FACILITY USE AGREEMENT

BETWEEN

**TENNESSEE STATE UNIVERSITY**

**AND**

This Facilities Use Agreement is entered into as of \_\_\_\_\_\_\_\_\_\_\_, 20\_\_ (the “Effective Date”), between the (INSERT NAME OF INSTITUTION) (“Institution”) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“User”) for the use by User of certain space or facilities owned by Institution.

 1. Space. Subject to the terms of this Agreement, Institution agrees that User may use the following Space or Space and equipment at the Institution:

 (INSERT DESCRIPTION OF SPACE AND EQUIPMENT TO BE USED)

 2. Permitted Use. User may use the Space for the following, and for no other purpose:

 (INSERT DESCRIPTION OF USE ALLOWED)

 3. Term. User may use the Space on the following date(s) and during the following hours:

 (INSERT DATES AND TIMES OF USE)

 4. Compliance with Laws, Policies and Regulations. When using the Space, User agrees to comply with all applicable state, federal or local laws and regulations, and with the policies and regulations of the Institution pertaining to the use and occupancy of the Space.

 User agrees to take good care of the Space and to maintain the space in as good order and condition as it was prior to User’s use.

 User agrees not to use or allow the Space to be used for any unlawful purpose. User agrees not to commit or allow to be committed any waste or nuisance in or about the Space, or subject the Space to any use that would damage the Space or raise or violate any insurance coverage maintained by or for the benefit of the Institution.

 5. Facility Use Fee. User agrees to pay the University the following estimated fees:

 A. General Rental Fee: \_\_\_\_\_\_\_\_\_\_

 B. Facility General Clean-Up Fee: \_\_\_\_\_\_\_\_\_\_

 C. Facility General Set-up Fee \_\_\_\_\_\_\_\_\_\_

 D. Police security: \_\_\_\_\_\_\_\_\_\_

**TOTAL:** \_\_\_\_\_\_\_\_\_\_

**A deposit in the amount of twenty five percent (25%) of the total fee is due at the time the requester (User) signs and submits the contract to reserve the requested space. The remaining balance of the fee is due two weeks prior to the event (“two week deadline”). The Payment of the 25% deposit reserves the space requested up to the date the payment of the remaining balance is due. The contract to reserve the space will not be submitted for final approval until full payment is received. The requester may submit payment of the remaining balance at any time prior to the two week deadline. In the event of a cancellation by the User, 15% of the 25% deposit is non-refundable. No personal checks will be accepted for payment for an event.**

User agrees that the estimated fees included above are subject to change depending on any adjustments of services on the date of the event and shall be notified of any such increase to include the actual costs incurred. Check should be made payable and mailed to:

 Tennessee State University

 3500 John A. Merritt Boulevard

 Nashville, Tennessee 37209-1561

 Attention: Events Management

 User shall be responsible for all costs not specifically stated herein.

 6. The Institution’s Office of Campus Police shall oversee all security operations and determine the necessary requirements to adequately meet the scheduled activities.

7. The User agrees to provide adequate identification upon request to appropriate University officials and security personnel.

8. All concessions, vending and parking rights, except as provided herein, shall belong to the Institution, except that no parking fees shall be charged or paid during this event.

 9. Insurance. User, at its expense, agrees to procure and maintain during the term a policy of commercial general liability insurance in an amount of not less than one million dollars ($1,000,000), single limit, against claims for bodily injury, death and property damage occurring in connection with User’s use of the Space, except as specifically provided under the TSU Policies and Procedures governing Non-Affiliated Individual Facility Rental. This insurance must name Tennessee State University as an additional insured on the Insurance rider and said rider must be received three (3) weeks prior to the event and delivered to Events Management.

 10. Liability. User agrees to conduct its activities in the Space in a careful and safe manner. As a material part of the consideration to Institution, User agrees to assume all risk of damage to and loss or theft of User’s property while at Institution, damage to the Space, and injury or death to persons related to User’s use or occupancy of the Space in, upon, or about the Space from any cause, and User waives all claims against Institution. User hereby agrees to indemnify and hold University harmless from any and all liabilities arising out of its use of the University’s Facility, including, but not limited to, personal injury, property damage, sexual misconduct, court costs and attorneys’ fees.

