

Return to:

University of Nebraska Foundation  
Attn: Keith Miles  
1010 Lincoln Mall, Suite 300  
Lincoln, NE 68508

**EASEMENT AGREEMENT FOR NEBRASKA TECHNOLOGY PARK  
INFORMATION TECHNOLOGY SYSTEMS  
(NTP IT Systems)**

This EASEMENT AGREEMENT FOR NEBRASKA TECHNOLOGY PARK INFORMATION TECHNOLOGY SYSTEMS ("**Agreement**") is entered into as of this 14<sup>th</sup> day of December, 2015 ("**Effective Date**") by and between UNIVERSITY OF NEBRASKA FOUNDATION, a Nebraska nonprofit corporation and its successors and assigns (collectively "**Foundation**"), whose address is 1010 Lincoln Mall, Suite 300, Lincoln, NE 68508-2555; SULEIMAN TECHNOLOGY PARK, LLC, a Nebraska limited liability company and its successors and assigns (collectively "**STP**"), whose address is 4665 Innovation Drive, Lincoln, Nebraska 68521 and SULEIMAN TECHNOLOGY PARK III, LLC, a Nebraska limited liability company and its successors and assigns (collectively "**STP III**"), whose address is 4665 Innovation Drive, Lincoln, Nebraska 68521. Foundation, STP and STP III are sometimes referred to individually as "**Party**" and collectively as "**Parties**."

**RECITALS:**

A. The Foundation is the owner of the real estate described as "**Foundation Property**" or "**Technology Development Center**" and legally described on Exhibit "A", which is attached hereto and incorporated herein by this reference. STP is the owner of the real estate described as "**STP Property**" or "**One Technology Building**" and legally described on Exhibit "A". STP III is the owner of the real estate described as "**STP III Property**" and legally described on Exhibit "A".

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B. The Foundation Property, STP Property, and STP III Property are sometimes referred to collectively as the “**Nebraska Technology Park**”.

C. Certain information technology, communication, data, and internet equipment, switch gears, wires, connections, fiber, meters, computer servers, computer equipment, conduits, panels, racks, heating, ventilation and cooling equipment, infrastructure, apparatuses, generators, and related improvements and systems (collective “**IT Systems**”) are located within the Foundation Property and portions of said IT Systems are designed and implemented to serve and provide now or in the future IT Systems for the Nebraska Technology Park (“**NTP IT Systems**”)

D. The NTP IT Systems components include the following:

1. “**Building Space**” is the building space within the One Technology Building containing and housing the NTP IT Systems now and in the future.

2. “**Service Connections**” are the connections, fiber, cable, computer equipment, conduit, infrastructure, apparatuses, and related improvements and systems located now and in the future that connects and provide services (i) to and from the Building Space/Foundation Property and internet and data providers’ connections, fiber, cable, computer equipment, conduit, infrastructure, apparatuses, and related improvements and systems located in abutting public and private right of way and easements and (ii) to and from the Building Space/Foundation Property and the IT Systems located now and in the future upon the Foundation Property, STP Property, and STP III Property through connections, fiber, cable, computer equipment, conduit, infrastructure, apparatuses, and related improvements and systems located in abutting public and private right of way and easements.

3. “**Maintain**” or “**Maintenance**” means design, construct, install, operate, maintain, control, manage, repair, reconstruct, replace, and update for the NTP IT Systems.

E. Continued and future Maintenance of the NTP IT Systems requires the Foundation to grant the necessary easements defined herein.

NOW THEREFORE, in consideration of Ten Thousand and no/100 Dollars (\$10,000.00), the foregoing and the mutual covenants and agreements contained herein, the Parties agree as follows:

1. Building Space and Service Connection Easements. The Foundation hereby grants to the owner of the STP Property, and STP III Property the nonexclusive rights, privileges and easements to Maintain NTP IT Systems within the Building Space and Service Connections for the benefit of the owners and tenants of the STP Property, and STP III Property and the applicable internet and data providers.

a. It is the intention of the Parties that the NTP IT Systems shall have all necessary and reasonably desirable easements for Maintenance and it is desirable to impose a general plan of easements, covenants, conditions, reservations, and restrictions to provide for the foregoing.

b. The Maintenance of the NTP IT Systems are dependent upon the continued cooperation and good faith of the Parties of all of the interrelated uses therein. Every covenant, restriction, or easement herein stated shall be construed in recognition of this interdependence and need for continued mutual cooperation. Any easement herein shall be liberally construed with the intention of providing such rights and privileges as may be reasonably necessary or convenient to adequately and properly operate the benefited NTP IT Systems and properties without encroaching or interfering needlessly with the subservient facility or property. No person or entity involved with or interested in any part of the Nebraska Technology Park shall take any action or permit any action to be taken to interfere with the free beneficial use and enjoyment of any easement provided for herein or hereafter, or as may be expressly agreed by the interested Parties, or as may be necessary for proper Maintenance.

