, legal representatives, or agents of each other. At no time will either Party represent itself to be acting in any of these capacities. Neither Party is authorized to incur any liability, obligation, or expense on behalf of the other. Each Party will be responsible and liable for its own liabilities, obligations and expenses.

3. Educational Purpose. As an entity recognized by the IRS under Code Section 501(c)(3) the Internal Revenue Code of 1986 (as amended, the “Code”), the Center will not participate in, or intervene in (including the publishing or distributing of statements) any political campaign on behalf of (or in opposition to) any candidate for public office nor will the Center attempt to influence legislation as described in section 4945(d)(1) of the Code.

4. Student and Faculty Opportunities. Consistent with Purpose of this Agreement, the affiliation between the University and the Center will provide the University with opportunities for student education and engagement and opportunities for faculty research and collaboration. Dependent on funding, resources, and student and faculty interest, the University, HSB, and the Center will work together to provide on an ongoing basis student and faculty opportunities to participate in education and research programs that are consistent with and which advance the University Mission, the HSB Mission, and the Center Mission.

5. Academic Research. The academic research conducted through and/or by the Center will adhere to and promote the University and HSB research standards and policy regarding academic freedom and professional responsibility as contained in Utah State University Policy 403 and Utah System of Higher Education Policy 481, as each may be amended from time to time. The Center Academic Director will regularly coordinate with HSB and the University to keep HSB and the University informed of the Center’s ongoing academic research and forthcoming publications and/or reports. The Center will coordinate and provide prior notice to the HSB and the University of any testimony to a legislative or other government body the Center intends to make, whether in connection with Center’s academic research or otherwise.

6. Legal Compliance. The Center and the University will comply with all applicable federal, state and local laws, regulations and ordinances, whether now in force or hereafter enacted or promulgated. The Center and the University will cooperate with any investigation and/or remedial action

taken by either Party as part of its compliance obligations and efforts. Further, the Center will adopt in a timely fashion any policies required by federal, state and local laws, regulations and ordinances, including: conflicts of interest, non-discrimination, anti-harassment, document retention, and whistleblower protection.

7. The Center's Governance and Leadership.

- a. The Center's Governance. The Center is governed by its Board of Directors (the "Center Board") according to the Center's Bylaws and any other governing documents. The current members of the Center Board are hereby approved by the University (through the Dean and the President). During the term of this Agreement, the University (through the Dean and the President) will have the right to approve all nominations for any new members of the Center Board elected, appointed or designated by the Center Board to fill any vacancies on the Center Board. If the University President and/or Dean do not approve of a proposed nomination, the Center Board will submit an alternative nomination for the open position on the Center Board.
- b. The Center's Leadership.
 - i. The Center Director. The individual holding the Center Director position (the "Center Director") will be filled by the President of the Center. The Center Director is responsible for administering the overall operations of the Center. The Center Director is selected by and has duties determined by the Center Board.
 - ii. The Center Academic Director. The individual holding the Center Academic Director position (the "Center Academic Director") will be filled by a faculty member of the University, who will be hired by the University pursuant to its policies and normal procedures. The President and Dean will nominate and appoint the Center Academic Director. During the term of this Agreement, the Center (through the Center Director) will have the right to approve all nominations for the Center Academic Director by the President and Dean. If the Center Director does not approve of a proposed nomination, the President and Dean will submit an alternative nomination for the Center Academic Director. The Center Academic Director is responsible for guiding the research and education programs of the Center. The Center Academic Director must approve any University faculty who will hold positions with, be affiliated with, or receive research or education opportunities related to the Center.

8. Maintenance of Corporate Structure and Mission. The Center will operate and conduct all business consistent with the Center's Bylaws, including conducting regular Board of Directors meetings and keeping minutes of any such Board meetings. The Center agrees that any amendment or supplementation of its Articles, Bylaws, and/or any other governing documents will be consistent with the University Mission, the HSB Mission, and/or the Purpose of this Agreement. The Center will provide notice to the University within ten (10) business days of any amendments to its Articles of Incorporation, Bylaws or any other governing documents that affect the Center Mission or the Purpose of this Agreement, including but not limited to any changes related to the governance

structure and the voting rights of the Center Board. The Center will make all required filings, such as annual corporate filings and tax filings, as may affect its corporate or tax status. The University will provide notice to the Center within ten (10) business days of (i) any amendments to the University Mission or the HSB Mission that affect the Purpose of this Agreement or (ii) any amendments to Utah State University Policy 403 and Utah System of Higher Education Policy 481.

9. **Lease of Center Office Space.** The University will lease to the Center 5,000 square feet of office space (the “Center Office Space”) pursuant to the terms of a Lease Agreement in substantially the form attached hereto as Exhibit B. Subject to the review and approvals required by Utah System of Higher Education Policy R705-4, the University will increase the amount of Center Office Space to accommodate the Center’s growth and, if requested by the Center, will make available for lease 15,000 square feet of Center Office Space (the “Additional Space”) within HSB’s buildings by December 31, 2023. The parties will endeavor in good faith to negotiate a Lease Agreement for the Additional Space in substantially the same form attached hereto as Exhibit B.

10. **Employee Relationships and Affiliations.**

- a. **Center Employee-University Affiliations.** The Center has the sole and absolute discretion to make all employment-related decisions regarding employees of the Center. Employees of the Center may be appointed as adjunct University faculty according to the University’s policies and normal procedures. Under no circumstances will Center, or any of Center’s employees, look to the University as his/her employer, or as a partner, agent or principal. Neither Center, nor any of Center’s employees, will be entitled to any benefits accorded to the University’s employees, including without limitation worker’s compensation, disability insurance, overtime, annual leave or sick pay. If a Center employee is designated as being affiliated with the University, the University will inform the Center employee that such affiliation is honorific and that the affiliation does not create an employment relationship between the University and the Center employee. Unless otherwise agreed upon in writing, all right, title, and interest in any intellectual property developed by employees of the Center will reside in the Center.
- b. **University Faculty-Center Affiliations.** The University has the sole and absolute discretion to make all employment-related decisions regarding employees of the University. Faculty of the University may be appointed as faculty affiliated with the Center according to the Center’s policies and normal procedures. Under no circumstances will the University, or any of the University’s employees, look to the Center as his/her employer, or as a partner, agent or principal. Neither the University, nor any of University’s employees, will be entitled to any benefits accorded to the Center’s employees, including without limitation worker’s compensation, disability insurance, overtime, annual leave or sick pay. If a University faculty member is designated as being affiliated with the Center, the Center will inform University faculty member that such affiliation is honorific and that the affiliation does not create an employment relationship between the Center and the University faculty. Unless otherwise agreed upon in writing, all right, title, and interest in any intellectual property developed by employees of the University will reside in the University.

- c. Employment Relationship and Compensation for Services Rendered. Notwithstanding sections 10a.-b. of this Agreement, consistent with University and Center policies and normal procedures, the University may compensate individuals separately employed by the Center for services the individual renders to the University and the Center may compensate individuals employed by the University for services the individual renders to the Center. Each Party will notify the other Party of their intent to compensate an individual employed by the other Party and will cooperate with the other Party to define the nature of the relationship between the individual providing services and each respective Party, including the ownership of intellectual property developed by the individual providing services, and to ensure compliance with both Parties' employment and tax policies and procedures.
- d. Workers' Compensation and Insurance. Each Party will comply with all statutory workers' compensation and employment liability requirements for activities performed by its employees under this Agreement. Further, each Party will maintain comprehensive general liability insurance, with a financially sound insurance carrier in sufficient amounts to cover each Party's respective activities.

11. **Publicity.** The Parties will give each other a reasonable opportunity to review any significant public announcement related to the Agreement or the affiliation between the Parties and will agree in advance regarding the content of any such public announcement. The Parties will mention the Center, the University, and the HSB appropriately in their respective materials. Further, the Center will not publicize or circulate any materials (including advertisements, solicitations, brochures, press releases, speeches, pictures, movies, articles, manuscripts, or other publications), suggesting expressly or implicitly that the University endorses any publication, position or other statement made by the Center; it being understood and agreed to by the Parties that the Center's use of "at Utah State University" and/or "at USU" in the name of the Center shall not constitute and shall not be deemed to be such a suggestion of endorsement by the University.

12. **Annual Report.** The Center will provide to the University an annual report each year summarizing the faculty and student opportunities provided by the Center to University faculty and students, including the education programs provided by the Center and the Research conducted by the Center. The Center further will also provide to the University any and all information and documents already in the Center's possession that the University may reasonably request to evaluate compliance with University policies and with the terms of this Agreement.

13. **Fundraising.** The Center and the University will maintain timely communication and coordination regarding the Center's fundraising efforts. The Center agrees that it will develop its own donation contacts and will not use the University fundraising resources, including donor contacts and information. For the avoidance of doubt, nothing in the preceding sentence will restrict the Center from (i) contacting donors that have previously donated to the Center and (ii) contacting donors to the University if such contact is made without reference to or implication that the contact is being made on behalf of University and without the use of or reference to fundraising resources, including donor contacts and information. In any contact with the donors, the Center shall not represent or create the impression that the fundraising request is being made on behalf of the University. Upon the approval of

the University President, the Center and the University may work jointly to fundraise for Center and/or University programs and events.

14. Term. The term of this Agreement begins on the Effective Date and will continue for a period of fifteen (15) years, after which the Agreement will automatically renew for a one-year term on an annual basis unless either Party provides notice of termination ninety (90) days prior to the expiration of the then current term of the Agreement.

15. Contingent Agreement. Notwithstanding anything to the contrary herein, the University's obligations under this Agreement are expressly contingent upon the Center maintaining its status as a nonprofit corporation and maintaining approval of its tax status as an organization described in sections 501(c)(3).

