

UNIVERSITY SITE ACCESS AGREEMENT

This University Site Access Agreement (“Agreement”) is entered into by and between The Board of Governors of The Colorado State University System, acting by and through Colorado State University, an institution of higher education of the State of Colorado (“University”), and _____, a _____ organized under the laws of the state of _____, with a place of business located at: _____ (“Company”), (singularly “Party” and together the “Parties”).

RECITALS

WHEREAS, University operates the Methane Emission Technology Evaluation Center (“METEC”) on its property known as Christman Field; and

WHEREAS, Company desires to test sensor technology at METEC which may include operation of UAS/UAVs in airspace over the facility; and

WHEREAS, Company desires to utilize METEC and Christman Field to test the sensor technology and possible operation of UAS/UAV’s in airspace over the facility; and

NOW THEREFORE, in consideration of the above and the mutual promises contained herein, the parties agree as follows.

AGREEMENT

1. Site Identification.

- a. University agrees that Company shall have non-exclusive access to University’s facility METEC Site, identified at GPS location 40.59559, -105.13984, during the Term of this Agreement; and/or
 University agrees that Company shall have a non-exclusive access to University’s Christman Field, identified at GPS location 40.59567, -105.14432 (METEC and/or Christman Field “Site”).
- b. Company agrees to coordinate access times and space use with University.

2. **Term.** This Agreement shall be effective on the date of final signature (the “Effective Date”) and shall terminate on _____, unless sooner terminated as provided herein or extended by written agreement of the parties.

3. **Scope of Work.** Company agrees to test its equipment as fully described in Exhibit A – Scope of Work (the “Project”), attached hereto and made a part of this Agreement.

4. **Payment.** Company agrees to pay University for the site access under this Agreement as follows (check one):

a. Price amount:

In a fixed price amount of _____; or

In accordance with the payment terms set forth in the Scope of Work, Exhibit A attached hereto; or

At no cost.

- b. University shall invoice Company the amount owed within thirty (30) days after the expiration of this Agreement, unless mutually agreed upon otherwise, with payment terms identified within the invoice.

5. **Ownership of Information.** At all times during and following the term of this Agreement, including any extensions or renewals hereof, all records, information and data developed during the performance of the Term under this Agreement (“Project Records”) shall be and remain the sole property Company. The University retains the right to use the Project Records for academic and research purposes.
6. **Liability.** Each party hereto agrees to be responsible for its own wrongful or negligent acts or omissions, or those of its officers, agents, or employees to the full extent allowed by law. Liability of the University is at all times herein strictly limited and controlled by the provisions of the Colorado Government Immunity Act, C.R.S. secs. 24-10-101, et seq. as now or hereafter amended. Nothing in this Agreement shall be construed as a waiver of the protections of said Act. As an institution of the State of Colorado, CSU is not authorized to indemnify any party, public or private, as against the claims and demands of third parties and any such indemnification provision in this Agreement shall be null and void.
7. **Standard of Performance.**
- a. Company, and all its employees, subcontractors, and representatives shall conduct all activities on the Site in a reasonable and safe manner in accordance with all applicable University policies and directions of the University and in compliance with all applicable laws, regulations, and all safety requirements communicated to them by representatives of University. Any accident or incident causing injury or damage to persons or property must be immediately reported to the University.
- b. If at any time during the performance of the Project, University reasonably determines that one or more of Company’s representatives working at the Site is operating in the manner other than as required in this section 7, University will so inform Company and, absent agreement to the contrary, Company will remove the individual from the Site.
8. **Insurance.** Company shall procure and maintain insurance as provided in the attached Exhibit C, incorporated and made part of this Agreement, prior to and during access to the Site. When applicable, subcontractors shall be responsible for the same liability insurance requirements as Company. A party will furnish the other party a certificate evidencing such insurance upon written request.
9. **Independent Contractors.** It is understood and agreed by the parties that the University is an independent contractor with respect to the Company and that this Agreement is not

intended and shall not be construed to create an employer/employee or a joint venture relationship between the University and the Company.