c. The easements granted herein are (i) for the most necessary and practical route reasonably feasible and in conformity with Applicable Laws, and (ii) be limited to areas or routes so as not to interfere with the operation of permitted activities in the Technology Development Center and its tenants, and (iii) provide for or permit reasonable Maintenance in such a manner as to not interfere with the uses in Technology Development Center.

d. The easements shall be subject to agreement providing for fair and reasonable payment to the owner of the Foundation Property for electrical, heating, ventilation and air conditioning costs to be made on behalf of the benefited property. All Maintenance shall be undertaken exclusively at the expense of the owner of the property requiring and/or deriving benefit from said Maintenance.

e. The benefited property owner shall be responsible to timely and reasonably restore any damage made or caused to the Building Space/Foundation Property to carry out such Party's Maintenance.

f. Such easements shall include, without in any way being intended to be limited to, such items as ingress, egress, access, use, and supportive structures.

3. Design Review Process. All of the plans and specifications for the NTP IT Systems ("**Plans and Specifications**") located within the Building Space/Foundation Property, including

but not limited to expansion or material modification of the Building Space, shall be prepared by a Party, at its expense and such Plans and Specifications shall be subject to the timely review and reasonable approval of Foundation.

4. NTP IT Systems Improvements. After receiving the Foundation's approval of the Plans and Specifications, a Party, at its expense, may Maintain its NTP IT Systems with the Building Space/Foundation Property as are necessary.

5. Insurance. So long as a Party is using the easements granted herein, said Party, at its expense, shall carry and maintain with regard to the Building Space/Foundation Property and shall require its contractors performing working on the Building Space/Foundation Property the following insurance:

- a. Public liability and property damage insurance to afford protection with limits of liability in amounts approved from time to time by the Foundation, but not less than one million dollars (\$1,000,000.00) in the event of bodily injury and death to any number of persons in any one accident, and not less than one million dollars (\$1,000,000.00) for property damage; and
- b. Workers' compensation or similar insurance in form and amounts required by law;

Such insurance shall be written by a financially responsible insurer duly authorized to do business in the State of Nebraska. Each Party shall have submitted to the Foundation certificates of insurance or other documentation showing policies of insurance with respect to all insurance coverage required by the terms of this Agreement.

6. Indemnification. Each Party agrees that it will be responsible for their own acts and omissions and the results of their own acts and omissions as provided by Applicable Laws, and shall not be responsible for the acts or omissions of the other Parties. Each Party agrees to hold harmless and defend the other Parties from and assume all risk and liability for any injury to persons or property resulting in any manner from each Party's own negligent acts or omissions related to this Agreement, including any loss arising from the negligent acts or omissions of each Party's own officers, agents or employees related to this Agreement. Liability includes any claims, damages, losses and expenses (including attorney's fees) arising out of or resulting from the performance or breach of this Agreement, that results in any claim for damage whatsoever, including any bodily injury, sickness, disease, death or any injury to or destruction of tangible or intangible property. In no event shall this section be interpreted or applied so as to make any officer, agent or employee personally liable to any other person. In no event shall a Party be liable under any provision of this Agreement or otherwise for lost or prospective profits, or for any other indirect, incidental, consequential, exemplary, or punitive damages, whether in contract, tort or

otherwise and whether or not caused by or resulting from the breach of this Agreement or the sole or concurrent negligence of the other Parties or any of their affiliates or related Parties. Without limiting the foregoing and to the fullest extent allowed by law, this limitation of liability is also intended and shall apply to claims arising out of third party claims against a Party for any of the foregoing.

7. Applicable Laws. The Parties and their tenants shall comply with all Applicable Laws that are or may become applicable to its activities of the NTP IT Systems. The term "Applicable Laws" shall mean any and all applicable Federal, state, county and municipal laws, ordinances, regulations, orders, permits, common law and requirements.

8. Entire Agreement; Amendment. This Agreement and exhibits attached hereto include the entire agreement of the Parties with respect to the NTP IT Systems. Except as otherwise provided herein, no change, amendment, or addition to this Agreement or any of the exhibits hereto, shall be effective, unless in writing, signed by all Parties.

9. Approval or Consent. Whenever this Agreement requires the consent or approval of a Party, such consent or approval shall not be unreasonably withheld, conditioned or delayed.

10. Counterparts. This Agreement may be executed in a number of identical counterparts. If so executed, all counterparts shall, collectively, constitute one agreement, but in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart, provided that photocopy or facsimile copies of all signatures are produced.