16. Termination.

- a. Termination for Breach. Each Party may terminate this Agreement for cause if the other Party breaches a material provision of this Agreement and fails to cure such breach according to this Section 16. If a Party breaches a material provision of this Agreement, the other Party will provide written notice of such breach. Within thirty (30) days of receiving such notice, the Parties will confer, and the breaching Party will have the opportunity to cure its breach within thirty days of the Parties' conference. Within thirty (30) days after the conference, if the non-breaching Party does not agree, in its reasonable discretion, that the breaching Party has cured its breach, the non-breaching Party may terminate this Agreement by providing written notice of termination to the breaching Party. The Agreement will terminate thirty (30) days from the date the breaching Party receives notice of termination from the non-breaching Party. Notwithstanding the foregoing, the University reserves the right to terminate this Agreement and forego the cure period when, in the University's sole judgment, immediate termination is necessary to prevent fraud, illegal conduct, or irreparable harm to the University.
- b. Lack of Funding. To the extent the University's performance under this Agreement depends on the contribution of funds by a donor, award or renewal of any grant, or appropriation from any legislative body and if such contribution, award or renewal, or appropriation fails to occur, then the University may terminate this agreement without further obligation by the University.
- c. Effect of Termination. In the event of termination of this Agreement, the Parties' responsibilities under this Agreement, the License Agreement and the Lease Agreement will cease and the Center will be immediately and completely disaffiliated with University, the Center will no longer represent itself as connected with the University, and will cease all use of University marks, names, logos, copyrights and/or any other intellectual property.

17. Public Records. The University is a governmental entity subject to the Utah Government Records Access and Management Act, Utah Code section 63G-2-101 et seq., as amended ("GRAMA"), which means that certain records within the University's possession or control,

including without limitation this Agreement, may be subject to public disclosure; and, that the University's confidentiality obligations will be subject in all respects to compliance with GRAMA. Notwithstanding any provision to the contrary in this Agreement, the University may disclose any information or record to the extent required by GRAMA or otherwise required by law, and to University's employees, attorneys, accountants, consultants and other representatives on a need to know basis; provided, that such representatives will be subject to confidentiality obligations no less restrictive than those set forth in the Agreement.

18. Student Education Records. The Center agrees to comply with the Family Educational Rights and Privacy Act ("FERPA") with regard to education records and personally identifiable information (each as defined in FERPA), to the same extent as FERPA applies to the University.

19. Confidentiality. The Parties agree and understand that both the University and the Center have a substantial interest in keeping certain information confidential. To the extent that either Party comes in contact with the confidential information of the other Party, both the University and the Center agree to keep any such information confidential, except as otherwise required by law, including GRAMA.

20. General.

- a. Tax Status. The Center is recognized by the IRS as an organization described under Code sections 501(c)(3) and 509(a)(1). The University is a state agency of Utah and recognized by the IRS as an organization described under Code sections 501(c)(3) and 509(a)(1). If the tax status of either Party changes, that Party will promptly notify the other Party.
- b. Notice. Any notice required by this Agreement must be in writing and is deemed given when sent, postage prepaid, through the United States Postal Service by certified mail, return receipt, or when sent by nationally recognized overnight delivery service, or personally served upon the appropriate party at the following address:

If to the University:
Utah State University
3500 Old Main Hill
Logan, UT 84322-3500
Attn: HSB Dean

With a copy to:
Utah State University
1465 Old Main Hill
Logan, Utah 84322-1465
Attn: General Counsel

If to the Center:
Center for Growth and Opportunity
UMC 3500 Old Main Hill
Logan, UT 84322-3500
Attn: Center Director

With a copy to:
Holland & Hart LLP
222 S Main Street, Suite 2200
Salt Lake City, Utah 84101
Attn: Craig Frame

- c. Disputes; Applicable Law; Venue. The Parties agree that in the event of a dispute between them, the University and the Center will promptly use their best efforts to resolve the dispute in an informal fashion through communication and consultation, or other forms of non-binding alternative dispute resolution that are mutually acceptable to

the Parties. This Agreement is construed, governed, and interpreted by and in accordance with the laws of the State of Utah. Any litigation with respect to this Agreement must first be brought before the courts of the First Judicial District of the State of Utah.

- d. Entire Agreement. This Agreement is the entire agreement between the Parties relating to the subject matter of this Agreement and supersedes all prior agreements and understandings between the Parties, their officers, directors, employees, or representatives relating to the subject matter of this Agreement. None of the terms of this Agreement may be waived or modified except with the prior express written consent of both Parties.
- e. Jointly Drafted. This Agreement will be deemed to have been jointly drafted by both Parties and, in the event of a dispute, will not be construed against either Party.
- f. Further Assurances. If requested by one Party, the other Party will negotiate, execute and deliver such other documents and take such other action as may be necessary to effect the terms of this Agreement.
- g. Amendment and Supplement. Any amendment and/or supplement of this Agreement will come into force only after a written agreement is signed by both Parties. The amendment and supplement duly executed by both Parties will be part of this Agreement and will have the same legal effect as this Agreement.
- h. Severability. Should any portion of this Agreement be declared invalid or unenforceable for any reason, such portion is deemed severable from the Agreement and the remainder of this Agreement will remain fully valid and enforceable.
- i. Waiver. The failure of either Party to enforce any term in this Agreement is not a waiver of such right.
- j. Non-Exclusive Agreement. This Agreement in no way restricts either Party from entering into similar agreements, or participating in similar activities or arrangements, with other public or private agencies, organizations, or individuals.
- k. Assignment. Neither Party has the right to assign or otherwise transfer its rights or delegate its obligations under this Agreement without the prior express written consent of the other Party. Any attempted assignment, transfer or delegation without such consent will be void. All of the terms of this Agreement are binding upon and inure to the benefit of the Parties hereto and their successors and assigns.
- l. No Third-Party Beneficiaries. Notwithstanding any term to the contrary in this Agreement, this Agreement does not and is not intended to confer any rights or remedies upon any person other than the Parties, and no third party will be entitled to rely on any representation, warranty, or agreement of the Parties contained in this Agreement.

[signatures follow on the next page]

The Parties have hereby executed this Agreement as dated below, but agree that this Agreement is effective as of the Effective Date.

UTAH STATE UNIVERSITY

By: Noelle E. Cockett

Name: Noelle E. Cockett

Title: President

Date: May 6, 2017

UTAH STATE UNIVERSITY, JON M. HUNTSMAN SCHOOL OF BUSINESS

By: Douglas D. Anderson

Name: Douglas D. Anderson

Title: Dean

Date: 5/6/17

CENTER FOR GROWTH AND OPPORTUNITY

By: Blake Dursteler

Name: Blake Dursteler

Title: President and Center Director

Date: 5/6/17

Exhibit A
Trademark License Agreement

TRADEMARK LICENSE AGREEMENT

THIS TRADEMARK LICENSE AGREEMENT (“Agreement”) is made and entered into as of May 6, 2017 (“Effective Date”) between Utah State University (“University”), an instrumentality of the state of Utah, by and on behalf of University and the Jon M. Huntsman School of Business, and the Center for Growth and Opportunity (“Licensee”), a Utah nonprofit corporation. University and Licensee are sometimes referred to in this Agreement individually as a “Party” and collectively as the “Parties.”

WHEREAS, University is the owner of certain Trademarks, as defined below;

WHEREAS, the Parties have also entered into that certain Affiliation Agreement, dated as of May 6, 2017 (“Affiliation Agreement”), for the purpose of facilitating an ongoing, mutually beneficial collaboration to provide increased research and educational opportunities for University students and faculty; and

WHEREAS, to facilitate the Parties’ collaboration, Licensee desires to obtain from University, and the University desires to grant to Licensee, a license to the Trademarks on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and obligations set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. DEFINITION

“Trademarks” means (i) the word mark “Utah State University,” as registered with the United States Patent and Trademark Office under Registration No. 4435273, as may be registered in other jurisdictions, and for which University has common law rights; and (ii) the word mark “USU,” as registered with the State of Utah under Filing No. 7935816-0190, as may be registered in other jurisdictions, and for which University has common law rights.

2. LICENSE

2.1. Trademark License for Naming Use. Subject to the terms and conditions of this Agreement, University hereby grants to Licensee, and Licensee hereby accepts, a worldwide, fully paid-up, non-sublicensable, and non-transferable (except as permitted by Section 8.9)

license to use and display the Trademarks solely as a component of Licensee's business name, dba, or trade name as follows: (A) "The Center for Growth and Opportunity at Utah State University," and (B) "The Center for Growth and Opportunity at USU" ("License"). The License additionally includes the right to produce or have produced non-commercial internal-use or promotional goods (e.g., mugs, shirts, hats, etc.) that display "The Center for Growth and Opportunity at Utah State University" or "The Center for Growth and Opportunity at USU," provided that such production is performed by a University-licensed vendor and is in keeping with University Policy 510 (the "Trademark Policy"). Licensee's use of the Trademarks shall be consistent with the Trademark Policy. University reserves the exclusive right and sole discretion to update and amend the Trademark Policy. If University modifies the Trademark Policy, then it shall give Licensee notice thereof, and Licensee shall have at least sixty (60) days to comply with any modification. Licensee's use and display of the Trademarks as a component of Licensee's business name, dba, or tradename shall be royalty free. Licensee acknowledges and agrees that royalties may be paid to University directly or indirectly by a University-licensed vendor when non-commercial internal-use or promotional goods are produced. No other fees are due by Licensee to University in consideration of the License.