10. **Exclusive Warranty; Disclaimer.** University warrants that all deliverables provided under this Agreement will be provided substantially in accordance with the University's obligations set forth in this Agreement. All other warranties, express and implied, are hereby expressly disclaimed INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. University shall not be liable for any indirect, special, incidental, consequential or punitive loss or damage of any kind, including but not limited to lost profits (regardless of whether or not University knows or should know of the possibility of such loss or damages).
11. **Use of Tradenames and Service Marks.** Neither party obtains by this Agreement any right, title, or interest in, or any right to reproduce or to use for any purpose, the name, tradenames, trade- or service marks, or logos (the "Marks"), or the copyrights of the other party. Neither party will include the name of the other party or of any employee of that party in any advertising, sales promotion, or other publicity matter without the prior written approval of that other party.
12. **Termination.** Either party may terminate this Agreement, without cause, upon not less than thirty (30) days' written notice, given in accordance with the Notice provisions of this Agreement. Termination of this Agreement shall not relieve a party from its obligations incurred prior to the termination date.
13. **Default.** A party will be considered in default of its obligations under this Agreement if such party should fail to observe, to comply with, or to perform any term, condition, or covenant contained in this Contract and such failure continues for thirty (30) days after the non-defaulting party gives the defaulting party written notice thereof. In the event of default, the non-defaulting party, upon written notice to the defaulting party, may terminate this Contract as of the date specified in the notice, and may seek such other and further relief as may be provided by law. In the event of a breach or threatened breach of paragraph 10 of this Agreement, the non-defaulting party may terminate the Agreement immediately without affording the defaulting party the opportunity to cure, and may seek an injunction or restraining order as required to prevent unauthorized disclosures of unauthorized use of its Marks or copyrights. In the event that Company defaults under the obligation to make any payment as required herein, the University shall be entitled to recover, in addition to all amounts due and unpaid, interest at the rate of eighteen percent per annum (1.5% per month), plus costs of collection and reasonable attorney fees incurred in connection with such default.
14. **Notices.** All notices and other correspondence related to this Agreement shall be in writing and shall be effective when delivered by: (i) certified mail with return receipt, (ii) hand delivery with signature or delivery receipt provided by a third party courier service (such as FedEx, UPS, etc.), or (iii) email with return receipt, to the designated representative(s) of the party as indicated below. A party may change its designated representative for notice purposes at any time by written notice to the other party. The initial representatives of the parties are as follows:

To University:
Wendy Hartzell, Program Manager
CSU Energy Institute
430 N. College Ave.
Fort Collins, CO 80523
(970) 491-8058
Email:
Wendy.Hartzell@colostate.edu

To Company:
[Name]
[Address 1]
[Address 2]
[Address 3]
Telephone:
Email:

With a copy sent to:

Office of the General Counsel
0006 Campus Delivery
Colorado State University
Fort Collins, CO 80523-0006
Telephone: 970-491-6270
Email: contracts@colostate.edu

15. **Legal Authority.** Each party to this Agreement warrants that it possesses the legal authority to enter into this Agreement and that it has taken all actions required by its procedures, bylaws, and/or applicable law to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Agreement and to bind it to its terms. The person(s) executing this Agreement on behalf of a party warrant(s) that such person(s) have full authorization to execute this Agreement.
16. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties, and supersedes any previous contracts, understandings, or agreements of the parties, whether verbal or written, expressed or implied, concerning the subject matter of this Agreement.
17. **Amendment.** No amendment to this Agreement shall be valid unless it is made in a writing signed by the authorized representatives of the parties.
18. **Severability.** In the event that any provision of this Agreement is held unenforceable for any reason, the remaining provisions of this Agreement shall remain in full force and effect.
19. **Force Majeure.** Either Party shall be relieved of its obligations of performance in the event of the following that prevents a Party from carrying out its obligations of performance: flood, storm, strikes, acts of God, pandemics, riots, wars, states of emergencies, statute, ordinance, regulation, rule or action or any applicable governmental entity.
20. **Governing Law, Jurisdiction and Venue.** This Agreement shall be governed by and construed under the laws of the State of Colorado. Any claim arising under this

Agreement shall be filed and tried in the District Court in and for Larimer County, situated in the City of Fort Collins, State of Colorado.

21. **Assignment.** This Agreement shall not be assigned without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed, provided however, such consent shall not be required in the case of a sale or transfer to a third party of all or substantially all of a party's business.

[Remainder of page left intentionally blank.]

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year written below.

