

FACILITY USE AGREEMENT

This Facility Use Agreement ("Agreement") is made and entered into by and between the Central Nine Career Center and Ivy Tech Community College Columbus Campus – Franklin Site ("Ivy Tech").

The Parties hereto have agreed to the facts, terms and conditions stated below:

1. 2021-2022 fall, spring and summer terms, Ivy Tech will offer Machine Tool classes ("Class" and "Classes") utilizing the Machine Tool classroom and laboratory space Central Nine Career Center (Central Nine), located at 1999 US-31, Greenwood, IN 46143 ("Premises").
2. Classes will be offered from 5:00-10:00 p.m.
3. Classes will be scheduled on Monday – Thursday only.
4. Ivy Tech will enroll a maximum of 10 students per term.
5. Ivy Tech will pay a facility usage fee to Central Nine of \$ for each semester of use of the Premises.
6. Central Nine will keep and maintain the Premises and appurtenances in good condition and repair during the term of this Agreement and any renewal thereof.
7. Ivy Tech represents that it has inspected the Premises and equipment currently available at Central Nine and accepts it as adequate and reasonable. Ivy Tech further represents that it shall promptly notify Central Nine in writing in the event it discovers any that the Premises or any Central Nine equipment is in disrepair or otherwise is in an unsafe condition. In such instance, Ivy Tech shall not utilize such portion of the Premises or Central Nine equipment until the stated issue has been resolved.
8. Ivy Tech will provide all base Machine Tool materials for Ivy Tech students.
9. Central Nine will provide Ivy Tech an area to store Ivy Tech base welding metals.
10. Ivy Tech will be solely responsible for the Classes, including but not limited to instruction to participants about health and safety aspects related to the Class, proper use and handling of equipment, student discipline and general instruction.
11. With the exception of matters resulting from defective equipment or unsafe Premises provided by Central Nine, Ivy Tech shall be solely responsible for the safety of students and its faculty relating to the Classes.
12. This Agreement shall terminate after the summer 2022 semester unless agreed upon in writing to renew by both parties.
13. Ivy Tech will not be responsible for the purchase, repair and/or maintenance of Central Nine's equipment except to the extent such equipment is damaged due to the negligence or recklessness of Ivy Tech, its instructors, agents or students, in which case Ivy Tech shall repair or replace the equipment. Central Nine will not be responsible for the repair and/or maintenance of Ivy Tech's equipment.
14. Central Nine shall not be responsible for purchasing any specialized equipment for Ivy Tech or its students' use in the Classes.

15. Central Nine may not use the name of Ivy Tech in news releases or advertising or in other publications directed to the general public without approval of an authorized signatory of Ivy Tech.
16. Central Nine will maintain insurance to cover all risks of property damage to the building, improvements, and Central Nine's contents.
17. Ivy Tech shall maintain Commercial General Liability Insurance, including Personal and Advertising Injury, in an amount not less than One Million (\$1,000,000) per Occurrence, and an Aggregate limit not less than Two Million (\$2,000,000) and shall include coverage for Bodily Injury and Death and Property Damage. . Ivy Tech, its insurer and the applicable insurance policy shall irrevocably waive all rights of subrogation against Central Nine Career Center.

Auto Liability Insurance having a combined single limit of One Million (\$1,000,000).

Excess or Umbrella Liability Insurance having a limit of not less than Four Million (\$4,000,000).

Worker's Compensation Insurance with limits complying with Indiana law and covering all persons employed in the conduct of its operations on the Premises, together with Employer Liability insurance coverage in an amount of at least One Million (\$1,000,000) each accident by Bodily Injury by Accident; One Million (\$1,000,000) each employee for Bodily Injury by Disease; and One Million (\$1,000,000) policy limit for Bodily Injury by Disease.

