

MISSISSIPPI BAR CENTER
EXPENSE SHARING AGREEMENT

WHEREAS, Mississippi Bar Foundation, Inc. (the "Foundation"), Mississippi State Bar, Mississippi Pro Bono Project, and the Commission on Continuing Legal Education (the "Parties") occupy the building located at 643 North State Street, Jackson, Mississippi (the "Building"); and

WHEREAS, the Parties desire to reduce to writing their agreement concerning the sharing of expenses associated with occupancy of the Building; **IT IS HEREBY AGREED:**

1. Building Expenses. Each Party shall pay its proportionate share of utilities, taxes, janitorial service, grounds maintenance, maintenance reserve (in reasonable amounts to be established by the Foundation), depreciation (to the extent determined to be reasonable and

appropriate by the Foundation), building supplies, insurance, management fees, administrative expenses, interest and other similar costs ("Building Expenses") based upon the ratio of the number of square feet occupied (or reserved for future occupancy) to the total number of square feet contained in the Building as set forth below-

	<u>Number of Square Feet Occupied or Reserved</u>	<u>Percentage of Total Building Expenses</u>
Mississippi Bar Foundation, Inc.	847	7.00 %
Mississippi State Bar	9,743	80.50 %
Mississippi Pro Bono Project	787	6.50 %
Commission on Continuing Legal Education	<u>726</u>	<u>6.00 %</u>
Total	12,103	100.00 %

AMERICAN BAR ASSOCIATION
DIVISION FOR BAR SERVICES
CLEARINGHOUSE AND LIBRARY

2. Payment of Building Expenses. As used herein, "Occupancy Year" shall mean the twelve (12) month period from August 1, 1989 through July 31, 1990; and each succeeding twelve (12) month period thereafter. "Accounting Year" shall mean the twelve (12)

month period from January 1, 1989 through December 31, 1989, and each succeeding twelve (12) month: period thereafter. Each Party's proportionate share of Building Expenses shall be payable as follows:

(a) During the first year Occupancy Year each Party shall pay to the Foundation monthly, in advance, on the first day of each month, an amount equal to \$1.04 multiplied by the number of square feet occupied or reserved for future occupancy by that Party as follows:

<u>Parties</u>	<u>Monthly Estimated Payments</u>
Mississippi Bar Foundation, Inc.	\$ 880.88
Mississippi State Bar	\$ 10,132.72
Mississippi Pro Bono Project	\$ 818.48
Commission on Continuing Legal Education	<u>\$ 755.04</u>
Total Monthly Estimated Payments	\$ 12,587.12

(b) The foregoing payments shall be adjusted and **revised** by the Foundation at the end of each Accounting Year during the Parties' occupancy of the Building on the basis of the actual Building Expenses during that Accounting Year, plus reasonably anticipated increases or decreases in such expenses. Within the ninety (90) day period immediately following the end of each Accounting Year the Foundation shall furnish to each Party a written statement setting forth the revised Building Expenses showing in reasonable detail a general breakdown of the total Building Expenses. Beginning with the first day of the Occupancy Year immediately following the Accounting Year upon which the revised Building Expenses are based, each Party shall pay to the Foundation their proportionate share of the revised Building Expenses in monthly installments, in advance, on the first day of each month until the end of that Occupancy Year. Building Expenses to the Foundation shall be paid promptly. If the Building Expenses due the Foundation have not been paid thirty (30) days following receipt of the statement setting forth the revised Building Expenses, the Foundation, at its sole option, may give notice of default to the party failing to pay its proportionate share of monthly Building Expenses.

3. This Agreement shall be effective August 1, 1989 and shall continue for a term of twenty (20) years thereafter.

4. Duties of the Parties. With the proceeds of the Parties' monthly payments, the Foundation shall pay all Building Expenses. In addition, the Foundation shall maintain the roofing and foundation of the Building in good condition.