The Board of Governors of the Colorado State University System, acting by and through Colorado State University:

Company:

By: _____
Angela Nielsen
Director, Office of Budgets

By:

Printed Name:

Date:

Title:

Date:

APPROVED:

By: _____
Name:
Title:

*FUND ACCT NO.:

APPROVED AS TO FORM:

By: _____
Brian Anderson, Esq.
Assistant Legal Counsel
Office of the General Counsel

* Required for approval. List all fund accounts into which proceeds from this contract will be deposited.

EXHIBIT A
TO UNIVERSITY SITE ACCESS AGREEMENT
SCOPE OF WORK

DETAILED DESCRIPTION:

PAYMENT TERMS:

EXHIBIT B

Attached by reference to and made part of that certain Site Access and Use Agreement between Company and Colorado State University

UAS/UAV Specific Terms

1. General information about use of UAS/UAV's at the University including at the METEC can be found at: <http://rmi.prep.colostate.edu/risk-management/drones/>

2. Anyone wishing to operate a UAS/UAV on CSU property is required to obtain approval from the Office of Risk Management & Insurance (RMI) PRIOR to operation. Third parties, or vendors operating a UAS/ UAV on CSU property may be asked to provide evidence of drone liability insurance. Facilities Management and CSUPD may also be involved in approving applications.

Please complete the CSU Drone Approval Request form and return to the Aidan Duggan, email aidan.duggan@colostate.edu): <http://rmi.prep.colostate.edu/risk-management/drones/>

Specialized insurance requirements and proof of proper registration and pilot certifications may be required.

3. University has designated certain areas where drone use may be approved. However, flight operations need to be scheduled, and approved prior to operation. Flight operations for University research, and University business related functions will have priority. This scheduling process ensures that flight operations may occur in a safe manner, and that research operations are not unduly impacted. After RMI has approved the drone use, the operator must receive approval for scheduling the flight operations.

EXHIBIT C

Attached by reference to and made part of that certain Site Access and Use Agreement between Company and Colorado State University

INSURANCE

A. The Company agrees to procure and to maintain in full force and effect, at Company’s sole expense, insurance of the following types and amounts, written by insurance companies satisfactory to University, authorized to do business in the state where the Work is being performed, :

1. Workers’ Compensation and Employers’ Liability — The Company shall carry statutory Workers’ Compensation Insurance covering Company’s employees in compliance with all requirements of the Workers’ Compensation laws.

2. In addition, Company shall carry Employer’s Liability Insurance covering all operations and Work hereunder in an amount not less than the following:

| | |
|----------------------------|-------------|
| Each Accident | \$1,000,000 |
| Each Disease Each Employee | \$1,000,000 |
| Disease Policy Limit | \$1,000,000 |

B. General Liability Insurance – Company shall carry general liability insurance on a form no less broad than the coverage provided by a “Commercial General Liability Insurance” form (dated 1985 or thereafter) promulgated by the Insurance Services Office, and containing language affording coverage for contractual liability, broad form property damage liability, as respects all operations and Work hereunder, for all liability arising out of injury to or death of one or more persons, and injury to or destruction of property, in any one occurrence, in amounts not less than:

| | |
|-------------------|--------------|
| General Aggregate | \$ 2,000,000 |
| Each Occurrence | \$ 1,000,000 |

C. Automobile Liability Insurance – Company shall carry Automobile Liability Insurance on all owned or hired autos, as well as non-owned autos, in an amount not less than \$1,000,000 combined single limit, for all liability arising out of injury to or death of one or more persons, and injury to or destruction of property, in any one occurrence.

D. Deductibles – Any and all deductibles, or self-insured retentions, of all insurance policies required hereunder shall be assumed by, for the account of, and at the Company’s sole risk and expense, and shall not be billed to or payable by University, its direct and indirect subsidiaries and affiliates, including its limited liability companies.

E. Certificates of Insurance - Company shall furnish to University a Certificates of Insurance. Each such Certificate shall accurately reflect insurance in place, shall be in a form satisfactory to University. Certificate of Insurance shall certify that the state of Colorado, the Colorado State University System Board of Governors, officers and employees are additional insured in respect of all liability insurance policies including Unmanned Aircraft Liability insurance. In addition, the Certificate of Insurance shall certify that the Company's Workers Compensation and Employers Liability and all liability policies waives right of subrogation against the University.