

ARMSTRONG COUNTY INDUSTRIAL DEVELOPMENT COUNCIL

INNOVATE28

A CO-WORKING SPACE AT NORTHPOINTE

USER LICENSE AGREEMENT

TERMS AND CONDITIONS

PLEASE READ THIS USE AND SERVICES AGREEMENT (“AGREEMENT”) CAREFULLY BEFORE PURCHASING A MEMBERSHIP FROM ARMSTRONG INDUSTRIAL DEVELOPMENT AUTHORITY (“IDC”). BY PURCHASING A MEMBERSHIP YOU ARE AGREEING TO BE BOUND BY THE TERMS OF THIS AGREEMENT.

PLEASE BE ADVISED: It is your responsibility to review the most recent version of this Agreement, *which can be accessed by reviewing the IDC website*, frequently and remain informed about any changes to it. By continuing to use the Facilities (defined below), you consent to any update and/or modification to this Agreement.

Use of Office Facility

1. IDC grants to the You (“Member”) a non-exclusive, revocable monthly license to use and occupy the space identified in Exhibit “A” attached hereto in IDC’s shared office facility (“Membership”) operated by or made available to you by IDC (“Facilities”). The Membership shall continue from month to month (the “Membership Period”) until terminated in accordance with this Agreement.
2. The Facilities may only be used for general office purposes and all uses ancillary. While in the Facilities, the Member (and their guests) shall conduct themselves in accordance with any rules of conduct (“IDC rules”, identified in Exhibit “B”) issued by IDC from time to time and as set forth below. Member shall not perform any work or undertake any activity in the Facilities that may interfere or disturb the use or occupancy of the Facilities by IDC, or any other Members of IDC for their respective business purposes.
3. Member is permitted to use (i) all office equipment, IT-related equipment, and furniture, and (ii) be entitled to reasonable use of any kitchen, pantry, storage, and coffee areas within the Facilities so long as they agree and comply with the IDC Rules and/or other terms and conditions of use of these services set by IDC. Further, the parties acknowledge that individual work spaces in the Facilities shall not be separately demised or necessarily separated physically and, therefore, each Member has access to the other Members’ work area, with the sole exception of designated private and/or

reserved spaces and/or other areas and offices specifically designated by IDC as private and/or reserved.

Membership, Fees, Payment and Termination

4. The “Membership Type” is the specific level of services designated and marketed by IDC and selected by the Member. Different Membership Types may have various levels of service and access to IDC’s Facilities and amenities as defined, from time to time, by IDC, in its sole discretion.

5. The “Membership Fee” is an amount determined by IDC, from time to time, as the price in exchange for the Membership granted to Member. IDC will establish and publish specific Membership Fees for each Membership Type as defined and marketed by IDC. The Membership Fee includes the cost of all utilities and other building services and amenities included with the Membership type, except as provided below Member shall pay IDC the Membership Fee in advance, without any setoffs or deductions whatsoever. Increases to the Membership Fee shall be effective upon publication on the IDC website.

6. IDC shall charge the Member’s credit card or bank account for the total amount of the monthly Membership Fee and any fees for Additional Services (as defined below) *via online payment vendor identified by the IDC*. Charges for Additional Services will be added to the Member’s payment to be paid for prior to the monthly anniversary of the Member’s initial monthly payment and occupancy of the shared office space (“Membership Date”), without notice, for the duration of the Membership Period. A refused credit card transaction or direct bank withdrawal could result in IDC’s termination of this Agreement. Members are obligated to promptly notify IDC of any changes to their credit card number, expiration, or billing address or bank account information and/or update their own personal and company payment details within their Member account. By accepting the terms of this Agreement, Member hereby authorizes IDC to initiate charges to the credit card account and/or bank account *via the online payment vendor identified by IDC and according to the terms and conditions of said payment vendor, and in accordance with terms of that payment vendor* on an ongoing monthly basis for the duration of the Membership Period.

7. “Additional Services” includes optional services and amenities as made available from time to time at an amount determined by IDC, in its sole discretion and elected to be used and paid for by the Member.

8. Services provided by IDC for no additional fee include high speed internet, printing/copying/scanning services, access to conference room, storage lockers, and mail distribution services.