2.2. Purpose. The purpose and intent of this License is solely to recognize the affiliation of Licensee with University. Licensee's use of the Trademarks must contribute positively to the goodwill associated with the Trademarks and advance the "University Mission," namely: "the mission of the University is to be one of the nation's premier student-centered land-grant and space-grant universities by fostering the principle that academics come first, by cultivating diversity of thought and culture, and by serving the public through learning, discovery, and engagement." University reserves the exclusive right and sole discretion to update and amend the University Mission. If University modifies the University Mission, then it shall give Licensee notice thereof, and Licensee shall have at least sixty (60) days to comply with any modification. Licensee shall ensure that its use of the Trademarks in no way diminishes the reputation, image, or prestige of the Trademarks.

2.3. Endorsements. Licensee shall, and shall cause its employees to, avoid engaging in any activity or making any statement that they are representing the University in public appearance or statement or suggesting expressly or implicitly that the University endorses any publication, position, or other statement made by Licensee. The Parties agree that Licensee's use

of “at Utah State University” and/or “at USU” as set forth in the License shall not constitute and shall not be deemed to be an endorsement as set forth above. If requested by University, Licensee agrees to issue express disclaimers that University does not endorse a publication, position, or other statement made by Licensee.

2.4. Retained Rights. University retains all rights not expressly granted in this Agreement, including, but not limited to: the right for University to use the Trademarks in any and all fields of use and for any purpose, and the right to license the Trademarks to other third parties.

3. RIGHTS OF OWNERSHIP

3.1. Ownership. Licensee agrees (i) that, as between the Parties, University is the sole and exclusive owner of all right, title, and interest in and to the Trademarks and any registrations and applications for or related to the Trademarks; and (ii) that Licensee will do nothing inconsistent with such ownership. Licensee further agrees that all use of the Trademarks, as well as all goodwill associated therewith, shall inure to the benefit of and be on behalf of University. Licensee acknowledges that nothing in this Agreement grants to Licensee any right, title, or interest in the Trademarks, other than the right to use the Trademarks as provided in the License. Licensee agrees that it will not challenge, directly or indirectly, University’s right, title, or interest in any of the Trademarks or the validity of any of the Trademarks or the License.

3.2. Filing, Prosecution and Maintenance of Applications and Registrations. Licensee agrees that University has the sole right and discretion to control the filing and prosecution of all applications to register rights in the Trademarks, or in marks that use the Trademarks as a component, in all countries of the world, and the maintenance of any and all such registrations. Licensee agrees that prior to applying for any registration for any trademark, business name, or corporate name containing the Trademarks, Licensee shall obtain University’s written approval, which shall not be unreasonably withheld. Licensee agrees to reasonably cooperate, at University’s request and expense, in any action (including the conduct of legal proceedings) that University deems necessary or desirable to establish or preserve University’s rights in and to the Trademarks.

4. QUALITY STANDARDS AND CONTROLS

4.1. Quality Maintenance. Licensee understands and agrees that the goods and services distributed, promoted, advertised, or sold in association with the Trademarks must be of high and consistent quality. University shall have the continuing right to supervise and exercise quality control over Licensee's use of the Trademarks and associated goods and services offered by Licensee under the Trademarks pursuant to the terms of this Article 4, as reasonably necessary to maintain the validity and strength of the Trademarks and to protect the goodwill associated therewith. In the case of the License, associated goods and services include, for example, educational services and materials, research projects and deliverables, publications, conferences, and non-commercial internal-use or promotional goods. Licensee shall comply with all applicable laws and regulations with regard to use of the Trademarks and sales, distribution, and advertising of any associated goods and services.

4.2. Quality Standards. Licensee agrees that Licensee's use of the Trademarks, and associated goods and services, shall conform to University's written quality standards delivered to Licensee. University reserves the exclusive right and sole discretion to update and amend the quality standards. If University modifies the quality standards, then it shall give Licensee notice thereof, and Licensee shall have at least sixty (60) days to comply with any modification. University's standards of quality shall be in keeping with the University Mission.

4.3. Marking. Licensee shall reasonably mark non-commercial internal-use or promotional goods, promotional materials, and all other printed materials on or in connection with which the Trademarks appear in accordance with applicable laws and good trademark practices.

4.4. Inspection. Upon reasonable request to Licensee, Licensee shall provide to University samples of Licensee's use of the Trademarks and the quality of the goods and services offered under the Trademarks. When, in University's sole and absolute discretion, University determines it is reasonably necessary to maintain the validity and strength of the Trademarks and to protect the goodwill associated therewith, Licensee shall immediately comply with any reasonable requests from University to discontinue use of the Trademarks with respect to specific goods or services or to correct or to improve the use of the Trademarks or the quality of the goods and services offered under the Trademarks.

4.5. Other University Marks. Other than the Trademarks, Licensee shall not use any of University's other trademarks, service marks, tradenames, or symbols without University's prior written consent.

4.6. Visual Identity and University Approval. As a separate, but affiliated not-for-profit corporation, Licensee agrees to create (within a reasonable time period from the Effective Date) and maintain a visual identity that is separate, distinct, and unique from the visual identity of University and in compliance with the terms hereof. Licensee will send to University for its prior written approval all designs for logos and other elements of Licensee's visual identity relating to or using the Trademarks, which approval may be given or withheld in University's sole discretion. Licensee will not use any logos or other visual identity elements that relate to or use the Trademarks, if the logo or visual identity element has not been approved.

5. **WARRANTIES**

University makes no express or implied warranties of merchantability or fitness of the Trademarks for a particular purpose. Nothing in this Agreement shall be construed as:

- (a) a warranty or representation by either Party as to the validity, enforceability, or scope of the Trademarks; or
- (b) a warranty or representation that anything made, transferred, used, sold, or otherwise disposed of pursuant to this Agreement is or will be free from infringement of third-party trademarks or other intellectual property; or
- (c) an obligation to bring or prosecute actions or suits against third parties for infringement of any trademarks or other intellectual property rights; or
- (d) conferring by implication, any estoppel or otherwise any license or rights under any patents, software, or intellectual property owned by either Party other than the Trademarks as defined herein.

6. **INDEMNIFICATION, LIABILITY, AND INSURANCE**

6.1. Indemnification. Subject to Section 6.3, Licensee shall indemnify, hold harmless, and defend University against any claim of any kind arising out of or related to (a) the exercise of any rights granted to Licensee under this Agreement, or (b) any breach of this Agreement by Licensee, including use by Licensee of the Trademarks in violation of this Agreement.

6.2. Indemnification Procedure. University shall provide Licensee with: (a) prompt written notice of any claim subject to indemnification; provided, however, that the Licensee shall not be relieved of any indemnification obligation hereunder except to the extent it is materially prejudiced as a result of University's failure to provide prompt written notice; and (b) reasonable cooperation to Licensee and Licensee's efforts defending such claim at Licensee's expense. Licensee shall have sole control of the defense and all related settlement negotiations of such claim, provided that Licensee shall not agree to any settlement or compromise that results in any admission on the part of University, or imposes any obligation or liability on University, without University's prior written consent. University shall have the right to participate in the defense and settlement negotiations of such claim through its own counsel at its own expense and discretion.

6.3. Limitation of Liability. NEITHER PARTY SHALL BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL, LOST PROFIT, EXPECTATION, PUNITIVE OR OTHER INDIRECT DAMAGES IN CONNECTION WITH ANY CLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, WHETHER GROUNDED IN TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, CONTRACT, OR OTHERWISE.

6.4. Workers' Compensation. Licensee will comply with all statutory workers' compensation and employment liability requirements for activities performed under this Agreement.

6.5. Insurance. During the term of this Agreement, Licensee will maintain comprehensive general liability insurance with a financially sound insurance carrier in sufficient amounts to cover Licensee's activities. Such insurance will include University as an additional insured. A certificate of such insurance will be provided to University within thirty (30) days of the Effective Date. Licensee shall provide thirty (30) days' prior written notice to University of any cancellation or material change in insurance.

7. TERM AND TERMINATION

7.1. Term. This Agreement will begin on the Effective Date and will continue for a period of fifteen (15) years ("Initial Term"), after which the term of this Agreement will automatically renew for successive one-year terms on an annual basis (each, a "Renewal Term," and, together with the Initial Term, the "Term") unless either Party provides notice of

termination ninety (90) days prior to the expiration of the Initial Term or then-current Renewal Term, as applicable. Licensee may terminate this Agreement for its convenience by providing University with ninety (90) days' written notice.

7.2. Termination for Cause. Subject to the remaining terms of this Section, either Party may terminate this Agreement by giving written notice to the other Party, if such other Party is in breach of a material provision of this Agreement (or, in the case of University as the terminating party, if Licensee breaches a material provision of the Trademark Policy). University reserves the right to terminate this Agreement (1) if the Affiliation Agreement expires or is terminated by either Party; (2) if Licensee's use of the Trademarks violates any federal or state law; or (3) if Licensee's use of the Trademarks materially diminishes the reputation, image or prestige of the Trademarks. Any such termination will be effective thirty (30) days after such written notice, unless the breaching Party cures the default/breach identified in the notice within the thirty-day period.

7.3. Effect of Expiration or Termination of License. The following shall survive expiration or termination of this Agreement: (a) any accrued or accruable claims (such as those resulting from a breach/default); and (b) Sections 3, 5, 6, 7.3, and 8 of this Agreement. Within sixty (60) days following the expiration or termination of this Agreement, Licensee shall (i) return to University or shall destroy, if requested by University, any non-commercial internal-use or promotional goods; and (ii) provide written confirmation to University that it has ceased all use of the Trademarks, including as a component of Licensee's business name, dba, or trade name and make any requisite amendments to corporate documents or registrations as may be needed to reflect the name change, except that Licensee may continue to refer to Licensee's historical business name, dba, or trade name when required for customary financial or internal corporate communications.