11. Runs with the Land. The easements granted herein shall constitute a servitude upon the Foundation Property so encumbered; shall run with the land in perpetuity; and shall bind upon the Foundation and any other person claiming under them.

12. Successors and Assigns. This Agreement and all rights and obligations hereunder shall be binding upon and inure to the benefit of all successors and assigns of the Parties hereto.

13. Interpretation. The titles contained herein are for convenience only and shall not be considered in construing this Agreement. The recitals at the beginning of this Agreement and all Exhibits are incorporated herein. It is agreed to by and between the Parties that this Agreement shall not be interpreted or construed in favor or against a Party on the ground that said Party drafted the Agreement. The language of this Agreement shall be construed as a whole according to its fair and logical meaning and not strictly for or against any of the Parties.

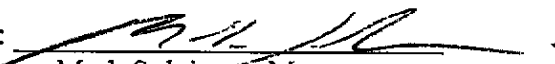
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Executed as of the date first above written by STP.

“STP”

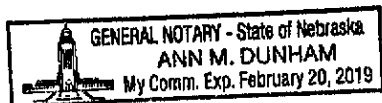
**Suleiman Technology Park, LLC,**  
a Nebraska limited liability company

By:   
Mark Suleiman, Manager

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF LANCASTER        )

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day of December, 2015, by Mark Suleiman, Manager of **Suleiman Technology Park, LLC**, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

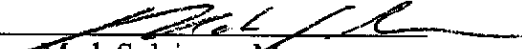


  
\_\_\_\_\_  
Notary Public

Executed as of the date first above written by STP III.

“STP III”

**Suleiman Technology Park III, LLC,**  
a Nebraska limited liability company


By:   
Mark Suleiman, Manager

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF LANCASTER        )

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day of December, 2015, by Mark Suleiman, Manager of **Suleiman Technology Park III, LLC**, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)



  
Notary Public



**EXHIBIT "A"**

**Real Estate**

**Foundation Property**—University of Nebraska Foundation:

**“Technology Development Center”**

Lot 1, Block 2, University of Nebraska Technology Park Original Addition,  
Lincoln, Nebraska

**STP Property**-- Suleiman Technology Park, LLC:

**“One Technology Building”**

Lot 5, Block 1, University of Nebraska Technology Park 1st Addition, Lincoln,  
Nebraska.

**STP III Property** -- Suleiman Technology Park, LLC:

1. Outlot A, University of Nebraska Technology Park 2nd Addition, Lincoln, Lancaster County, Nebraska;
2. Lot One (1), Block One (1), University of Nebraska Technology Park Original Addition, Lincoln, Lancaster County, Nebraska;
3. Lot Two (2), Block One (1), University of Nebraska Technology Park 1st Addition, Lincoln, Lancaster County, Nebraska;
4. Lot Three (3), Block One (1), University of Nebraska Technology Park 1st Addition, Lincoln, Lancaster County, Nebraska;
5. Lot Four (4), Block One (1), University of Nebraska Technology Park 1st Addition, Lincoln, Lancaster County, Nebraska;
6. Outlot B, University of Nebraska Technology Park, Lincoln 3rd Addition, Lincoln, Lancaster County, Nebraska;
7. Outlot A, University of Nebraska Technology Park 3rd Addition, Lincoln, Lancaster County, Nebraska;
8. Lot One (1), Block One (1), University of Nebraska Technology Park 1st Addition,

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Lincoln, Lancaster County, Nebraska, subject to Southeast Community College as a tenant and subject to Nebraska Center for Excellence in Electronics as sublease tenant;

9. Lot One (1), Block One (1), University of Nebraska Technology Park 2<sup>nd</sup> Addition, Lincoln, Lancaster County, Nebraska, subject to a Memorandum of Ground Lease, recorded March 9, 2007 as Instrument Number 2007010983 and recorded in the Lancaster County, Nebraska Register of Deeds Office;
10. Lot One (1), University of Nebraska Technology Park 3rd Addition, Lincoln, Lancaster County, Nebraska, subject to a Memorandum of Ground Lease, recorded October 8, 2008 as Instrument Number 2008046748; as assigned to Cole of Lincoln NE, LLC, a Delaware limited liability company by Assignment of Ground Lease recorded November 17, 2010 as Instrument No. 2010053222 and recorded in the Lancaster County, Nebraska Register of Deeds Office; and
11. Outlot Q, EXCEPT for those parts deed to the City of Lincoln, Nebraska in Corporation Warranty Deed recorded April 14, 1994 as Inst. No. 94-18065, and in Warranty Deed recorded January 17, 1997 as Inst. No. 97-2027, Block Six (6), Highlands Coalition, Lincoln, Lancaster County, Nebraska.

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