9. This Agreement is effective unless terminated by IDC or Member by providing the other party with at least thirty (30) days written notice or as defined by a specific IDC Facility’s IDC Rules. Notice must be provided to IDC either in writing with confirmed

receipt by a IDC team member and/or by the Member electing to terminate his/her Membership by canceling Membership via the IDC website. Nothing in this section shall prohibit the IDC from terminating membership for nonpayment of fees when due.

10. Upon the termination of this Agreement, Member shall cease all use of the services provided by and branding associated with IDC, and shall have no right to any of the property and amenities provided by IDC, including office equipment, IT-systems and equipment, mailing address, and office furniture. Nothing hereunder contained shall be deemed to permit Member to retain occupancy of the Facilities after the termination of this Agreement.

Access to Facilities

11. On or before the end of each business day that Member makes use of the Facilities, Member shall quit the premises and surrender the same to IDC in the same condition existing at the beginning of said use (subject to reasonable wear and tear). Private Office Member and Reserved Cubicle Member are permitted to store its property at the end of each business day in the premises so long as their membership is active. Shared Flex Desk Member must remove all personal property located in the premises at the end of each business day.

12. Member represents that it has made a thorough inspection of the Facilities and agrees to take the same in its condition “as is” as of the date hereof and IDC shall have no obligation to alter, improve or decorate the Facilities for Member’s use and occupancy. Member shall not make or cause to be made any alterations, installations, improvements, additions of physical changes in or about the Facilities without IDC’s prior written consent – and in accordance with the Facility’s IDC Rules – which consent may be withheld in IDC’s sole discretion.

13. IDC and IDC’s agents shall have the right, throughout the Membership Period, to enter any portion of the Facilities at any time and on any day to examine the same, and to make such repairs, alterations, improvements or additions as IDC may deem reasonably necessary, in its sole discretion, provided, that IDC shall use commercially reasonable efforts to minimize any interference with Member’s use of the Facilities.

14. IDC grants Member access to the Facilities 24 hours a day, seven days a week, subject to change at IDC’s sole discretion (“Operating Hours”).

Internet Access

15. As part of the Membership Fee, Member will be provided a wireless signal within the Facilities. Member is prohibited from using a mail server, hosting internal websites, dispatching broad based emails (spamming), utilizing internal FTP services, Wi-Fi wireless internet hubs, voice over IP equipment, applications, or practices that IDC deems to utilize excessive bandwidth, without IDC’s prior written approval.

16. IDC will take commercially reasonable steps to maintain the continuity of and protect the internet from unauthorized use. Members acknowledge that the use of internet is inherently insecure. **Users accept the risk of use internet service provided by IDC and agree to hold IDC harmless for any losses arising out of their use of the internet service provided by IDC.**

17. In order to protect Member's computer(s) from unwanted hackers and viruses, and to prevent the inconveniencing or slowing down of other internet users at the Facilities, it is Member's sole responsibility to provide its own firewall and anti-virus protection on its computer(s). In the event that Member's computer(s) become infected or hacked, regardless of whether it has installed firewall or anti-virus protection, IDC shall not be responsible for any damage suffered to the Member's computer(s). If IDC notices or suspects that the Member's computer(s) may be infected or hacked, IDC reserves the right to schedule a time to immediately inspect the Member's computer(s). If IDC determines that the Member's computer(s) is infected or has been hacked and is causing a disruption or slow down to the public internet access, IDC reserves the right to immediately disconnect the subject computer(s) from internet access at the Facilities. Also, due to numerous incoming spam issues clogging up many email systems, IDC highly recommends that Member install spam-filtering software to help eliminate congestion and the slowing down of the network at the Facilities. Member shall indemnify and hold IDC harmless for any and all damages, including, without limitation, reasonable attorney's fees that may result from the foregoing.

Membership Rates

18. Membership Rates shall be determined based upon the space utilized by Member, and according to the following schedule:

- A. 12 foot by 15 foot private office, rate of \$500.00 per month;
- B. 10 foot by 10 foot private office, rate of \$400.00 per month;
- C. Reserved Cubicle, rate of \$150.00 per month;
- D. Shared Flex Desk Seat, rate of \$75.00 per month.