Professional Liability Insurance having a limit of not less than One Million (\$1,000,000).
18. Central Nine shall keep the Demised Premises insured throughout the Demised Term against loss or damage by fire and such other risks as are usually and customarily covered by extended coverage endorsement, for the full insurable value of the Premises. The insurance policy must include a replacement cost endorsement and may contain a deductible clause not greater than One Hundred Thousand Dollars (\$100,000.00). Central Nine shall furnish to Tenant certificates evidencing the continuous and uninterrupted existence of this required insurance. Central Nine shall carry the insurance in the names of Ivy Tech and Central Nine (as their interests may appear). All sums payable under the policy for damage to the Demised Premises shall be paid to Central Nine to be applied by Central Nine toward restoration of the Premises. Central Nine and Ivy Tech shall jointly adjust losses and execute proofs of loss under the policy. This required insurance may be carried by an additional premises endorsement on a policy covering multiple properties.
19. Each party ("Indemnifying Party") shall indemnify the other party hereto, and its agents, administrators and employees ("Indemnified Party") against any and all claims, damages, losses, and expenses, including but not limited to reasonable attorney fees, occurring in connection with or in any way incident to or arising out of the Indemnifying Party's occupancy, use, service, operations, or performance of work on the Premises. Provided however, each Party's obligations hereunder shall be limited in substance by statutes and constitutional provisions designed to protect the exposure and liability of each, as applicable, as governmental instrumentality of the State of Indiana and any and all applicable immunities remain effective, including but not limited to the Indiana Tort Claims Act, damages limitations stated in such Act, exemption from punitive damages, the continued ability to defeat a claim by reason of contributory negligence or fault of claimant. Neither party's liability to indemnify, defend and

hold harmless shall exceed what might have been its liability to a claimant if sued directly by the claimant in Indiana and all appropriate defenses had been raised by the Party sued.

20. Force Majeure. Notwithstanding anything to the contrary herein, Central Nine shall not be liable to Ivy Tech or responsible for any acts or omissions that would otherwise constitute a default of this Agreement where caused by matters beyond the reasonable control of Central Nine, including but not limited to fire, flood, adverse weather conditions, road closures, unavailability of supplies or materials, loss of utilities not caused by acts or omissions of Central Nine, pandemic, government order, riot or insurrection.

21. Miscellaneous

- a. No alcoholic beverages of any kind are allowed on the Premises during the Term of this Agreement.
- b. Smoking on the Premises is not permitted, pursuant to Central Nine's smoke free Campus Policy.
- c. No firearms of any kind, except for law enforcement officers as allowed under IC 35-47-9-1, are allowed on the Premises during the Term of this Agreement.
- d. Ivy Tech shall ensure that the Premises are used in a manner consistent with Central Nine's facility rules and conditions (as amended from time to time), which shall be available to Ivy Tech upon request.
- e. The Parties shall in no event be construed or held to be partners, joint venturers or associates.
- f. The captions used in this Agreement are for convenience only and shall not be deemed to amplify, modify or limit the provisions hereof.
- g. If any term or provision, or any portion thereof, of this Agreement or application thereof to any person or circumstance shall be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.
- h. This Agreement contains the entire agreement between the parties hereto and supersedes all prior and/or contemporaneous agreements and understandings regarding the Premises. This Agreement may not be modified or amended in any manner other than by agreement in writing signed by the parties hereto or their successors in interest.
- i. As both parties have had the opportunity to review this Agreement with the assistance of counsel and seek revisions of the same, this Agreement shall not be interpreted against either party as the drafter.
- j. It is agreed that a custodian (or Central Nine representative) must be on duty when the Premises is in use. When Central Nine is out of session and Ivy Tech holds Class, Ivy Tech will cover the cost incurred by Central Nine for custodial assistance.

- k. The laws of Indiana shall govern validity and interpretation of the provision, terms, and conditions of this Agreement.
- l. It is agreed that these considerations represent the total amount of this Agreement.

Dated _____, 2021

CENTRAL NINE CAREER CENTER

By: _____

Title: _____

Dated _____, 2021

IVY TECH COMMUNITY COLLEGE, COLUMBUS CAMPUS

By: Dr. Steven Combs

Title: CHANCELLOR, COLUMBUS CAMPUS