8. MISCELLANEOUS

8.1. Choice of Law and Venue. The Agreement will be governed by the laws of the State of Utah, without regard to conflicts of laws principles. Venue for any lawsuits, claims, or other proceedings between the Parties relating to or arising under the Agreement shall be exclusively in the State of Utah.

8.2. Specific Performance. Licensee acknowledges that money damages alone are inadequate to compensate University for any failure of the Licensee to perform or observe any of the Licensee's obligations hereunder, and agrees that in the event of a breach by the Licensee, University may, in addition to all other remedies, obtain and enforce injunctive relief prohibiting the continuance of the breach.

8.3. Government Records and Management Act. Licensee acknowledges that University is a governmental entity subject to the Utah Government Records Access and Management Act, Utah Code section 63G-2-101 et seq., as amended ("GRAMA"); that certain records within University's possession or control, including without limitation, the Agreement (but not including (i) proprietary software or (ii) materials to which access is limited by the laws of copyright or patent), may be subject to public disclosure; and that University's confidentiality obligations shall be subject in all respects to compliance with GRAMA.

8.4. Confidentiality. Notwithstanding any other provision of this Agreement, the terms of this Agreement shall be the confidential information of both Parties, and neither Party shall disclose such terms, except disclosure of such terms shall not be precluded if such disclosure is required under applicable law, regulation, valid court order, or order of other governmental body to which either Party is subject; provided, that either Party shall first have given written notice to the other Party of the need for such disclosure at least five (5) days in advance (if permitted by law) so that the disclosing Party may (if it elects) seek a protective order or other confidential treatment of the terms of this Agreement. Notwithstanding the foregoing, any disclosure of the terms of this Agreement in accordance with this section shall (a) be limited to that which is reasonably necessary to comply with the terms of such law, regulation, court order or governmental body; and (b) in no way alter the confidential nature of such terms for all other purposes. Pursuant to Section 63G-2-309 of GRAMA, any confidential information provided to University that Licensee believes should be protected from disclosure must be accompanied by a written claim of confidentiality and a concise statement of reasons supporting such claim. Notwithstanding any provision to the contrary in the Agreement, University may disclose any information or record to the extent required by GRAMA or otherwise required by law, and either Party may disclose the terms of this Agreement to its employees, attorneys, accountants, advisors, directors, officers, consultants

and other representatives on a need to know basis; provided, that such representatives shall be subject to confidentiality obligations no less restrictive than those set forth in the Agreement.

8.5. Governmental Immunity. Licensee further acknowledges that University is a governmental entity under the Governmental Immunity Act of Utah, Utah Code section 63G-7-101 et seq., as amended (the "Act"). Nothing in the Agreement shall be construed as a waiver by University of any protections, rights, or defenses applicable to University under the Act, including without limitation, the provisions of section 63G-7-604 regarding limitation of judgments. It is not the intent of University to incur by contract any liability for the operations, acts, or omissions of Licensee or any third party and nothing in the Agreement shall be so interpreted or construed. Without limiting the generality of the foregoing, and notwithstanding any provisions to the contrary in the Agreement, any indemnity obligations of University contained in the Agreement are subject to the Act and are further limited only to claims that arise directly and solely from the negligent acts or omissions of University. Any limitation or exclusion of liability or remedies in the Agreement for any damages other than special, indirect or consequential damages, shall be void and unenforceable.

8.6. University Insurance. University carries insurance through the State Risk Manager of the State of Utah up to the limits required by the State Risk Manager and applicable law. Nothing in the Agreement shall require University to carry different or additional insurance, and any obligations of University contained in the Agreement to name a party as additional insured shall be limited to naming such party as additional insured with respect to University's negligent acts or omissions.

8.7. Notice. Any payment, notice, or other communication required or permitted to be given to either party hereto shall be in writing and shall be deemed to have been properly given and effective: (a) on the date of delivery if delivered in person during recipient's normal business hours; or (b) on the date of delivery or attempted delivery if delivered by courier, express mail service or first-class mail, registered or certified. Such notice shall be sent or delivered to the following addresses, or such other address as a Party may provide to the other Party in accordance with this Section:

If to University:
Utah State University
3500 Old Main Hill
Logan, UT 84322-3500
Attn: HSB Dean

If to Licensee:
Center for Growth and Opportunity
UMC 3500 Old Main Hill
Logan, UT 84322-3500
Attn: Center Director

With a copy to:
Utah State University
1465 Old Main Hill
Logan, Utah 84322-1465
Attn: General Counsel

8.8. Assignment. Neither party may assign, transfer, or otherwise dispose of its rights, interests, or duties hereunder, in whole or in part, to any third party without prior written approval from the other Party. Any attempted assignment, transfer or disposition without such consent will be void. All of the terms of this Agreement are binding upon and inure to the benefit of the Parties hereto and their permitted successors and permitted assigns.

8.9. Relationship of Parties. In assuming and performing the obligations of this Agreement, the Parties are each acting as independent parties and neither shall be considered or represent itself as a joint venture, partner, franchise, agent, or employee of the other.

8.10. Headings. No headings in this Agreement affect its interpretation.

8.11. Amendment and Supplement. Any amendment and/or supplement of this Agreement shall come into force only after a written agreement is signed by both Parties. The amendment and supplement duly executed by both Parties shall be part of this Agreement and shall have the same legal effect as this Agreement.

8.12. Merger. This Agreement and the Affiliation Agreement collectively embody the entire understanding of the Parties and supersede all previous communications, representations, or understandings, either oral or written, between the Parties relating to the subject matter thereof.

8.13. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by electronic means shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

8.14. Severability. The provisions of this Agreement are severable, and in the event that any provision of this Agreement shall be determined to be invalid or unenforceable under

any controlling body of the law, such invalidity or unenforceability shall not in any way affect the validity or enforceability of the remaining provisions herein.

IN WITNESS THEREOF the Parties hereto have caused this Agreement to be duly executed on their behalf by a duly authorized representative as of the Effective Date set forth above.

UTAH STATE UNIVERSITY

CENTER FOR GROWTH AND
OPPORTUNITY

By: _____

By: _____

Print Name:

Print Name:

Title:

Title:

Date: _____

Date: _____

Exhibit B
Lease Agreement

LEASE AGREEMENT
By and Between
UTAH STATE UNIVERSITY
and
THE CENTER FOR GROWTH AND OPPORTUNITY

This LEASE AGREEMENT (the “Lease”) is made and entered into as of May 6, 2017, between UTAH STATE UNIVERSITY, a body politic and corporate, as landlord (the “University”), and the CENTER FOR GROWTH AND OPPORTUNITY, a Utah nonprofit corporation, as tenant (the “Center” and/or “Tenant”). Hereinafter the University and Tenant may be referred to as the “Party” if in the singular or as the “Parties” if plural.

WITNESSETH:

WHEREAS, on May 6, 2017, the University and the Center executed an Affiliation Agreement for the purpose of facilitating an ongoing, mutually beneficial collaboration to provide increased research and educational opportunities for University students and faculty (referred to herein as the “Affiliation Agreement”);

WHEREAS, to facilitate the Parties’ collaboration, the University agreed in the Affiliation Agreement to lease to the Center up to 5,000 square feet of space in the Eccles Business Building and Huntsman Hall to be used as office space for the Center’s research and education activities, which are consistent with the University’s Mission;

WHEREAS, on May 6, 2017, the Charles Koch Foundation and the University executed a Gift Agreement (referred to herein as the “CKF Gift Agreement”) wherein the Charles Koch Foundation agreed to contribute funds to the University and expressed an intent that the contributed funds be used to support the University’s affiliation with the Center, including, without limitation, the leasing of office space to the Center on the University’s Logan campus;

NOW THEREFORE, pursuant to Utah System of Higher Education policy R712-5 and in consideration of the mutual promises herein and of other good and valuable consideration herein mentioned, the receipt and sufficiency of which is hereby acknowledged by both Parties, the Parties hereby agree as follows:

1. Leased Premises. Subject to the terms hereof, University hereby leases to Tenant and Tenant leases from University the following space: Rooms 101, 101A, 103, 103A, 105, 105B, 105C, 108, 110, 110A, 113 in the Eccles Business Building (the “Building”) and Room 175 of Huntsman Hall, consisting of approximately 5,000 square feet and depicted in Exhibit 1. Said space and all improvements therein are herein called the “Leased Premises.” During the term of this Lease and as specified herein, Tenant and its employees, agents and invitees shall have full and unimpaired access to the Leased Premises and, in connection therewith, to all common areas of the Building, including, without limitation, common lobbies, elevators, loading dock, stairways, halls, and restroom facilities contained in the Building (collectively, the “Common Areas”), all such uses to be at all times in common with others.

2. Parking. University shall provide Tenant with nonexclusive access to 15 parking spaces on the University’s Logan campus in locations dependent upon space availability.

3. Term. The primary term of this Lease shall be fifteen (15) years commencing on May 6, 2017 (the “Commencement Date”) and expiring on May 6, 2032 (the “Primary Term”).

4. Option to Extend Term of Lease. At the expiration of the Primary Term, this Lease will automatically renew for successive one-year terms on an annual basis (each a “Renewal Term” and, together with the Primary Term, the “Term.”), unless either Party provides written notice of termination ninety (90) days prior to the expiration of the Primary Term or then-current Renewal Term, as applicable.

