

**MEMORANDUM OF UNDERSTANDING BETWEEN THE WHITEWATER
UNIVERSITY TECHNOLOGY PARK AND THE UNIVERSITY OF WISCONSIN-
WHITEWATER CONCERNING USE AND OPERATIONS OF THE WHITEWATER
INNOVATION CENTER AND TECHNOLOGY PARK**

This Memorandum of Understanding (hereinafter “Agreement”) is made by and between the Whitewater-University Technology Park, Inc., hereinafter at times referred to as the “Board”, and the University of Wisconsin-Whitewater, hereinafter at times referred to as the “University”.

WHEREAS, the parties seek to cooperate in the operation and use of the City of Whitewater Innovation Center and Technology Park.

NOW, THEREFORE, it is hereby agreed to as follows:

**ARTICLE I
TERM OF AGREEMENT**

1.01 Initial Term. The term of this Agreement shall be for five years beginning March 1, 2018 or date of final signature by both parties, and ending on February 28, 2023, or five years from date of final signature, unless sooner terminated in accordance with this Agreement or in furtherance of the parties’ rights and remedies in the event of a material breach or default.

1.02 Extension of Term. The Agreement shall automatically be renewed on a yearly basis unless either party notifies the other in writing within thirty (30) calendar days of their intent not to extend the Agreement.

**ARTICLE II
COMMITMENTS**

2.01 Board Commitments.

(a) The Board hereby grants to the University the exclusive use of four (4) Innovation Center Suites that equals approximately 2,400 sq. ft., which consists of one lab suite and three office suites (“designated space”). The University shall have the exclusive right to use this designated space and/or authorize other individuals to use this space as long as such use is consistent with the overall use and operation of the Innovation Center. The University will have the sole right to receive any and all revenue or income generated from this designated space either through its own use or the use of another authorized party. If revenue is generated then revenue shall be used for Innovation Center operational expenses.

(b) The Board shall designate an office space to be used by the manager of the Innovation Center at no cost to the University (see 2.02(a) below).

2.02 University Commitments.

(a) The University hereby agrees to assign a University employee to serve as the manager of the Innovation Center on a part-time basis (50% of FTE). The University shall pay the employee’s salary and benefits. (See attached position description, Appendix A). The

University will provide office equipment and furnishings, as needed, for the manager's space at the Innovation Center.

(b) The University shall provide the Whitewater University Innovation Center with technological support, as deemed necessary and reasonable. (See ICIT Scope of Services, Appendix B).

(c) The University will manage the business incubation program and provide services as described in the Inventory of Business Incubation Services, (Appendix C). These services are considered an educational outreach program of the University, in accordance with Wis. Stat. § 36.01, and is contingent upon the availability or appropriation of funds. If funds become unavailable, the University will provide the Board with written notice of any reduction or termination of these services.

ARTICLE III TERMINATION

3.01. Termination. This Agreement may be terminated by either party upon sending written notice of such termination no less than one hundred twenty days (120) from the date of termination. Upon receipt of notice, the parties will work together to develop a process under which the separation of services and commitments will occur in a professional and efficient manner.

ARTICLE IV EQUAL OPPORTUNITIES

4.01. Discrimination. All parties, and their officials, employees and representatives, hereby agree to abide by all applicable federal, state and local laws, codes and ordinances relating to equal opportunities and non-discrimination. Without limiting the generality of the foregoing, all parties covenant that they will not discriminate against any individual either in an employment or educational capacity at the Innovation Center or the Technology Park on the basis of any federal or state protected status or class.

ARTICLE V ECONOMIC DEVELOPMENT AUTHORITY OF THE UNITED STATES GRANT REQUIREMENTS

5.01. Grant Requirements. Both parties agree that the operation and use of the Innovation Center and Technology Park is subject to certain grant requirements established by the Economic Development Authority of the United States. Both parties agree to abide by said grant requirements.

**ARTICLE VI
MISCELLANEOUS**

6.01. Governing Law. The laws of the State of Wisconsin (and, where applicable, Federal law due to the EDA grant funding) shall govern the interpretation and enforcement of this Agreement.

**ARTICLE VII
SUCCESSORS AND ASSIGNS**

7.01. Successors and Assigns. Except as expressly granted herein, no party shall assign its rights or obligations under this Agreement to any other party without a mutually written addendum executed by all parties to this Agreement.

**ARTICLE VIII
AMENDMENT**

8.01. Amendment. This Agreement shall not be amended, changed, modified or altered without the written consent of all parties hereto and no modification, alteration or amendment to this Agreement shall be binding until such modification, alteration, or amendment is reduced to writing and executed by all parties to this Agreement. Any proposed amendment to this Agreement shall be provided in writing, along with a memorandum in support of the amendment, to all parties to this agreement fifteen (15) days prior to final action on the amendment by any party.

**ARTICLE IX
COUNTERPARTS**

9.01. Counterparts. This Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were on the same instrument.

**ARTICLE X
SEVERABILITY**

10.01. Severability. If any specific term or provision herein is adjudicated to be unenforceable against either party, such decision shall not automatically render this entire Agreement null or void. Rather, the unenforceability of one or more terms, clauses or paragraphs in this Agreement shall not affect the enforceability of the remaining terms herein.

**ARTICLE XI
THIRD PARTY BENEFICIARIES**

11.01. Third Party Beneficiaries. This Agreement is entered into for the sole and exclusive benefit of the parties hereto. No third party shall have, obtain, or derive from this Agreement any rights or other benefits or interests under any laws or otherwise, except as specifically stated herein.

ARTICLE XII

EXCULPATORY PROVISION

12.01. Exculpatory Provision. The parties to this Agreement expressly acknowledge and agree that, anything herein to the contrary notwithstanding, no officer, director, employee, agent, or officials (elected or appointed) of any party hereto shall have any personal liability or obligation arising out of this Agreement, and no party hereto shall make any claims to the contrary.

**ARTICLE XIII
RULES OF CONSTRUCTION/CONDUCT**

13.01. Rules of Construction/Conduct. The parties to this Agreement acknowledge and agree that the terms herein were negotiated in good faith and represent the intent of the parties. In the course of negotiations, each party has been represented by a practicing attorney, and that accordingly rules of interpretation that signify that an agreement shall be construed against the drafter shall not apply. In addition, the parties acknowledge and agree that they shall endeavor to resolve any and all issues that may arise under this Agreement in the spirit of cooperation consistent with the intent of this Agreement with the aim of benefiting the entire Whitewater area community and the University of Wisconsin-Whitewater.

By signing below, the signatories hereby represent that they have full authority to execute this Agreement and thereby bind their respective entities to the terms of this Agreement. Upon execution, this Agreement shall be in force and effect as stated herein.

WHITEWATER UNIVERSITY TECHNOLOGY PARK, INCORPORATED

DocuSigned by:
Cameron Clapper 6/5/2020
By: _____
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Cameron Clapper, Vice President **Date**

UNIVERSITY OF WISCONSIN-WHITEWATER

DocuSigned by:
Dwight C. Watson 5/8/2020
By: _____
79AF935FA5014D8...
Dwight C. Watson, Chancellor **Date**