

## **FACILITIES AND EQUIPMENT USE AGREEMENT**

This Agreement (the "Agreement") is made and entered into on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between ARKANSAS STATE UNIVERSITY ("ASU") and \_\_\_\_\_ ("Employee").

In consideration of the mutual covenants hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, ASU and Employee agree as follows:

### **1. TERM OF AGREEMENT.**

This Agreement shall commence as of the date of this Agreement and terminate \_\_\_\_\_ unless earlier terminated in accordance with the provisions hereof.

### **2. PURPOSE OF AGREEMENT**

A part of the mission of Arkansas State University is to provide service. From time to time, ASU employees contract with sources outside the university for research, studies, evaluations, or other activities ("Third Party Agreement"). When these outside activities are performed on ASU property utilizing ASU facilities and equipment, it is appropriate that the employee compensate ASU for the cost of conducting these activities. ASU is agreeable to providing facilities and equipment for conducting third party agreements for reasonable compensation. Employee is agreeable to paying reasonable compensation to ASU for use of facilities and equipment to conduct third party agreements.

### **3. APPROVAL OF THIRD PARTY AGREEMENTS**

When ASU facilities or equipment are being used to perform third party agreements, those third party agreements must be approved by the office of \_\_\_\_\_ to ensure that all legal requirements are met and that no conflict of interest exists.

### **4. USE OF FACILITIES AND EQUIPMENT**

Upon approval of a third party agreement, ASU will make available to employee the following facilities and equipment \_\_\_\_\_  
. Said facilities shall be available during regular working hours or during such times as employee requires said facilities to perform the tasks of the third party agreement.

### **5. OBLIGATIONS AND DUTIES OF THE EMPLOYEE.**

The Employee shall pay to ASU \_\_\_\_\_ for use of facilities and equipment to conduct the Third Party Agreement. Employee shall keep

said facilities in good and safe working order and shall immediately report any damage to facilities or equipment occurring during the course of performing activities pursuant to the third party contract. Employee shall indemnify and hold harmless ASU for any damages, whether in tort or contract, arising from the Third Party Agreement. Employee shall comply with all requirements of the Faculty Handbook of Policies and Procedures in conducting said Third Party Agreement, including any provisions related to intellectual property created as a result of that agreement.

**6. TERMINATION.**

Either party may terminate this agreement before its term upon giving thirty days written notice.

**7. IMMUNITY**

Arkansas State University is an agency of the State of Arkansas. Both the Eleventh Amendment to the United States Constitution and Constitution of the State of Arkansas grant sovereign immunity to the State and its agencies. Because of the Constitutional grant of sovereign immunity, Arkansas State University has no authority to enter into a covenant or agreement to hold a party harmless or to indemnify a party from damages. Any claim for damages against Arkansas State University must be presented to the Arkansas State Claims Commission. Nothing in this contract is intended to nor shall it waive the sovereign immunity of Arkansas State University. Any provision of this contract which is in conflict with the laws of the State of Arkansas is null and void.

**8. ENTIRE AGREEMENT**

This Agreement constitutes the entire Agreement between the parties and supersedes any contemporaneous or previous written or oral agreements, representations or undertakings concerning the matters and arrangements provided for in this Agreement. No supplement, modification or amendment to this Agreement will be binding unless such supplement, modification or amendment is in writing and signed by all parties.

**9. WAIVER**

A waiver of any provisions of this Agreement will not be considered a waiver of any other provision, whether or not similar, nor will any waiver on one occasion constitute a continuing or permanent waiver.

**10. NOTICE**

Any request, notice or other communication to be given under this Agreement must be in writing and delivered personally or by messenger, private mail, courier service, facsimile or sent by registered, certified mail, return receipt requested, or postage prepaid, as follows:

To Arkansas State University : \_\_\_\_\_  
\_\_\_\_\_  
Jonesboro, Arkansas

To Employee: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

All notices will be considered effective (i) upon receipt if delivered personally or by messenger or private mail courier, (ii) on the business day of successful transmission by facsimile or (iii) otherwise on the third business day after deposit in the U.S. mail.

**11. HEADINGS**

Captions of the articles and sections of this Agreement are for convenience only and must not be interpreted or construed to explain, modify, amplify or aid in the interpretation, construction or meaning of any provision of this Agreement.

**12. SUCCESSORS**

The terms, warranties and agreements herein contained shall bind and inure to the benefit of the respective parties hereto, and their respective legal representatives, successors and assigns.

**13. ADDITIONAL DOCUMENTS**

The parties shall execute any additional documents reasonably necessary to effectuate the provisions and purposes of this Agreement.

**14. COUNTERPARTS**

This Agreement may be executed in one or more counterparts, including facsimile copies, each of which will be considered to be an original. All those counterparts together will constitute the same instrument, which may be sufficiently evidenced by one counterpart. The signing of this Agreement at different times and places by the parties will not affect the validity of this Agreement.

**15. SEVERABILITY**

Any provisions herein declared invalid under any law shall not invalidate any other provision of this Agreement.

**16. APPLICABLE LAW**

This Agreement and the documents provided for herein shall be governed by, and construed in accordance with, the laws of the State of Arkansas.

IN WITNESS WHEREOF, the parties have respectively signed this Agreement by their duly authorized officers as of the date and year first above written.

EMPLOYEE:

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ARKANSAS STATE UNIVERSITY

By: \_\_\_\_\_