5. Rent. The Parties agree that so long as the funds contributed to University pursuant to the CKF Agreement, less the expenses for Center-affiliated faculty and student support provided for by the CKF Agreement (collectively, the “Contributed Funds”) are equal to or greater than the fair market value of the annual rental rate for the Leased Premises, calculated as \$16 per square foot, or \$80,000 for the Leased Premises, with an automatic increase of ten percent (10%) every five (5) years (the “Fair Market Value Annual Rent”), Tenant shall not be required to pay rent to the University for the Leased Premises during the Term of this Lease. In the event the Contributed Funds for any calendar year of the Term are less than the Fair Market Value Annual Rent, the University shall notify Tenant in writing of such event. Following receipt of such notice, Tenant shall pay, in equal monthly payments, the difference between the Fair Market Value Annual Rent and the Contributed Funds for such calendar year, with all rental payments due on the first day of the month following receipt of such notice.

6. Condition of Leased Premises. Prior to entering into this Lease, Tenant has made a full and complete inspection of the Leased Premises, Building and Common Areas. Tenant agrees that Tenant is leasing the Leased Premises, and Tenant accepts the Leased Premises, “AS IS, WHERE IS,” including any and all defects, patent, latent or otherwise, with no representation or warranty by University as to the fitness, suitability, habitability, or usability of the Leased Premises, or as to the presence or absence of any Hazardous Materials (as defined below) on, about or adjacent to the Leased Premises. Tenant shall make no alteration to the Leased Premises without prior written approval of the University. In addition, the Leased Premises are leased subject to current taxes and assessments, reservations in patents and all rights-of-way, easements, covenants, conditions, restrictions, obligations, liens, encumbrances, and liabilities of record as of the date of this Lease, and to all zoning and building code requirements and other governmental laws, rules and regulations.

7. Tenant Improvements. The University shall deliver the Leased Premises in their “As Is” condition as of the Commencement Date. In the event Tenant wishes, at its sole cost and expense, to construct tenant improvements and make installations to the Leased Premises, Tenant shall obtain prior approval of any plans and specifications from University’s Facilities Planning Design & Construction Department, which approval shall not be unreasonably withheld, conditioned, or delayed. Any and all improvements must be constructed in accordance with University’s design and construction standards and requirements.

All permanent improvements approved by University and constructed and placed on the Leased Premises pursuant to this Paragraph 7 shall, at the expiration or termination of this Lease, become the property of the University and remain upon and surrendered with the Leased Premises. Tenant shall not remove any of these improvements from the Leased Premises nor waste, destroy or modify them in any way. Tenant shall deliver these improvements to University in good condition and repair, reasonable wear and tear excepted, without compensation to Tenant, any subtenant or third party, free and clear of all claims

to or against them by Tenant, any subtenant or third party. The University and Tenant covenant for themselves and all persons claiming under or through them that the improvements are real property.

8. Permitted Use. The Leased Premises shall be used and occupied only for office and conference space to support the research and educational programs carried out by the Center, or for related uses which are approved in advance in writing by the University (the "Permitted Use"), and for no other purpose.

9. Affirmative Obligations With Respect to Use. At Tenant's sole cost and expense, Tenant shall and shall cause its employees, agents, licenses, invitees, and contractors to:

- a. Comply with all present and future governmental laws, ordinances, rules, regulations and requirements; provided, however, Tenant shall have no obligation to the University with respect to any hazardous materials, hazardous wastes, or hazardous or toxic substances as defined under applicable law (collectively, "Hazardous Materials") in the Building not stored, used, or disposed of by Tenant or its employees, contractors, agents or invitees.
- b. Comply with all reasonable policies, procedures, rules, and regulations of the University relating to the use of the Leased Premises and/or Building set forth in attached Exhibit 2 ("Rules and Regulations"). University has the right to make additional rules and regulations as in its judgment may be necessary or advisable for the safety, care, cleanliness, condition, or good order of the Building. All such additional rules and regulations when made shall form part of this Lease when provided in writing to Tenant by the University.
- c. Comply with the requirements of any board of fire underwriters or other similar body relating to the Leased Premises, excluding structural changes caused by improvements that are the responsibility of University.
- d. Keep the Leased Premises in a reasonably clean and orderly condition, free of objectionable noises, odors or nuisances.
- e. Not use nor permit the use of the Leased Premises in any manner that will create waste, cause a nuisance, or disturb other tenants and users of the Building.

10. Tenant Obligations. Tenant shall take all necessary measures to prevent its employees, contractors, agents or invitees from causing injury and loss to persons or property located on the Leased Premises, Building or any other area of the University's property. Tenant shall be responsible for all damages to persons or property caused by Tenant or any of its agents or employees. Tenant shall promptly repair to the specifications of the University any damage that it or its employees or agents may cause to the University's property or equipment; and on Tenant's failure to do so within thirty (30) days after the University has given Tenant written notice of such damage, the University may repair such damage and Tenant shall reimburse the University promptly for the cost of repair. Tenant agrees that in the event of an accident of any kind at the Leased Premises of which Tenant is aware, Tenant will immediately notify the University's Office of Risk Management and, thereafter, furnish a written report of such accident if requested by the University.

11. University Obligations. The University shall without demand: (a) keep the Building in a reasonably clean and orderly condition; (b) repair and replace damage to the Building and the Leased

Premises, which repairs and replacements shall be of quality reasonably comparable to the original undamaged condition; and (c) make all repairs necessary to maintain the Common Areas, the plumbing, air conditioning and electrical systems, windows, structural support, walls, roof, floors and all other items that constitute a part of the Building and/or are installed or furnished by University. Notwithstanding the foregoing, in no event shall the University be obligated under this Paragraph to repair any damage caused by any act, omission or negligence of Tenant or its officers, agents, contractors, invitees or employees. In addition, the University shall be solely responsible for compliance with all laws, regulations and ordinances relating in any way to the physical nature of the Leased Premises and/or the Building and any alterations, additions and/or improvements that University makes thereto.

12. Access. Tenant's employees, agents, and invitees shall have access to the Leased Premises during the Hours of Operation (as defined in Paragraph 13 below) and at such other times as agreed upon by the Parties, in writing.

13. Hours of Operation. It is understood that the "Hours of Operation" shall be 7:00 a.m. to 11:30 p.m., Monday through Thursday, 7:00 a.m. to 6:30 p.m. Friday, 9:00 a.m. to 5 p.m. Saturday, and closed on Sunday. The foregoing times may be periodically reviewed by the University, and changes to such Hours of Operation may be made at the sole discretion of the University. Any changes in the Hours of Operation shall be provided in writing no less than thirty (30) days prior to the effective date of any such change.

14. Utilities and Services. The University shall provide ordinary and commercially reasonable amounts of electricity, heat, air conditioning, water and sewerage, and custodial service for the Leased Premises and the Building during the Hours of Operation sufficient for Tenant's Permitted Use. Tenant acknowledges and agrees that the University may contract with a third party or parties to perform any or all of its obligations under this Lease, to manage any or all of the operations and business of the Building, or to coordinate the provision of the centralized services to Tenant. Tenant shall be responsible for paying the cost of telephone service, internet, and any other service or utility not herein identified with respect to Tenant's use of the Leased Premises. Tenant shall be responsible for the security of any and all of its data transmitted via telephone or fiber optics.

15. Condition of Leased Premises. Upon expiration or early termination of this Lease, for any reason, Tenant shall promptly (and, in no event, later than the effective date of such expiration or termination) remove any equipment, and shall restore the Leased Premises to the same condition as when the Leased Premises were delivered to Tenant (subject to any modifications made by Tenant and approved by the University pursuant to Paragraph 7), reasonable wear and tear excepted. Tenant shall leave the Leased Premises and the Building in a broom-clean state.

16. Signage. Tenant shall not place or cause to be placed or maintained on any exterior door, wall or window of the Leased Premises, or elsewhere on the Building or any other University Property, any sign, awning, marquee, decoration, lettering, attachment, canopy, advertising or similar matter (collectively, "Signage"), and will not place or maintain any Signage on the glass of any window or door of the Leased Premises without first obtaining University's written approval, which approval shall not be unreasonably withheld, conditioned, or delayed. While the trademarks, logos, color schemes and other elements of the Center's visual identity may differ from the University trademarks and visual identity, all Signage must conform to the University's then current Signage Standards ([see http://www.usu.edu/facilities/docs/SignageMPFinal.pdf](http://www.usu.edu/facilities/docs/SignageMPFinal.pdf)), which may be amended by University. Tenant shall maintain such Signage in good condition and repair at all times. If Tenant places or installs any Signage without first obtaining the University's consent, the University may, at Tenant's cost, and without

liability to Tenant, enter the Leased Premises and remove such Signage. Except as specifically provided herein, Tenant shall be responsible for its own Signage expenses.

17. Liens. Tenant shall promptly pay any contractors and materialmen who supply labor, work or materials to Tenant at the Leased Premises, so as to avoid the possibility of a lien attaching to the Leased Premises or the Building. Tenant shall not permit any mechanic's lien or liens to be placed on the Leased Premises or the Building. If a mechanic's lien is filed, Tenant shall promptly cause it to be discharged of record by payment, deposit, bond, order of court or otherwise or will pay the lien or may contest the lien in accordance with the provisions of this Paragraph. If Tenant elects to contest any such lien, Tenant shall, within twenty (20) days after it receives notice thereof, provide a bond or other security as the University may reasonably request (not to exceed 150% of the amount of the disputed lien) to be issued in favor of the University for the duration of Tenant's proceeding to contest such lien. If prior to the expiration of such 20-day period Tenant fails to pay or provide a bond or other security pending Tenant's contest of such lien, the University may, at its option, pay the lien or any portion of it without inquiry as to its validity. Any amounts paid by the University to remove a mechanic's lien caused to be filed by Tenant, including expenses and interest, shall be due from Tenant to University and shall be repaid to University immediately upon receipt of notice.

