

UNIVERSITY ADDENDUM TO HOTEL CONTRACT

RE: ADDENDUM TO AGREEMENT BETWEEN _____ (“THE HOTEL”) AND THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ARKANSAS, ACTING FOR AND ON BEHALF OF THE UNIVERSITY OF ARKANSAS, FAYETTEVILLE (“THE UNIVERSITY”) DATED THE _____ DAY OF _____, 20____ (“THE AGREEMENT”).

Notwithstanding any other terms and conditions of the Agreement, the University and the Hotel hereby agree as follows. In the event of a conflict between the Agreement and this Addendum, the terms of this Addendum shall control.

1. Liability. Pursuant to Article 12, § 12 of the Arkansas Constitution, the University may not agree to hold a party harmless or to indemnify a party from damages. Any provision requiring the University to indemnify a party is hereby deleted. The parties are responsible for their own negligent conduct and that of their respective officers, employees, agents and designated representatives acting within the official scope of their duties.

2. Governing Law. The laws of the State of Arkansas, without regard to Arkansas conflicts of law principles, shall govern the interpretation and enforcement of the Agreement and resolution of any issues, as well as all related defenses, counterclaims and cross claims, which may arise in connection with the Agreement or between the parties. Any term or provision providing for arbitration of claims is deleted.

3. Immunity. The University is an instrumentality of the State of Arkansas and is entitled to sovereign immunity. The parties agree that all claims, demands or actions for loss, expense, damage, liability or other relief, either at law or in equity, for actual or alleged personal injuries or property damage arising out of or related to this Agreement by the University or its officers, employees, agents or designated representatives must be brought before the Claims Commission of the State of Arkansas. With respect to such claims, demands or actions, the University agrees it will cooperate with the Hotel in the defense of any third-party claim, demand or action brought against the Hotel seeking the foregoing loss, expense, damage, liability or other relief. Nothing in the Agreement shall be construed as a waiver of any immunities available to the University, its officers, agents and employees, or of the University’s right to assert in good faith all claims and defenses available to it in any proceeding.

4. Attorney’s Fees. Neither party shall be liable to the other for any payment of attorneys’ fees or collection costs on any claim, demand or action related to or regarding the performance, validity, construction, interpretation, breach or enforcement of the Agreement.

5. **Prepayment.** Any provision of the Agreement requiring a deposit or prepayment is deleted. Any payment obligation of the University stated in the Agreement shall instead be due on or after the date of the event or reservation described in the Agreement.

6. **Late Fees.** Pursuant to Arkansas Code Annotated § 19-11-224, no interest or late fees shall accrue until sixty (60) days past the due date. The interest rate shall not exceed six percent (6%) per annum.

7. **Confidential or Proprietary Information.** To the extent any provision in the Agreement restricts dissemination of confidential or proprietary information by the University, it shall not be construed to prohibit disclosure of such information to comply with a request by valid subpoena, court order or other applicable law.

8. **Force Majeure.** Neither party shall be considered to have breached the Agreement and shall not be liable for any costs, fees or damages for cancelling the Agreement at any time arising out of or caused by, directly or indirectly, forces beyond the parties' reasonable control, including without limitation, riots, natural disasters or acts of God, epidemic, pandemic, quarantine, acts or threats of war or terrorism, civil disturbances, fire, flood, hurricane, tornadoes, earthquake, loss or malfunction of public utilities, court order, actions by a government or public authority, outbreak of disease or illness, curtailment of transportation, or cancellation or postponement of the underlying event or purpose for the hotel reservations ("Force Majeure Event"). Cancellation without penalty for a Force Majeure Event is effective upon written notice from one party to the other. The Hotel shall refund the University any amounts paid to the Hotel within ten (10) business days of the date either party provides written notice of cancellation under this section.

9. **Cancellation.** In the event the University cancels some or all of its reservations for a reason other than a Force Majeure Event or the Hotel's breach of the Agreement, the Hotel agrees to use reasonable efforts to resell rooms in the University's room block (if the Agreement includes the booking of rooms) and book an alternative event for the meeting room(s) (if the Agreement involves the booking of such an event); and any revenues received, less reasonable costs of resale, shall be credited against the damages/fees owed by the University to the Hotel for the cancellation. Prior to billing and payment, the Hotel must submit to the University a copy of the Hotel's records of sales (which may include the city ledger and daily report) showing the rooms that were not resold and were available for sale. The Hotel agrees that after receipt of this payment it will not seek additional damages for not utilizing the full room block or any other services or amenities.

10. Insurance. Any provisions stating that the University shall purchase liability insurance are hereby deleted in their entirety. As an entity of the State of Arkansas entitled to sovereign immunity, the University does not maintain commercial or general liability insurance.

11. Alcohol. Alcoholic beverages may not be purchased with state or federally appropriated funds. Therefore, the University shall not be responsible for payment for any alcoholic beverages served at the event, if applicable.

12. Anti-Boycott Israel Notice. In accordance with Ark. Code Ann. § 25-1-503, the Hotel hereby certifies to the University that the Hotel (a) is not currently engaged in a boycott of Israel and (b) agrees for the duration of this Agreement not to engage in a boycott of Israel.

13. Certain Industry Boycotts. In accordance with Ark. Code Ann. § 25-1-1002, the Hotel certifies that it is not currently engaged in a boycott of the energy, fossil fuel, firearms and ammunition industries and agrees for the duration of its agreement not to engage in a boycott of the energy, fossil fuel, firearms or ammunition industries. The preceding does not apply to: (i) an agreement with a total potential value of less than \$75,000, or (ii) a contract under which the Hotel's price for the goods or services is at least 20% less than the lowest certifying business.

14. Intellectual Property. At all times and for all purposes, each party to this Agreement shall retain ownership to its intellectual property, including, without limitation, all trade names, trademarks, service marks, logos, slogans, images, trade dress, uniforms, mascots, symbols or other indicia of intellectual property (collectively, "IP"). Neither party may use any IP belonging to the other party without the other party's prior written consent from the undersigned representatives. The fact that the parties have entered into this Agreement shall not give either party a license or other right to use the IP of the other party without the other party's written permission.

15. Performance Based Standards. The Hotel represents that the Hotel (a) has purchased and will maintain sufficient liability insurance coverage; (b) all products and services provided hereunder will be in good working order and safe and fit for the purpose for which they are intended; (c) it will in the performance of this Agreement comply with all applicable federal, state and local laws and ordinances; (d) it will perform this Agreement in a professional manner; and (e) it possesses all required permits, certificates and licenses necessary to perform this Agreement.

16. Amendment to the Agreement. To the extent any prior agreements, negotiations or representations, or any provision of the Agreement, contradict or otherwise conflict with the terms or conditions of this Addendum, such provisions are canceled, superseded and revoked. The Agreement shall not be otherwise altered or amended other than an agreement in writing signed by the parties hereto.

THE UNIVERSITY:

THE HOTEL:

The Board of Trustees of the University
of Arkansas, acting for and on behalf of
the University of Arkansas, Fayetteville

By: _____
Title: _____
Date: _____

By: _____
Title: _____
Date: _____