 Neither party shall be responsible for personal injury or property or loss except that resulting from its own negligence or the negligence of those within its control.

 11. Environmental Regulations. User will not permit any Hazardous Substance to be used, stored, generated or disposed of on, in or about, or transported to or from, the Space, by User, User’s agents, employees, contractors, invitees, subtenants, concessionaires or Users without first obtaining Institution’s written consent, which Institution may give or withhold in its sole discretion, or revoke at any time. If Institution consents, all Hazardous Substances must be handled at User’s sole cost and expense, in compliance with all applicable state, federal or local governmental requirements, using all necessary and appropriate precautions. If User breaches these obligations, or if the presence of Hazardous Substances on, in or about the Space caused or permitted by User results in contamination of any part of the Space, or if contamination by Hazardous Substances otherwise occurs in a manner for which User is legally liable, then User will indemnify and hold harmless Institution, the Tennessee Board of Regents, and the State of Tennessee from and against any and all claims, actions, damages, fines, judgments, penalties, costs, liabilities, losses and expenses (including, without limitation, any sums paid for settlement of claims, court costs, attorneys’ fees, consultant and expert fees) arising during or after the expiration or termination of this Agreement as a result of any breach or contamination. Without limitation, if User causes or permits the presence of any Hazardous Substance on, in or about the Space and this results in contamination of any part of the Space, User will promptly, at its sole cost and expense, take all necessary actions to return the Space and any adjacent facility to the condition existing prior to the presence of any Hazardous Substance; provided, however, User shall first obtain Institution’s approval for any such remedial action. “Hazardous Substance” means any substance regulated by any local government, the State of Tennessee or the United States government. “Hazardous Substance” includes any material or substances which are defined as “hazardous material,” “hazardous waste,” “extremely hazardous waste” or a “hazardous substance” pursuant to state, federal or local government law. “Hazardous Substance” includes but is not restricted to asbestos, polychlorobiphenyls and petroleum.

 12. User will be responsible for the payment of all applicable amusement tax and sales tax, if required.

 13. State law prohibits alcoholic beverages on State property.

 14. T.C.A. § 12-3-309 prohibits State entities from contracting to acquire goods or services from any person who knowingly utilizes the service of illegal immigrants in the performance of the contract and by signing this Contract, the Contactor attests, certifies, warrants, and assures that the Contractor shall not knowingly utilize the services of illegal immigrants in the performance of the Contract and will not knowingly utilize the services of any subcontractor, if permitted under the Contract, who will utilize the services of illegal immigrants in the performance of the Contract.

15. Sales and Use Tax. If the Contractor makes sales to customers in Tennessee of taxable good or services, the Contractor shall be registered with or have received an exemption from the Department of Revenue for the collection of Tennessee sales and use tax. This registration requirement is a material requirement of this Contract. The Contractor shall comply, and shall require any subcontractor to comply, with all laws and regulations governing the remittance of sales and use taxes on the sale of goods and services made by the Contractor, or the Contractor’s subcontractor.

16. Assignment and Subletting. User does not have the right to assign this Agreement or allow any other person or entity to use or occupy any of the Space without the prior written consent of Institution, which consent may be granted or withheld in Institution’s sole discretion.

17. Default. If User fails to fulfill in a timely and proper manner its obligations under this Agreement, or if the User shall violate any of the terms of this Agreement, the University shall have the right in addition to any other remedy that may be available to Institution, whether at law or in equity, to immediately terminate this Agreement and withhold payment in excess of fair compensation for work completed.

Notwithstanding the above, the User shall not be relieved of liability to the University for damages sustained by virtue of any breach of this Agreement by the User.

 18. Interpretation. This Agreement constitutes the entire agreement and understanding of the parties with respect to its subject matter. No prior or contemporaneous agreement or understanding will be effective. This Agreement may not be modified or amended except by written instrument signed by both parties. This Agreement shall be governed by the laws of Tennessee, the courts of which state shall have jurisdiction over its subject matter.

19. Relationship. Neither User nor any personnel of User will for any purpose be considered employees or agents of Institution. User assumes full responsibility for the actions of User’s personnel, and is solely responsible for their supervision, daily direction and control, payment of salary (including withholding income taxes and social security), worker’s compensation and disability benefits.