As of the effective date of this Agreement, only a portion of the space to be occupied by Mississippi State Bar will be completed and ready for occupancy. The remaining space reserved by Mississippi State Bar for future occupancy shall be completed upon request, to a degree equal to that of the remainder of the Building, by, and at the sole expense of, the Foundation.

With the exception of janitorial supplies and services, each Party shall be responsible for the interior maintenance and repair of its occupied space and shall make any and all repairs to the Building of damage which is the result of willful or permissive acts or negligence of that Party, its agents, invitees or licensees which is not otherwise covered by the insurance policies maintained by the Foundation pursuant to paragraph 13 of this Agreement. Each Party shall maintain its occupied space in good appearance and shall not cause a nuisance.

At the termination of this Agreement, each Party shall return its occupied space to the Foundation in the same condition as originally received, normal wear and tear excepted.

5. Assignment. No Party shall assign its rights or privileges under this Agreement or allow any other entity to occupy its space in the Building without first obtaining written consent of the Foundation.

6. Abandonment o Party shall abandon or vacate its occupied space. In the event a Party does abandon or vacate its occupied space, the Foundation shall be entitled to all rights and options provided in paragraph 7 ("Default") hereunder.

7. Default. In the event that any Party fails to pay its proportionate share of monthly Building Expenses as and when due, or fails to perform any covenants, terms or conditions contained herein on its part to be observed and performed, for a period of five (5)

days after notice by the Foundation of said default, the Foundation, as its sole option, may immediately or at any time thereafter reenter and take exclusive possession of the occupied space; remove all personal property and fixtures thereon, with or without distress warrants, eviction, ejection, unlawful entry and detainer or other legal process, and without prejudice to any of the Foundation's other legal rights. All claims for damages by reason of such reentry and taking possession of the occupied space and removing such contents, are expressly waived. Upon default and notice, the Foundation shall have the immediate right, but not the obligation, to terminate this Agreement with respect to the Defaulting Party without notice to the Party.

The Defaulting Party shall be liable for all expenses incurred in the seizure of the occupied space and contents, changing locks, removal, storage and sale of contents.

If this Agreement has been terminated by the Foundation upon a Party's default, the Foundation at its sole option- may declare the Building Expenses for the **next six** (6) months to be accelerated and immediately due and payable in full, together with expenses, attorney fees, and interest at the highest allowable rate pursuant to Miss. Code Ann. § 75-17-1.

Further, the Foundation shall have the right, but not the obligation, to find another occupant for the Defaulting Party's occupied space as the Foundation may deem proper. The Foundation, at its option, may apply the monthly Building Expenses paid by the new occupant, less expenses, to the accelerated monthly Building Expenses due from the Defaulting Party and the Defaulting Party shall be liable for any deficiencies.

8. Termination of Agreement. The Foundation may terminate this Agreement with respect to any Party upon ninety (90) days written notice, sent by certified mail, postage prepaid, to that Party's occupied space. The Mississippi Pro Bono Project and the Commission on Continuing Legal Education may terminate their Agreement with the Foundation upon ninety (90) days written notice, sent by certified mail, postage prepaid, to that party's occupied space in the event that they cease to be organizations or if their grants expire. At the expiration of the 90-day period, the Foundation shall have all rights and remedies set forth in paragraph 7 ("Default") above with the sole exception of accelerating the monthly Building Expense payments.

9. Alterations and Additions. No Party shall make any alterations or physical additions in or to the occupied space without the prior written consent of the Foundation. Any additions, alterations, fixtures and improvements by any Party shall at once when made become the property of the Foundation, without compensation, and shall be surrendered to the Foundation upon termination of this Agreement by lapse of time or otherwise. Upon the Foundation's demand and at its option, any alterations, improvements and fixtures by any Party shall be removed at the termination of this Agreement and the occupied space restored to its former condition, all at that Party's expenses.