19. The Membership Rates set forth herein may be amended by the IDC from time to time. Amendments shall be effective upon adoption and shall apply to the month following their adoption.

Confidentiality

20. Member acknowledges and agrees that due to the open and shared nature of the Facilities, Members and their guests may have access to Confidential Information of IDC or other Members at the Facilities. "Confidential Information" shall mean any and all information, in whole or in part, that is either intentionally, or unintentionally disclosed by either IDC, its owners, officers, employees, members, or agents, or any other Member, which information is non-public, confidential or proprietary in nature. Confidential information also includes, without limitation, information about business, sales, operations, know-how secrets, business affairs, any knowledge gained through

examination or observation of or access to the Facilities, computer systems, and/or books and records of IDC, or other Members, any analysis, compilations, studies or other document prepared by IDC, or other Members, or otherwise described in any manner from the Confidential Information that you are obliged to keep confidential or know or has reason to know should be treated as confidential.

21. With respect to the Confidential Information, all Members will:

- (a) Maintain all Confidential Information in strict-confidence
- (b) Not disclose Confidential Information to any third party

22. All confidential information remains the sole and exclusive property of IDC or the respective disclosing party. Member acknowledges and agrees that nothing in this Agreement or its license or use of the Facilities will be construed as granting any rights to it, by license or otherwise, in or to any Confidential Information or any patent, copyright or other intellectual property proprietary rights of IDC or any other Member or user of the Facilities.

Members are not Permitted

23. The right to assign, lease, sublease, or otherwise grant access to the Facilities and its amenities and share service.

24. Display or use IDC trade name, trademarks, services marks, logos, domain names, and other distractive brand features of IDC without prior written approval of IDC.

Consequences of Damage or Destruction

25. If any part, or all of the Facilities become inaccessible or unfit for use due to damage or destruction (other than as a result of anything the Member does or fails to do): The whole or an appropriate proportion (having regard to the nature and extent of the destruction or damage) of the Membership Fee shall cease to be payable until the Facilities are fully accessible and fit for use, and; If the damage or destruction affects the whole or a substantial part of the Facilities and it is likely to take more than three months to make the Facilities again fully accessible and fit for use either IDC or the Member may terminate this Membership Agreement by giving one month written notice to the other in which event this Agreement will immediately end and IDC need not carry out any repairs or reinstatement.

Insurance

26. Member, at Member's sole cost and expense, may obtain business insurance for its own protection, including, without limitation, Worker's Compensation, General Liability, Property, Casualty, and Fire, Burglary insurance. In no event shall IDC become responsible for purchasing and/or maintaining the aforementioned insurance if the Member fails to obtain such insurance. Member releases IDC from any and all claim for loss or damage to Member, its agents, guests or invitees, specifically including

but not limited to any losses that would have been covered under policies of insurance available to Member.

Indemnification

27. Member releases, and hereby agrees to indemnify, defend and save harmless IDC, its officers, agents, members, representatives, employees, successor and assigns, jointly and individually, from and against all claims, liabilities, losses, damages, costs, expenses, judgments, fines and penalties in any way related to arising out of Member's use of the Facilities, including without limitation, lost business; lost profits, damage to equipment and personal property, and theft. Notwithstanding the foregoing, Member will have no obligations under this Section 27 to the extent that such Claims are the result of the gross negligence of IDC. Member further agrees in the event that it brings a claim or lawsuit in violation of this Agreement, Member shall be liable for any attorney fees and costs incurred by either IDC, or its respective officers and agents in connection with the defense of such claim or lawsuit.

This is Not a Lease

28. This Agreement does not and shall not be deemed to constitute a lease or conveyance of the Facilities of IDC to any Member, or to confer upon any Member any right, title, estate or interest in the Facilities, except for such rights granted to the Member pursuant to this Agreement. Notwithstanding the fact that this Agreement is a non-exclusive, conditional license and not a lease and, therefore, the Landlord-Tenant laws do not govern this Agreement, nor can the Member invoke tenant rights or privileges, Member hereby specifically waives any and all rights that it may have under any Landlord-Tenant laws.

