

AGREEMENT

THIS AGREEMENT, is entered into effective June 30, 1989, by and between DINOLAB, INC., a Utah corporation [hereinafter referred to as "DINOLAB"], THE STATE OF UTAH, by and through the UTAH FIELD HOUSE OF NATURAL HISTORY STATE PARK [hereinafter referred to as "the State"], and THE CARNEGIE MUSEUM OF NATURAL HISTORY [hereinafter referred to as "The Carnegie"].

RECITALS

The Carnegie originally authorized 11 replicas (10 plaster and 1 concrete) of a Diplodocus skeleton (the original skeleton remains in The Carnegie's possession), one of which is now owned by the State. The State's replica is now in need of repair but The Carnegie no longer has the molds. DINOLAB has agreed to undertake to repair the State's concrete replica and to make an additional lightweight replica for the State. The State and the Carnegie have agreed that DINOLAB may also make and sell up to twenty (20) additional replicas and DINOLAB has agreed that for each additional replica sold it will pay the State a royalty and, if the buyer is located by The Carnegie, pay a commission to The Carnegie. The parties have been negotiating their Agreement since June, 1989, and, in the meantime, have commenced performance. The parties now wish to reduce to writing the terms and conditions of their Agreement.

AGREEMENT

In consideration of the agreements, covenants and provisions contained herein, it is agreed to between DINOLAB, the State and The Carnegie as follows:

1. Term. This Agreement shall commence June 1, 1989, and shall continue until (i) terminated by the parties in a writing signed by all parties or, (ii), when DINOLAB has completed its obligations under paragraphs 2 and 3, below, and all of the new replicas have been sold as provided by paragraph 4, below, whichever first occurs.

2. Repair of Existing Concrete Skeleton. DINOLAB will: (1) assist the State in the disassembly of the Diplodocus skeleton in Vernal and transportation to Salt Lake City, Utah; (2) Stabilize, restore and seal the concrete casts of the individual bones as needed; and, (3) Return the stabilized, concrete Diplodocus skeleton to the State in Vernal, Utah. Provided, however, DINOLAB shall not be responsible for erection of the skeleton. DINOLAB has completed all of these tasks and the State, by its signature below, acknowledges receipt of the re-stabilized skeleton and DINOLAB's satisfactory performance of its obligations under this subparagraph.

3. Lightweight Replica Molds and Specimen for State.

a. Generally. DINOLAB agrees to make a light weight replica of the Diplodocus skeleton by preparing fiberglass or latex molds with fiberglass backing of all individual bones. All replicas will be made of W.E.P. (water extended polyester) or ultraviolet light resistant resin and fiberglass (if practical considering engineering and costs constraints) and will contain an integrated internal armature in the major load-bearing segments, which is consistent with current practice and design in the fabrication of supporting armature for large dinosaur skeletons. For all new

replicas made, DINOLAB shall: (i) make a notation on the labeling data of each Diplodocus replica that it was prepared in cooperation with the Utah Field House of Natural History, and The Carnegie Museum of Natural History of Pittsburgh, Pennsylvania, where the original fossils are on exhibit; and, (ii), provide scientific, historical and technical data to all recipients of the Diplodocus replicas.

b. Replica for the State. Not later than June 30, 1991, and at no cost to the State, DINOLAB will produce and deliver to the State one light weight replica Diplodocus skeleton, prepared as provided above, and will provide technical assistance to the State as necessary in the design, fabrication and construction of a free-standing exhibit incorporating that skeleton.

4. Additional New Replicas. DINOLAB shall be entitled, but not obligated, to make up to twenty (20) new replicas in addition to the replica provided to the State, paragraph 2b, above. For each new replica sold by DINOLAB, DINOLAB agrees to pay the State a royalty in the amount of \$5,000.00. If The Carnegie identifies and refers to DINOLAB a new buyer who ultimately purchases a new replica, DINOLAB will pay to The Carnegie a commission of \$3,500.00 for each such buyer. DINOLAB agrees that it will not place replica Diplodocus skeletons in institutions separated by a distance of less than 150 miles, unless they are in different countries. No additional specimens will be exhibited in the State of Utah. Not later than December 31st of each year during the term of this Agreement, DINOLAB agrees to provide to both the State and The Carnegie, a sworn statement listing all replicas sold by DINOLAB during the preceding twelve (12) months, including for each replica sold, the name of the buyer, the date of the sale, and the date on which the invoice was paid or will be paid by the buyer. Within fifteen (15) days after DINOLAB's receipt of the buyer's payment, it shall remit to the State and/or to The Carnegie, as the case may be, the royalty/commission payment due on such sale.

