

LEASE

This lease agreement (“lease”), made as of the _____ day of _____, between Montana Tech of The University of Montana, Butte, Montana 59701, the Lessor, and Montana Tech Foundation, of Butte, Montana 59701, the Lessee, Witnesseth:

1. PREMISES: For and in consideration of the rents to be paid and the covenants and conditions to be kept and performed hereunder, the Lessor hereby leases unto the Lessee, and the Lessee hereby accepts and leases from the Lessor, on the terms and conditions herein set forth, the following described property situated in Butte-Silver Bow, Montana:

The property included in this lease is specifically the part of Alumni Coliseum known as the South End Zone and part of the Press Box area where the controls for the scoreboard will be located. Alumni Coliseum is a portion of the Montana Tech campus on West Park Street in Butte, Silver Bow County, Montana,

The purpose of this lease is to facilitate the construction of a scoreboard and associated controls.

2. TERM: This lease shall begin July 1, 2009 and terminate the earlier of either completion of the project or June 30, 2012.

3. RENTAL: The total rent under this lease shall be the sum of \$1.00 and other good and valuable consideration, the receipt whereof is hereby acknowledged by the Lessor.

4. USE BY LESSEE: Lessee shall occupy and use the leased premises for the purposes herein contemplated and for other uses reasonably and necessarily incidental thereto. Lessee shall observe and comply with all laws, statutes, ordinances, rules, orders, regulations and requirements of all duly constituted governmental authorities, regulating or relating to the use of the leased premises by the Lessee. Lessee shall not use or permit the use of the leased premises in any manner that will tend to create or maintain a nuisance.

5. CONCURRENT USE BY LESSOR: Throughout the term of this lease, the Lessor reserves the right to enter upon and utilize the leased premises, and to grant said right to other parties, for athletic contests and events, including practice sessions, and other activities reasonably related thereto, and for maintenance of the leased premises and the improvements thereon. Such use by Lessor shall be concurrent with the occupation and use of the leased premises by Lessee, but Lessee shall exercise its best efforts to accommodate such use by the Lessor and to avoid undue interference therewith.

6. MAINTENANCE: The Lessor shall be responsible for maintenance of the leased premises, including any improvements hereafter placed thereon.

7. IMPROVEMENTS: The parties understand and agree that the Lessee may make, construct and install improvements to and upon the leased premises, by any reasonable means including by use of donated and in-kind goods and services; provided, however, that notwithstanding any other provision of this lease, the Lessee shall have no duty or obligation and shall not be required to devote any of its funds or assets to the said improvements, or to pay any part of the expense of said improvements, except to the extent of in-kind goods and services, funds and other assets granted or donated to the Lessee and specifically designated for these particular

improvements. The project contemplated in this lease includes, but is not necessarily limited to, the construction of a scoreboard and related improvements. These improvements, being on leased land, are not subject to the requirements of Title 18, Chapter 2, Montana Code Annotated, except that the Montana Department of Administration shall execute the provisions of 18-2-103(1) (a) and (1) (e) of said Code. Any and all such improvements made shall remain with and become part of the leased premises, and upon expiration of this Lease shall become the property of Lessor. Any and all such improvements and all expenditures and monetary commitments to be made by Lessee shall be approved in advance by Lessor, and Lessee shall consult with Lessor in all matters pertaining to the said improvements or the construction or installation thereof. The Lessor hereby designates the Director of Facilities of Montana Tech as the representative of the Lessor with respect to the administration of this Lease.

8. NO STATE APPROPRIATED FUNDS GUARANTEES: This lease shall be governed in all respects by Section 20-25-309 of the Montana Code Annotated; and as set forth in said Section, nothing in this lease shall constitute either an expressed or implied guarantee or commitment of state appropriated funds to finance any part of the design, construction, operation or maintenance related to the project subject to this lease during its term.

9. UTILITIES: At no extra cost to Lessee, the Lessor shall furnish electricity and all other utility services reasonably necessary to the Lessee's contemplated use of the leased premises.

10. INSURANCE AND INDEMNIFICATION: During the entire term of this lease and for a reasonable time thereafter as to claims arising after its termination, the parties agree to fully indemnify, pay, protect, defend and hold harmless

each other and each other's employees, officers, directors and agents, from and against any claims, demands, damages, injuries, costs, expenses, losses, liabilities, causes of action, judgments, executions, interest, fines, charges or penalties (including reasonable attorney fees and expenses in enforcing this indemnity and hold harmless or defending any claims hereunder), to the extent any such claims fines, demands, causes of action, etc. are not covered by insurance and arise from the indemnifying party's own negligent or other tortious act or omission, and which directly or indirectly arise out of, or are attributable to or connected in any way with the project subject to this lease.

Lessee shall require any contractor and any subcontractor which participates in the activities subject to this lease to insure, indemnify and hold harmless both Lessee and Lessor against any and all personal injury and property damage arising wholly or in part from any such contractor's or subcontractor's negligent or other tortuous act or omission. Lessee shall further require each contractor and subcontractor to provide documentary evidence of insurance needed to fulfill this obligation.

11. LESSOR'S RIGHT TO INSPECT: Throughout the life of this lease, the Lessor shall have the right to enter upon said leased premises at any and all reasonable times, and from time to time, for the purpose of inspecting the leased premises and the Lessee's activities thereon.

12. DEFAULT; TERMINATION OF LEASE: Time is of the essence with this agreement. If the Lessee shall default in the performance of any of the covenants, conditions and agreements of this Lease, and shall not remedy such default within fifteen (15) days after written notice by Lessor or its agent, then the Lessor may, at its option, in addition to any other remedy the Lessor may have, declare this Lease terminated, and may immediately enter into and take possession of the leased

premises. No waiver by the Lessor of any breach of any of the covenants of this Lease shall be construed as a waiver of any succeeding breach. The Lessee hereby waives demand for possession of said leased premises upon termination of this Lease from whatsoever cause.

13. MANNER OF GIVING NOTICE: Any notice to be given to the Lessee hereunder shall be deemed complete, and the notice period shall begin to run, when the written notice is deposited in the United States Post Office, addressed to the Lessee at West Park Street, Butte, MT 59701 (or at such other address as the Lessee may hereafter specify in writing), with full first-class postage prepaid thereon. Any notice to be given to the Lessor hereunder shall be deemed complete, and the notice period shall begin to run, when the written notice is deposited in the United States Post Office, addressed to the Lessor at Butte, MT 59701, (or such other address as the Lessor may hereafter specify in writing), with full first-class postage pre-paid thereon.

14. RESTRICTION ON ASSIGNMENT AND SUBLETTING: This lease shall be binding upon and inure to the benefit of the successors and assigns of the respective parties hereto; provided, however, that the Lessee shall not assign this lease, nor sublet the said premises in whole or in part, without the prior express written consent of the Lessor.

15. PARAGRAPH HEADINGS: The headings of the paragraphs of this agreement are for convenience of reference only, and do not in any way modify, construe or interpret any provision of this agreement, or any understanding of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this agreement as of the day and year first above written.

By: _____

W. Franklin Gilmore, LESSOR

MONTANA TECH of THE UNIVERSITY OF MONTANA

By: _____

Mike Johnson, LESSEE

MONTANA TECH FOUNDATION