Default

29. In addition to any and all other rights or remedies provided in this Agreement or which IDC may have at law, in equity, or otherwise, if Member shall fail to comply with any of its obligations under this Agreement, then IDC shall have the right to immediately terminate this Agreement upon notice to Member, and Member shall immediately quit and surrender the Facilities as required hereby.

No Liability

30. The IDC shall have no liability to Member, and Member shall have no claim against IDC, for any damage or loss incurred by Member with respect to property located in, or services provided to, the Facilities, except as a result of the gross negligence or willful misconduct of IDC.

Office and/or Property Abandonment

31. If Member is in default and fails to correct the default within 10 days, fails to respond to default notices, fails to contact IDC in writing with a plan to rectify the default, fails to satisfy its financial obligations to IDC under the terms of this Agreement, or fails to remove its belongings from Facilities, then Member hereby accepts that such actions constitute a legal abandonment of its rights and belongings. In such an event, IDC shall be permitted, in its sole discretion, to either store the subject property for a period of time to be set by IDC, or dispose of such property as IDC sees fit. If the subject property is stored, Member shall be responsible for any and all costs and fees associated with the same, including, without limitation, reasonable attorney's fees. Members will indemnify and hold IDC harmless for any and all damages, including, without limitation, lost business, lost profits, costs of storage and reasonable attorney's fees that may arise from the actions IDC takes to address the Member's abandonment of its property and the Facilities.

Additional Provisions

32. *Notices.* All notices to IDC in connection with this License shall be in writing, shall be effective upon receipt and shall be sent by email to economicdevelopment@co.armstrong.pa.us

33. *Continued use constitutes approval.* Continued use by Member of the coworking space constitutes assent and approval to the terms and conditions contained herein. Member agrees to be bound to the Terms and Conditions contained herein, as if an original signature of Member was affixed hereto.

34. *Assignment.* This Agreement may not be assigned, transferred or otherwise encumbered by Member without the prior written consent of IDC, nor shall Member permit any other person or entity to use or occupy any portion of the Facilities.

35. *Governing Law and Jurisdiction.* This Agreement shall be construed and enforced in accordance with the laws of the Commonwealth of Pennsylvania. The parties consent to the jurisdiction of the Court of Common Pleas of Armstrong County for the resolution of any disputes arising out of this Agreement.

36. *Amendments.* This Agreement may be amended at any time by IDC, in its sole and absolute discretion. Member's continued use of the Facilities following the amendment shall be deemed an acceptance of any amendments made to this Agreement.

37. *Waiver/Severability.* If any provision of this Agreement is held to be void, invalid or otherwise unenforceable (either in whole or in part), the remaining portions of this Agreement shall remain in effect and the parties hereto shall use their best efforts to substitute the void, invalid or unenforceable provisions with a new provision of like intent and effect. If either party waives a right granted in this Agreement, it must be done so in writing and signed by the party holding that right. If a party fails to exercise a right, it

should not be interpreted as a waiver to exercise that same right, or any other right, in the future.

38. *Suitability and Comfort.* The Member accepts that the very nature of a large, shared working environment is such that the standards for issues such as aesthetics and room temperature vary from individual to individual. The Member also accepts that, in attempting to satisfy the collective and varied standards of the large group of people working in the Facilities, it is sometimes possible that an individual's standards will not match those of the majority of occupants and, thus, sometimes an individual Member's standards may not be met from time to time. Therefore, the Member hereby accepts that the Facilities may not be best suited for every type of business or individual and, that if the Member's individual standards cannot be met, Member shall have the right to terminate this Agreement upon thirty (30) days prior written notice.

39. *Entire Agreement.* This Agreement constitutes the entire understanding between the parties hereto with respect to the subject matter contained herein, and supersedes and replaces all prior or contemporaneous understandings or agreements, written or oral, regarding such subject matter.

BY PURCHASING AND PAYING FOR A MEMBERSHIP AND/OR BY USING THE FACILITIES AS DESCRIBED HEREIN YOU ARE AGREEING TO BE BOUND BY THE TERMS OF THIS AGREEMENT.