5. Replacement parts for plaster replicas. DINOLAB will make replacement parts available for the early replicas as requested to do so by current owners thereof. DINOLAB shall be entitled to charge its costs incurred in making such replacement part plus a fee to be negotiated with such owners.

6. Collaboration with The Carnegie. DINOLAB agrees to notify The Carnegie of the disposition of each specimen produced under this Agreement and shall collaborate with The Carnegie to provide scientific, historical and technical data to all recipients of the Diplodocus replicas.

7. Costs. DINOLAB shall be solely responsible for paying all costs and expenses associated with the transportation, stabilization, molding and casting of all elements and the completion of the project in a professional and timely manner.

8. State's Agreements. In consideration of DINOLAB's performances and agreements as contained herein, the State agrees that DINOLAB shall be entitled to sell, for its own account and subject to paying the royalties provided herein, up to twenty (20) replica Diplodocus skeletons (in addition to the one replica to be delivered to the State as provided above) and market those replicas to such persons or institutions as DINOLAB determines appropriate. The State also agrees to collaborate with DINOLAB and The Carnegie as required to accomplish the requirements of this Agreement.

9. The Carnegie's Agreements. The Carnegie agrees to collaborate with DINOLAB and the State as required herein and to supply such scientific, historical and/or technical data to DINOLAB as necessary to provide recipients with such materials. The Carnegie and will provide DINOLAB with historical data and location of specimens produced earlier.

10. Hold Harmless, Insurance. DINOLAB agrees to hold the State and its employees and servants harmless from any and all claims for damage to property or persons, resulting from any act or omission of DINOLAB, its agents and employees, and for this purpose, agrees to carry adequate public liability insurance. DINOLAB shall also provide adequate insurance against damage to either the concrete replica or the ultraviolet light-resistant fiberglass replica during the time they are in DINOLAB's possession and/or during transportation. In lieu of a Performance Bond, DINOLAB agrees to repair and/or replace any damage to either the concrete replica or the ultraviolet light-resistant fiberglass replica, if such damage occurs during the time DINOLAB has possession of either replica and/or during transportation of either replica, at no cost whatsoever to the State and at the sole expense of DINOLAB.

11. Status of Parties. DINOLAB shall be deemed an independent consultant and not an employee or agent of the State of any department or division thereof for the purpose of this Agreement or of liability hereunder. By their signatures below, DINOLAB and The Carnegie acknowledge that, to the best of their knowledge, no State employee has a personal or beneficial interest whatsoever in the service or property described herein.

12. Ownership of Molds. For ten (10) years following the execution of this Agreement, DINOLAB shall be entitled to sole possession and use of all molds made pursuant to this agreement. At the conclusion of such ten year period, the parties hereto agree

to negotiate in good faith the disposition of the molds.

13. Miscellaneous.

a. Choice of Laws. The laws of the State of Utah shall be applied in the interpretation, execution and enforcement of this Agreement.

b. Severability. If any provision of this Agreement shall be deemed unenforceable, the remaining provisions shall nevertheless remain valid and enforceable and binding upon the parties hereto.

c. Compliance with Law. DINOLAB shall, at all times during the term of this Agreement, strictly adhere to all applicable federal and state laws, rules and regulations that have been, or may hereafter be, established.

d. Attorney's Fees and Costs. In the event a lawsuit is filed to interpret and/or enforce this Agreement, the party prevailing in any such action shall be entitled to receive their costs and expenses incurred in such action, including a reasonable attorney's fee.

e. Non-Assignment. None of the parties hereto may assign the rights or obligations under this Agreement without the prior written consent of the other parties, first had and obtained, and any such attempted assignment without consent shall be null and void.

f. Entire Agreement. This Agreement contains all of the understandings between the parties and may not be changed except in a writing signed by all parties hereto.

IN WITNESS WHEREOF, the parties have signed this Agreement as of the date first above mentioned.

DINOLAB, INC., a Utah corporation

By: James H. Madsen
Title: President

THE CARNEGIE MUSEUM OF NATURAL HISTORY

By: James E. King
Title: Director

THE STATE OF UTAH, DIVISION OF PARKS AND RECREATION

By: Larry A. Miller
Title: Division Director

By: William H. Hamblin
Title: Park Superintendent

THE STATE OF UTAH, DIVISION OF FINANCE

By: Richard K. Barker 1/11/91
Title: Contract Analyst