18. Taxes. University specifically calls to Tenant's attention the fact that this Lease may create a possessory interest subject to property taxation, and Tenant may be subject to property tax levied on such interest. Tenant alone shall pay such tax. If the right is given to pay any of the taxes, assessments or other impositions which Tenant is herein obligated to pay either in one sum or in installments, Tenant may elect either mode of payment. Tenant shall pay prior to delinquency all taxes assessed against and levied upon trade fixtures, furnishings, equipment and all other personal property of Tenant contained in the Leased Premises or elsewhere. Tenant shall cause said trade fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property of University. Tenant, at its sole cost and expense and by appropriate legal proceedings conducted in good faith, may contest the amount or validity or application, in whole or in part, of any taxes, charges, and fees or liens therefor assessed against Tenant's leasehold interest and/or its trade fixtures, furnishings, equipment and all other personal property of Tenant contained in the Leased Premises.

19. Insurance. Tenant shall carry and maintain, at its expense and with satisfactory insurance companies, as determined by the University's Office of Risk Management, insurance in the minimum limits as set forth below:

- a. Comprehensive General Liability. \$2,000,000 Combined Single Limit or Bodily Injury and Property Damage per Occurrence (including coverage for but not limited to contractual, products, broad form property damage, personal injury, and independent contractors' liability);
or
- b. Commercial General Liability.
 - \$1,000,000 Each Occurrence
 - \$2,000,000 General Aggregate
 - \$1,000,000 Products & Completed Operations Aggregate
 - \$1,000,000 Personal & Advertising Injury
 - \$50,000 Fire Damage (any one fire)
 - \$5,000 Medical Expense (any one person)

- c. Automobile Liability. \$1,000,000 Combined Single Limit for Bodily Injury and Property Damage per Accident (coverage to include hired car and non-owned automobiles).
- d. Workers' Compensation. Tenant shall obtain and keep in effect at all times during the Term of this Lease workers' compensation insurance, including employers' liability, covering all employees employed in or about the Leased Premises to provide statutory benefits as required by the laws of the State of Utah. Said policy shall be endorsed to provide that the insurer waives all rights of subrogation against the University.
- e. Employer's Liability.
 - \$100,000 Each Accident
 - \$500,000 Disease-Policy Limit
 - \$100,000 Disease-Each Employee

The University shall be named as an additional insured with respect to the insurance policies identified in clauses a. and b. above. Certificates of insurance evidencing the above-referenced insurance coverage shall be filed by Tenant immediately upon execution of this Lease and annually thereafter with the University's Office of Risk Management. Such certificates shall provide that the insurer will give the University not less than thirty (30) days advance notice of any cancellation of any of the above insurance coverage.

If Tenant fails to procure or maintain the insurance require by this Paragraph in full force and effect, this Lease may be terminated immediately by University in accordance with the provisions of Paragraph 23. In addition, if Tenant fails to procure or maintain the insurance required by this Paragraph, Tenant shall cease and desist from operating any business or use the Leased Premises during any period in which such insurance policies are not in full force and effect.

Tenant shall ensure that all subcontractors used by Tenant, in connection herewith, must also maintain and provide, at their own expense, evidence of insurance coverage as required above.

The University agrees to maintain "All Risk" property insurance for full replacement cost of the Building, with the usual commercial extended coverage provisions.

20. Indemnification.

- a. Tenant shall indemnify, defend and hold harmless the University, its trustees, officers, employees and agents, from and against any and all claims, liabilities, damages, injuries, expenses or losses including, but not limited to, attorneys' fees or costs (a "Loss") by reason of any suit, claim, demand, judgment or cause of action (an "Action") arising from (i) the use or occupancy of the Leased Premises and/or Building by Tenant or its directors, officers, employees, agents, contractors, or invitees, (ii) a breach or failure of Tenant to observe or perform any representation, warranty or covenant or other provision of this Lease, or (iii) any violation of law by Tenant.
- b. University shall indemnify, defend and hold harmless the Tenant, its trustees, officers, employees and agents, from and against any and all "Losses by reason of any Action arising from (i) the use or occupancy of the Building by the University or its directors, officers,

a similar declaration or finding, or seeking dissolution or other similar relief with respect to the University under any law relating to bankruptcy, insolvency, relief of debtors or protection of creditors, termination of legal entities or any other similar law now or hereafter in effect; or;

2. seeking appointment of a receiver, trustee, liquidator, assignee, sequestrator or other custodian for the University or for all or any substantial part of its assets; and such proceeding has resulted in the entry, making or grant of any such order for relief, declaration, finding, relief or appointment, or such proceeding remains undismissed and unstayed for a period of sixty (60) consecutive days.

iii. The University has become insolvent; has failed to pay, become unable to pay, or state that it is or will be unable to pay, its debts as they become due; has voluntarily suspended transaction of its business; or has made a general assignment for the benefit of creditors.

23. Termination by University. This Lease may be terminated by the University under the following conditions:

a. Event of Default. The University may immediately terminate this Lease by written notice to Tenant upon the occurrence of an Event of Default by Tenant. An "Event of Default" as to Tenant shall mean the occurrence or existence of one or more of the following events or conditions (for any reason, whether voluntary, involuntary or effected or required by law):

i. Tenant has failed to pay any amount due hereunder and such failure has continued for a period of ten (10) business days after written notice by the University to Tenant, unless any such failure to pay was based upon an Event of Default by the University.

ii. Tenant has breached or failed to comply with any material covenant to perform an obligation of Tenant under this Lease and such failure has continued for a period of twenty (20) business days after written notice by the University to Tenant.

iii. A proceeding has been instituted in respect of Tenant:

1. seeking to have an order for relief entered in respect of Tenant, or seeking a declaration or entailing a finding that Tenant is insolvent or a similar declaration or finding, or seeking dissolution or other similar relief with respect to Tenant under any law relating to bankruptcy, insolvency, relief of debtors or protection of creditors, termination of legal entities or any other similar law now or hereafter in effect; or

2. seeking appointment of a receiver, trustee, liquidator, assignee, sequestrator or other custodian of Tenant or for all or any substantial part of its assets; and such proceeding has resulted in the entry, making or grant of any such order for relief, declaration, finding, relief or appointment, or such proceeding shall remain undismissed and unstayed for a period of sixty (60) consecutive days.

- iv. Tenant has become insolvent; has failed to pay, become unable to pay, or state that it is or will be unable to pay, its debts as they become due; has voluntarily suspended transaction of its business; or has made a general assignment for the benefit of creditors.

b. Termination of Affiliation Agreement. Notwithstanding anything contained herein to the contrary, this Lease shall terminate immediately upon termination, expiration or nonrenewal of the Affiliation Agreement between the University and Tenant.

24. Termination Due to Destruction. In the event that the Leased Premises is totally or partially destroyed from fire or other casualty not occurring through the fault or negligence of Tenant so that the same is totally or partially inaccessible or unusable for Tenant's purposes, Landlord shall, as soon as reasonably practicable, repair the Leased Premises in a good and workmanlike manner and in accordance with applicable law, to the condition in which the Leased Premises were immediately prior to such damage or destruction (excluding any damage to Tenant's personal property). Until such repair is complete or this Lease is terminated in accordance with this Paragraph, any rent due from Tenant shall be abated proportionately as of the date of such damage or destruction as to that portion of the Leased Premises rendered untenable by such damage or destruction. If, however, such repairs would take, in the University's reasonable estimate, longer than ninety (90) days to complete, Tenant may terminate this Lease upon providing written notice to the University. If the Leased Premises are damaged, the University shall provide to Tenant, within thirty (30) days of the occurrence of such damage, a reasonable estimate of the time required to complete the requisite repairs.

25. Notices. All notices under this Lease shall be in writing, and shall be sent by certified mail, return receipt requested; hand delivered or delivered by a nationally recognized overnight courier, and shall be addressed as follows:

- (i) If to University:
Utah State University
Attn: Dean, Jon M. Huntsman School of Business
3500 Old Main Hill
Logan, Utah 84322-3500

with a copy to:

- (ii) Utah State University
Attn: Real Property Office
1445 Old Main Hill
Logan, Utah 84322-1445

- (iii) If to Tenant:
Center for Growth and Opportunity
Attn: Center Director
3500 Old Main Hill
Logan, Utah 84322-3500

with a copy to:

(iv) Holland & Hart LLP
Attn: Craig Frame
222 South Main Street, Suite 2200
Salt Lake City, Utah 84101
Attn: Craig Frame

26. Severability. If any term, covenant or condition of this Lease shall prove to be invalid, void or illegal, it shall in no way effect, impair or invalidate any other term, covenant or condition hereof and the remaining terms, covenants and conditions hereof shall nevertheless remain in full force and effect.

27. Survival. The obligations of each Party with respect to indemnification, and Tenant's obligation with respect to restoration, shall survive the expiration or termination of this Lease. The University's rights to recover damages for which Tenant is liable shall not be limited by the expiration or termination of this Lease.

28. Rights and Remedies. The rights and remedies of the University and Tenant shall not be mutually exclusive and the exercise of one or more of the provisions of this Lease shall not preclude the exercise of any other provisions. Tenant and the University confirm that damages at law may be an inadequate remedy for a breach or threatened breach by Tenant or the University of any of the provisions hereof. The University's and Tenant's respective rights and obligations hereunder shall be enforceable by specific performance, injunction or any other equitable remedy, but nothing herein contained is intended or shall limit or affect any rights at law or by statute or otherwise of either Party for a breach or threatened breach of any provision hereof by the other Party, it being the intention by this Section to make clear the agreement of the Parties hereto and the rights and obligations of University and Tenant hereunder shall be enforceable in equity as well as at law or otherwise.