10. Indemnity of Foundation. The Foundation shall not be liable or responsible for any loss or damage to any property or person occasioned by theft, fire, water, rain, snow, leakage of building, act of God, public enemy, injunction, riot, strike, insurrection, war, court order, requisition, order of governmental body or authority, or any matter beyond the control of the Foundation. The Foundation shall not be liable for any damage or inconvenience which may arise through repair or alteration of any part of the building, or failure to make such repairs, or from any cause whatever, unless solely by the Foundation's gross, willful and intentional neglect.

11. Covenant to Hold Harmless. Each Party agrees to defend, indemnify and save the Foundation harmless from any and all claims, damages, costs, fines, suits, including reasonable attorney's fees, arising from the use of the occupied space or from any breach or default of this Agreement, by the Party, its agents, servants, employees, assignees, licensees, or invitees in or about the occupied space.

Each party is or will become familiar with its occupied space and acknowledge that the same is received by that Party in good repair. The Foundation shall not be liable to any Party or any Party's agents, employees, invitees, or visitors for any defect in the building or its mechanical systems or elsewhere in the occupied space or building which now exist or hereafter occur. Each Party accepts the occupied space "as is" and accepts same as suitable for the purposes for which the same is occupied and assumes all risk of damage to persons or property.

12. Risk of Loss and Insurace. The Foundation shall carry adequate fire and hazard insurance on the Building and the furnishings, fixtures and other personal property located . therein. The Foundation shall also maintain \$1,000,000.00 of public liability insurance per person or occurrence. No Party shall by its activities cause an increase in the premium for any insurance policy carried by the Foundation. Any increase in insurance premiums caused by any Party's use of the occupied space shall be paid to the Foundation by that Party as additional monthly Building Expenses upon demand and presentation of written evidence by the Foundation, whether the Foundation has consented to such change of use or not. No Party shall permit any operation to be conducted in the occupied space that would cause suspension or cancellation of any insurance policy carried by the Foundation.

13. Fire and Casualty Damage. Each Party shall, in case of fire or loss or damage from other causes, give immediate notice thereof to the Foundation. If such damage be so extensive that replacement of all or substantially all of any Party's occupied space shall be required, then and in that event, at the option of the Foundation, this Agreement will be cancelled and of no force and effect from and after the date of the occurrence of such damage. If this Agreement is not cancelled by the Foundation then the Building Expenses normally paid by a Party shall be abated during the period necessary to restore that Party's occupied space to a habitable condition. No penalty shall accrue' for reasonable delay which may arise by reason of adjustment of insurance on the part of the Foundation, and for reasonable delay on account of "labor troubles", or any other causes beyond the Foundation's control.

14. Attorney's Fees. If on account of any breach or default by any party under the terms and provisions of this Agreement, the nondefaulting party employs an attorney, for advice or to enforce or defend any of the nondefaulting party's rights or remedies hereunder, the defaulting party agrees to pay all reasonable attorney's fees, expenses and court costs incurred by the nondefaulting party in connection therewith.

15. Waiver of Jury Trig. Each Party hereby waives any and all right to trial by jury on any issue (s) in any summary or other proceedings or any other suit, action, proceeding at any time brought or instituted by any Party against the Foundation with respect to or involving

the occupied space or any matter arising under or connected with this Agreement and the relationship of the Foundation and each Party created hereby.

16. sight of Entry. Each Party shall permit the Foundation's officers, agents, or representatives to enter into and upon any and all parts of the occupied space, at all reasonable hours, to inspect same or clean or make repairs, alterations or additions, as the Foundation may deem necessary or desirable, and no Party shall be entitled to any abatement or reduction of rent by reason thereof. In the event the Foundation decides to sell the occupied space at expiration of this Agreement, the Foundation shall have the right during the term of this Agreement to list the property with a realtor or otherwise advertise that the property is for sale, and to enter at all reasonable hours during the last three (3) months of this Agreement to show the property to prospective purchasers.

