

**UNIVERSITY OF NEBRASKA – LINCOLN
OPERATING AGREEMENT - UNMANNED AIRCRAFT SYSTEM
For THIRD PARTY USE OF UNL PROPERTY**

This Agreement sets forth the terms between The Board of Regents of the University of Nebraska for and on behalf of the University of Nebraska-Lincoln and its _____, having an address at _____, Lincoln, NE _____ (the "University") and _____, having an address at _____ (the "Vendor") with regard to the use of an Unmanned Aircraft System ("UAS") as described herein.

RECITALS

WHEREAS, the Vendor wishes to have a UAS operated on University property for its commercial purposes; and

WHEREAS, the Vendor has received final approval from the University, dated _____, 20____, of Vendor's Application for Unmanned Aircraft Systems, a copy of which is attached hereto and incorporated herein as Exhibit "A" (the "Approved Application");

WHEREAS, the University is willing to allow the Vendor to operate a UAS or cause to have a UAS operated on property owned or controlled by the University for the purposes defined herein;

THEREFORE, in consideration of the mutual promises and benefits herein, the University and the Vendor hereby agree to the following terms, responsibilities and conditions:

1. Purpose and Term. The University has approved Vendor's use of the UAS on _____ (Date) between the hours of _____ and _____ for the sole purpose of _____ (the "Purposes"). This term may be extended by written approval of the University.

2. Responsibility of Vendor. Vendor agrees to abide by the following requirements of the University related to utilizing a UAS on the property of the University: (a) UAS Operator (the "Operator") shall provide evidence that minimum FAA pilot certification requirements have been met; (b) Vendor shall provide the necessary site specific FAA authorization to commercially operate the UAS (Certificate of Authorization, Section 333 Exemption, Special Airworthiness Certificate, etc.), including a map of the area designated in the Certificate of Authorization; (c) Operator shall operate the UAS only on public areas of University property in the location(s) approved by the University in the Approved Application and in no other areas without the written consent of the University, which consent may be withheld in the University's sole discretion; (d) UAS shall weigh less than 55 pounds; (e) UAS must be registered with registration number appearing on the UAS; (f) UAS shall maintain a horizontal clearance of at least 15 feet from all buildings, people, stadiums, outdoor sporting events, and other obstacles; (g) Operator shall comply with visual flight rules; (h) Operator shall maintain a visual line of sight with the UAS; (i) Operator shall maintain an altitude at all times which is below 400 feet or such lower height required by the University; (j) Operator shall obtain written consent from any and all identifiable individuals appearing in photos or video

obtained during UAS operation; (k) Vendor certifies that UAS has been properly maintained per manufacturer's guidelines; (l) Operator shall ensure that the UAS has a fully charged battery prior to the flight; and (m) prior to use of the UAS on University property, Vendor and Operator shall review University of Nebraska Memorandum No. 31, *University of Nebraska Policy on Unmanned Aircraft Systems* (the "University UAS Policy") and confirm compliance therewith.

In addition, the Vendor guarantees the UAS will be operated only within the following conditions: (a) visibility of three (3) or more miles, (b) wind gusts not to exceed 35 MPH, and (c) ambient temperatures of between 0 and 110 degrees Fahrenheit. The Operator is responsible for submitting a radio frequency for verification and approval by the University and is also responsible for contacting the Lincoln Airport control tower prior to operating the UAS. Furthermore, Vendor guarantees compliance with all FAA guidelines, regulations and statutes in effect at the time of the flight(s), as well as the University UAS Policy and all other applicable policies of the University. No images or photographs will be taken by Vendor of the inside of any building or structure on University property, including, but not limited to, Memorial Stadium.

Vendor will provide a photo of the UAS and attach such photo (Exhibit "B") and emergency contact information of the Operator for the date of the flight (Exhibit "C").

3. Indemnification. The Vendor shall defend, indemnify and hold harmless the University, its Regents, officers, agents, employees and/or assigns, from any and all claims, demands, actions and causes of action against the University, whether groundless or not, in connection with any and all injuries, losses, damages or liability of any kind whatsoever arising, directly or indirectly, out of Operator's presence on University property and/or Operator's operation of the UAS pursuant to this Agreement or any of the results therefrom. This indemnification obligation shall include, without limiting the generality of the foregoing, reasonable attorney fees and other costs or expenses incurred in connection with the defense of any and all such claims, demands, actions, or causes of action and shall survive the expiration or earlier termination of this Agreement.

4. Ownership of Work Product and Intellectual Property Rights. In the case where photos or other data are gathered through the UAS ("Deliverables"), Vendor shall have no rights to such Deliverables provided under this Agreement, and the University shall be the sole owner of all such Deliverables, including photographs, produced, developed or otherwise created by the Vendor during its use of the UAS for the approved Purposes (the "Work Product"). Accordingly, the Vendor hereby expressly assigns all right, title and interest in and to the Work Product to the University and agrees to execute all documents required to evidence such assignment. The Vendor also hereby waives any and all claims it may now or hereafter have in any jurisdiction to so-called "moral rights" or rights of "droit moral" with respect to the use, results and/or proceeds of the Vendor's Work Product. This provision shall survive the termination of this Agreement.