29. Quiet Enjoyment. On Tenant observing and performing all of the terms, covenants and conditions on Tenant's part to be observed and performed under this Lease within any applicable notice and cure period given to Tenant in this Lease, Tenant shall have quiet use and enjoyment of the Leased Premises for the Term, free of all claims and without interference, hindrance or interruption from the University, or anyone claiming by, through or under the University, subject to all of the provisions of this Lease.

30. Waiver. No waiver by the University or Tenant of any breach by the other party hereto of any of its obligations, agreements or covenants hereunder shall be a waiver of any subsequent breach or of any other obligation, agreement or covenant, nor shall any forbearance by the University or Tenant to seek a remedy for any breach by the other Party be a waiver by the University or Tenant, as the case may be, of its rights and remedies with respect to such breach or any subsequent breach.

31. Entire Agreement. This Lease, together with the Affiliation Agreement, sets forth all the promises, agreements, conditions and understandings between the University and Tenant relative to the Leased Premises, and there are no provisos, agreements, conditions or understandings, either oral or written between them except as are herein set forth. No subsequent alternation, amendment, change or addition to this Lease shall be binding upon the University or Tenant unless such is in writing and signed by a duly authorized representative of the University and Tenant.

32. Captions and Attachments. The captions to the Articles and Sections of this Lease are for convenience of reference only and shall not be deemed relevant in resolving questions of construction or

interpretation under this Lease. Exhibits referred to in this Lease and any addenda, riders and schedules attached to this Lease shall be deemed to be incorporated in this Lease as though a part hereof.

33. Ambiguities. Any ambiguities in this Lease shall not be strictly construed against the drafter of the language concerned, but instead shall be resolved by applying the most reasonable interpretation giving full consideration to the intent of the parties at the time of execution.

34. Counterparts. This Lease may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

35. Relationship of Parties. Nothing contained in this Lease shall be deemed or construed by the Parties or by any third person to create the relationship of employer and employee, principal and agent, of partnership, of joint venture, or of any association between the University and Tenant except as specifically provided hereunder.

36. Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State of Utah and Tenant hereby consents to jurisdiction and venue in the state and federal courts of the County of Cache, State of Utah.

37. No Assignment. Tenant shall not transfer, assign, mortgage or hypothecate this Lease, in whole or in part, permit the use of the Leased Premises by any person or persons other than Tenant, its directors, officers, employees, agents, contractors, invitees or others having lawful business with Tenant, or sublet the Leased Premises or any part thereof, without obtaining the University's consent. Such prohibition against assigning or subletting shall include any assignment or subletting by operation of law. Any acceptance by the University of any rent or other payment hereunder following a purported assignment or sublease shall not be deemed a consent to any such assignment or sublease or a waiver of any rights and remedies of University under this Lease. Any assignment or subletting without University's consent shall be void and shall constitute an automatic Event of Default hereunder without the need for any notice of such Event of Default. Such Event of Default, at the option of the University, shall result in acceleration or termination of this Lease or the exercise of University's other remedies hereunder. Under no circumstances shall any right to renew or right to expand held by Tenant be assignable by Tenant.

38. Remedies. Pursuit by either Party of any of the remedies provided herein shall not preclude pursuit by such Party of any other remedy or remedies provided herein or otherwise available at law or in equity. All remedies, rights, undertakings, obligations and agreements contained in this Lease shall be cumulative and none of them shall be in limitation of any other remedy, right, undertaking, obligation or agreement of either Party.

39. Force Majeure. If either Party is unable to perform any of its obligations under this Lease due to an event beyond its reasonable control, the time provided for performing such obligations shall be extended by a period of time equal to the duration of such event. Events beyond a Party's reasonable control shall include, but not be limited to, acts of God, war, civil commotion, strikes, fire, flood or other casualty and government regulation or restriction. The Party claiming the benefit of any force majeure delay shall use its best efforts to notify the other Party promptly following the occurrence of any event constituting a force majeure delay.

40. Authorization. Each individual executing this Lease does hereby represent and warrant to each other Party hereto that he/she has been duly authorized to execute and deliver this Lease in the

capacity and for the entity set forth herein and that all necessary corporate action has been taken to authorize his/her execution and delivery of this Lease on behalf of such entity.

41. Successors. Subject to Paragraph 37, all provisions contained in this Lease shall be binding on, and shall inure to the benefit of, the Parties and their respective successors and assigns.

[signature follow on the next page]

IN WITNESS WHEREOF, the Parties have caused this Lease to be duly executed as of the day and year first above written.

UTAH STATE UNIVERSITY

By: _____
Name: _____
Title: _____

TENANT

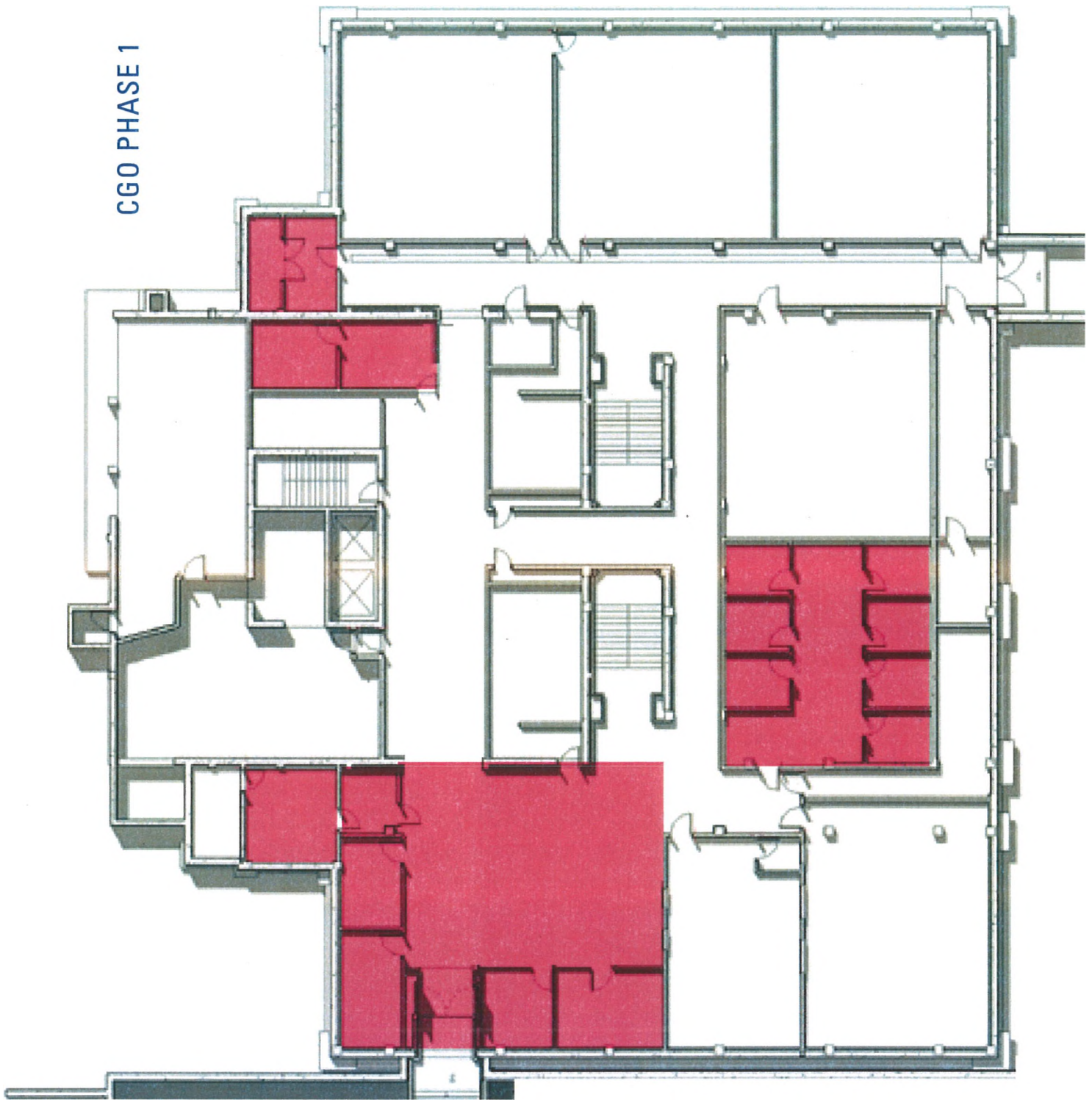
By: _____
Name: Blake Dursteler
Title: Center Director and President