 20. Authority. The individual signing below on behalf of User hereby represents and warrants that s/he is duly authorized to execute and deliver this Agreement on behalf of User and that this Agreement is binding upon User in accordance with its terms.

21. Non-Discrimination. The parties agree to comply with Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Executive Order 11,246, the Americans with Disabilities Act of 1990 and the related regulations to each. Each party assures that it will not discriminate against any individual including, but not limited to, employees or applicants for employment and/or students because of race, religion, creed, color, sex, age, disability, veteran status or national origin.

 22. Conflicts of Interest. The User warrants that no part of the total contract amount provided herein shall be paid directly or indirectly to an officer or employee of the State of Tennessee as wages, compensation, or gifts in exchange for acting as officer, agent, employee, subcontractor or consultant to the User in connection with work contemplated or performed relative to this Agreement.

 23. Claims Against the Institution. Any and all monetary claims against the Institution, its officers, agents, and employees in performing any responsibility specifically required under the terms of this Agreement shall be submitted to the Board of Claims or the Claims Commission of the State of Tennessee and shall be limited to those provided for in T.C.A. § 9-8-307.

 24. Copyrights. If music is to be performed in conjunction with the use of the Space, the parties agree to abide by the following copyright and performance provisions:

 A. the User hereby assures that all necessary copyright and royalty licenses have been obtained from ASCAP, BMI, SESAC and any other performing rights organization or the copyright owner for the performance to be presented under the terms of this Agreement.

 B. the User agrees to provide the Institution the prior written consent of SESAC, Inc. or the copyright owner for copyrighted music or work for which SESAC is the licensing agent.

 C. the User agrees to indemnify, hold harmless and defend the Institution and the State of Tennessee from and against any and all claims, demands or suits which may be brought for copyright infringement allegedly arising in the course of the performance presented under the terms of this Agreement. Such indemnification shall extend to both criminal and civil actions and shall include any and all loss, damage, penalty, court costs or attorneys' fees incurred by the Institution as a result of such infringement.

 D. the Institution shall promptly notify the User of any such claim brought against the Institution or the State of Tennessee. The settlement or compromise of any claim brought against the Institution or the state shall be subject to the approval of the appropriate state officials, as required by T.C.A. Section 20-13-103.

25. The Institution retains the right to intercede and /or stop any performance of Artist’s or Promoter’s employees when it is determined to be in the best interest of public safety and welfare.

26. Term. The term of this Agreement will begin on the Effective Date and end on \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_, at which time User’s right to use the Space under his Agreement will automatically expire. This Agreement may be terminated by either party by giving written notice to other, at least **5** days before the effective date of termination. In that event, the Non-Affiliate shall be entitled to receive just and equitable compensation for any satisfactory authorized work completed as of the termination date. This Agreement may be terminated without the above described notice upon grounds that the facility has been rendered unusable or the activity has been canceled due of an occurrence beyond the parties’ control that could not be avoided by the exercise of due care, including, but not limited to, acts of God, riots, wars, epidemics or pandemics, declaration of a federal, state or local state of emergency, or any other similar occurrence or cause. The Institution may also terminate this Agreement if it becomes aware of any threat to personal or public safety arising from the intended use. In event of cancellation of the activity within one week of the scheduled event, the USER shall pay to the Institution all actual cost and/or “out of pocket” expenses incurred by the Institution, including the expenses associated with any ticket refunds. Such cost and expenses shall be deducted from the User’s refundable deposit.

27. Felina Freeman is the Contract Monitor for the Institution and can be reached at tel: 615-963-5797, fax: 615-963-1548 or email: ffreema1@tnstate.edu.

28. \_\_\_\_\_\_\_\_\_ is the point of contact for the User and can be reached at telephone:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, email: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

29. This Agreement shall not be binding upon the parties until it is approved by the President or President’s Designee.

**IN WITNESS WHEREOF**, the parties have by their duly authorized representatives set forth their signatures:

**(CONTRACTOR) TENNESSEE STATE UNIVERSITY**

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

Name: Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: Title: President/President’s Designee\_\_\_

Date: Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_