5. Termination. The University has the express right to immediately terminate this Agreement with no notice if the Vendor or Operator is found to be in breach of this Agreement or is otherwise out of compliance with applicable law, rules, regulations, or any University policy, including but not limited to the University UAS policy.

6. Representations and Warranties. The Vendor represents and warrants that in performing the Services it will not be in breach of any agreement with a third party. Vendor also represents and warrants that no third party has any rights in, to, or arising out of, the Work Product rendered pursuant to the performance of the Services. Vendor agrees to hold University and its respective assigns and licensees harmless from any loss, damage or expense, including court costs and reasonable attorneys' fees, that University and its assigns and licensees may suffer as a result of a breach or alleged breach of the foregoing warranties or as a result of claims or actions of any kind or nature resulting from the use in any way of the Work.

7. Insurance Requirements. The Vendor will provide a certificate of insurance evidencing insurance which meets the following requirements: (a) Occurrence-based UAS Liability insurance with a minimum of \$1,000,000 in coverage per occurrence; (b) General Liability insurance with a minimum of \$1,000,000 in coverage per occurrence and \$3,000,000 in coverage in the aggregate; (c) Such policies shall name the Board of Regents of the University of Nebraska as an additional insured; (d) Such policies shall include coverage for personal injury; (e) Such policies shall be primary, non-contributory, and contain waiver of subrogation language; and (f) Insured will provide the University with a minimum of 30 days' notice prior to cancellation of such policies.

8. Notice. Any notice to either party hereunder shall be in writing and shall be served either personally or by registered or certified mail addressed to the following individuals:

To the Vendor:

Name: _____
Address: _____
City, State, Zip: _____
Cell Phone: _____
Office Phone: _____

To the University:

Vice Chancellor for Business and Finance
University of Nebraska-Lincoln
307 Canfield Administration Building
Lincoln, Nebraska 68588-0425

9. Assignment. This Agreement is non-assignable and non-transferrable. Any attempt by either party to assign its obligations hereunder shall be void.

10. Amendment. This Agreement constitutes the entire understanding between the Vendor and the University with respect to the subject matter hereof and may not be amended except by an agreement signed by the Vendor and an authorized representative of the University.

11. Governing Law and Forum. This Agreement shall be governed by the laws of the State of Nebraska. Any legal actions brought by either party hereunder shall be in the District Court of Lancaster County, Nebraska.

12. Conflict of Interest. No article or service shall be purchased from any University faculty or staff member without prior approval by the Vice Chancellor of Business and Finance and any such approve purchase shall comply fully with the requirements of the conflict of interest provisions of the Nebraska Political Accountability and Disclosure Act, Neb. Rev. Stat., §§ 49-1493 through 49-14,104.

13. Section 503. If applicable, the Vendor shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors to employ and advance in employment qualified individuals with disabilities.

14. LB 429. Pursuant to Nebraska’s Taxpayer Transparency Act (Neb. Rev. Stat. §84-602.01, as may be amended), as of January 1, 2014, the University of Nebraska is required to provide the Nebraska Department of Administrative Services with a copy of each contract that is a basis for an expenditure of state funds, including any amendments and documents incorporated by reference in the contract. Copies of all such contracts and documents will be published by the Nebraska Department of Administrative Services at www.nebraskaspending.gov. It shall be the sole responsibility of the Vendor to notify the University of any requested redactions to such contracts and documents under Neb. Rev. Stat. 84-712.05(3) at the time of execution.

15. Operator Attestation. The State of Nebraska requires that every contract between a public employer and individual or sole proprietor shall contain a provision requiring the public contractor and its subcontractors to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska (Exhibit D). If the attestation indicates that the individual or sole proprietor is a qualified alien, then the University will verify through the U.S. Department of Homeland Security’s Systematic Alien Verification for Entitlements Program (“SAVE”), or an equivalent Homeland Security program, prior to any contract approval or signature. No professional services contract will be executed by the University without an attestation form and a SAVE confirmation, if required.

IN WITNESS WHEREOF, the authorized representatives of the parties have executed this Agreement as of this ____ day of _____, 20__.

The Board of Regents of the University of Nebraska (the University)

Signature: _____ Date: _____

Printed Name: Christine A. Jackson

Title: Vice Chancellor, Business and Finance

[_____] (the Vendor)

Signature: _____ Date: _____

Printed Name: _____

Title: _____

EXHIBIT A

Approved Application

[attached]

EXHIBIT B

Photo of UAS

Exhibit C

Emergency Contact Information for Date of Flight

Please Print or Type:

Name: _____

Cell Phone: _____

EXHIBIT D
University of Nebraska - Attestation

Department Contact: _____
Address: _____
Email: _____
Phone: _____

Date: _____
Consultant: _____
Address: _____
City, State, Zip: _____
Email Address: _____
Phone: _____
Fax: _____

United States Citizenship Attestation Form

For purposes of complying with Neb. Rev. Stat. §§4-108 through 4-114, I attest as follows:

- I am a citizen of the United States.
- I am a qualified alien under the federal Immigration and Nationality Act, my immigration status and alien number are as follows: _____, and I agree to provide a copy of my USCIS documentation upon request.

I hereby attest that my response and the information provided on this form and any related application for public benefits are true, complete and accurate and I understand that this information may be used to verify my lawful presence in the United States.

Print Name _____
(first, last, middle)

Signature: _____

Date: _____