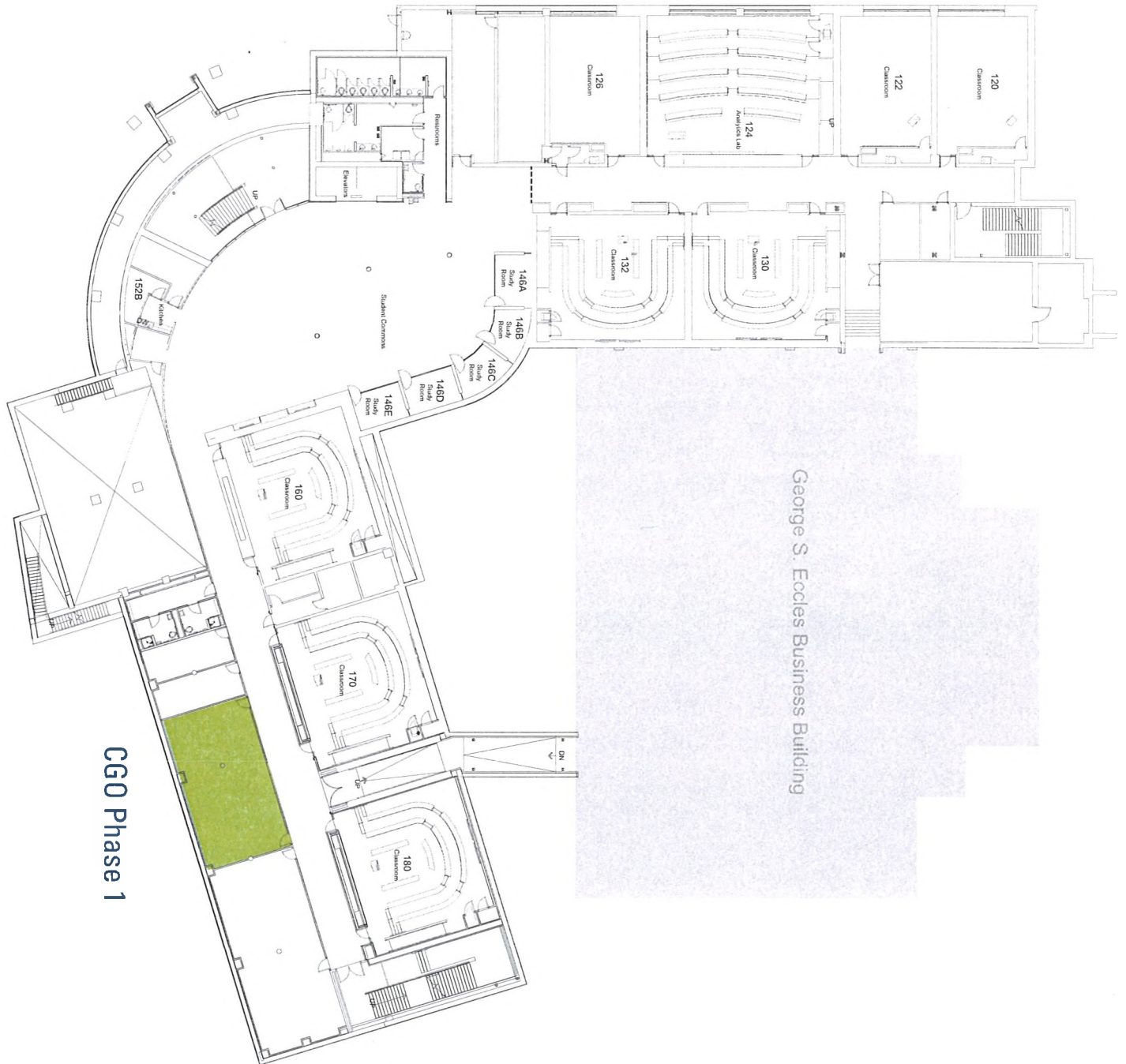
Exhibit 1

DESCRIPTION OF LEASED PREMISES

See attached map.

CGO PHASE 1





CGO Phase 1

Exhibit 2

RULES AND REGULATIONS

The rules and regulations set forth in this Exhibit 2 shall be and hereby are made a part of the Lease (the "Lease") to which they are attached. Whenever the term "Tenant" is used in these rules and regulations, it shall be deemed to include Tenant, its employees or agents and any other persons permitted by Tenant to occupy or enter the Leased Premises. The following rules and regulations may from time to time be modified by the University. Capitalized terms not defined herein have the meaning ascribed in the Lease.

1. Obstruction. The sidewalks, entries, passages, corridors, halls, lobbies, stairways, elevators and other common facilities of the Building shall be controlled by University and shall not be obstructed by Tenant or used for any purpose other than ingress or egress to and from the Leased Premises. Tenant shall not place any item in any of such locations, whether or not any such item constitutes an obstruction, without the prior written consent of University. University shall have the right to remove any obstruction or any such item without notice to Tenant and at the expense of Tenant.

2. Ordinary Business Hours. All persons entering or leaving the Building between outside of the Building's Hours of Operation or on holidays, may be required to do so under such regulations as the University may impose.

3. Deliveries. Tenant shall insure that all deliveries of supplies to the Leased Premises shall be made only through such access as may be designated by the University for deliveries and only during the ordinary business hours of the Building. If any person delivering supplies to Tenant damages any part of the Building, Tenant shall pay to the University upon demand the amount required to repair such damage.

4. Moving. Furniture and equipment shall be moved in or out of the Building only through such access as may be designated by the University for deliveries and then only during such hours and in such manner as may be prescribed by the University. If Tenant's movers damage any part of the Leased Premises, Building, or any other University property, Tenant shall pay to University upon demand the amount required to repair such damage.

5. Heavy Articles. No safe or article, the weight of which may, in the opinion of the University, constitute a hazard of damage to the Building or its equipment, shall be moved into the Leased Premises. Safes and other heavy equipment, the weight of which will not constitute a hazard or damage the Leased Premises or its equipment shall be moved into from or about the Leased Premises only during such hours and in such manner as shall be prescribed by the University in its sole and absolute discretion and University shall have the right to designate the location of such articles.

6. Nuisance. Tenant shall not do or permit anything to be done in the Leased Premises, or bring or keep anything therein which would in any way constitute a nuisance or waste, or obstruct or interfere with the rights of other tenants or occupants of the Building, or in any way injure or disturb them, or conflict with the laws relating to fire, or with any regulations of the fire department, or with any insurance policy upon the Building or any part thereof, or conflict with any of the rules or ordinances of the Department of Health of the county and city in which the Building is located.

7. Building Security. The University may require identification of persons entering and leaving the Building during the period outside of the ordinary business hours of the Building and, for the purpose, may issue building passes to tenants of the Building.

8. Pass Key. The custodial of the University may at all times keep a pass key to the Leased Premises and he and other agents of the University shall at all times be allowed admittance to the Leased Premises.

9. Locks and Keys for Leased Premises. No additional lock or locks shall be placed by Tenant on any door in the Leased Premises and no existing lock shall be changed unless written consent of the University shall first have been obtained. The University will provide to Tenant a reasonable number of keys to the Leased Premises and to the toilet rooms, if locked by the University, and Tenant shall not have any duplicate key made. At the termination of this tenancy, Tenant shall promptly return to the University all keys for the Leased Premises and any locks, safes, cabinets and vaults remaining in the Leased Premises.

10. Use of Water Fixtures. Water closets and other water fixtures shall not be used for any purpose other than that for which the same are intended, and any damage resulting to the same from use on the part of Tenant shall be paid for by Tenant. No persons shall waste water by tying back or wedging the faucets or in any other manner. Upon leaving the Leased Premises, Tenant shall shut off all water faucets and major electrical apparatus located within the Leased Premises.

11. No Animals; Excessive Noise. Except as permitted by law, no animals shall be allowed in the offices, halls or corridors in the Building. No persons shall disturb the occupants of this building or adjoining buildings or space by making excessive noises, causing disturbances or vibrations, any of which may be reasonably offensive to the occupants of the Building, the Common Area or adjoining space.

12. Trash. Tenant shall not allow anything to be placed on the outside of the Leased Premises or Building, nor shall anything be thrown by Tenant out of the windows or doors, or down the corridors or ventilating ducts or shafts of the Building. All trash shall be placed in receptacles provided by University for the Building or Tenant for the Leased Premises.

13. Windows. No window shades, blinds, screens, or draperies will be attached or detached by Tenant and no awnings shall be placed over the windows without the University's prior written consent.

14. Hazardous Operations and Items. Tenant shall not install or operate any steam or gas engine or boiler, or carry on any mechanical business in the Leased Premises without the University's prior written consent, which consent may be withheld in University's absolute discretion. The use of oil, gas or inflammable liquids for heating, lighting, or any other purpose is expressly prohibited. Explosives or other articles deemed extra hazardous shall not be brought into the Building.

15. Hours for Repairs, Maintenance and Alteration. Any repairs, maintenance and alterations required or permitted to be done by Tenant under the Lease shall be done only during the weekday Hours of Operation of the Building unless the University shall have first consented in writing to such work being done outside of such times. If Tenant desires to have such work done by University's employees on Saturdays, Sundays, holidays or weekdays outside of the Hours of Operation, Tenant shall pay the extra cost for such labor.

16. No Defacing of Leased Premises. Except as permitted by the University by prior written consent, Tenant shall not mark upon paint signs upon, cut drill into, drive nails or screws into, or in any way deface the walls, ceilings, partitions, or floors of the Leased Premises or of the Building, and any defacement, damage or injury directly or indirectly caused by Tenant shall be paid for by Tenant. Pictures or diplomas shall be hung on tacks or small nails. Tenant shall not use adhesive hooks for such purposes.

17. Chair Pads. During the entire term of this Lease, Tenant shall, at its expense, install and maintain under all caster chairs a chair pad to protect the carpeting.

18. Solicitation; Food and Beverages. The University reserves the right to restrict, control or prohibit canvassing, soliciting and peddling within the Building. Tenant shall not grant any concessions, licenses or permission for the sale or taking of orders for food or services or merchandise in the Leased Premises, nor install or permit the installation or use of any machine or equipment for dispensing goods or foods or beverages in the building, nor permit the preparation, serving, distribution or delivery of food or beverages in the Leased Premises without the prior written approval of the University and only in compliance with procedures prescribed by University. Only persons approved by the University shall be permitted to serve, distribute or deliver food and beverages within the Building, or to use the public areas of the Building for that purpose.

22. Captions. The caption for each of these rules and regulations is provided as a matter of convenience only and shall be considered of no effect in the construction of any provision or interpretation of these rules and regulations.