17. Successors. The terms, conditions and covenants contained in this Agreement shall apply and inure to the benefit of, and be binding upon the Parties hereto and their respective successors in interest and legal representatives, except as otherwise herein expressly provided. All rights, powers, privileges, immunities and duties of the Foundation under this Agreement, including, but not limited to, any notices required or permitted to be delivered by the Foundation to each Party hereunder, may, at the Foundation's option, be exercised or performed by the Foundation's agent or attorney.

18. Notices. All notices, demands and requests by any Party to any other Party shall be in writing. Notice by the Foundation to each Party shall be deemed sufficiently given or served if sent by regular mail (not certified), postage prepaid, to the occupied space, whether or not such notice is received by each Party. Notice to the Foundation must be sent to the Foundation's attention at 643 North State Street, Jackson, Mississippi 39202.

19. Agreements and Amendment. This Agreement contains all the agreements between the Parties. There are no other agreements or warranties between the Parties. All amendments to this Agreement must be in writing and signed by the Foundation and the Party affected by the amendment.

ATTEST:

L. J. Phillips
Secretary
Date: 6/27/91

MISSISSIPPI STATE BAR

By: *Ken P. Howard*
Its President
Date: 6/25/91

ATTEST:

L. J. Phillips
Secretary
Date: 6/27/91

MISSISSIPPI BAR FOUNDATION, INC.

By: *Paul A. Hart*
Its President
Date: 6/25/91

ATTEST:

Daphne M. Thornton
Secretary
Date: 6/29/91

MISSISSIPPI PRO BONO PROJECT

By: *Julius B. Boy*
Its Chairman
Date: 6/29/91

ATTEST:

L. Marie M. Walker
Secretary
Date: 6-27-91

COMMISSION ON CONTINUING
LEGAL EDUCATION

By: *Wynne E. Clark*
Its Chairman
Date: 6-26-91

MISSISSIPPI BAR CENTER

USAGE POLICY

The Mississippi Bar Center is used primarily by the Mississippi State Bar, Bar Foundation and other tenants in carrying out their day-to-day activities including staff operations and the meetings of various committees, boards, etc. Members are encouraged to use the conference facilities for depositions and conferences.

From time-to-time the Bar Center may be utilized for after-hours social functions by tenants of the Bar Center and other law related organizations. Exceptions to this policy may be granted from time-to-time by the Building Management Committee upon recommendation of the Executive Director. After-hours use of the building by law related organizations and Bar Center tenants is available only under the following conditions:

1. Users sign an indemnity agreement
2. Users make \$500 refundable security deposit
3. Users pay users fee as follows:
 - A. \$50 - less than 50 people
 - B. \$100 - more than 50 people
4. Social functions may begin no earlier than 5:30 P.M. on weekdays.
5. Users are responsible for leaving the building in the condition in which it was found including rearrangement of furniture, cleaning of all surfaces used for beverage/food, bagging of all garbage, etc.

**MISSISSIPPI BAR CENTER f
INDEMNITY
AGREEMENT**

The Mississippi Bar Foundation is pleased to make its Center available for your use and enjoyment. The Mississippi Bar Foundation cannot accept responsibility for the safety of persons or your personal property during your occupation and use of this Center. Accordingly, as a condition precedent to the rental of this Center, Lessee agrees to accept complete responsibility for the safety of persons and personal property located in the Center during Lessee's utilization of the Center. To that end, Lessee specifically agrees to indemnify and hold harmless The Mississippi Bar Foundation and its tenants, officers, agents and employees from any and all damages, including attorneys fees and expenses, for injury to persons or personal property located in the Center occurring during Lessee's utilization of the Center.

In addition, Lessee warrants that it will care for and maintain the real and personal property of The Mississippi Bar Foundation and its tenants during Lessee's use and occupation of the Center. If any real or personal property of The Mississippi Bar Foundation or its tenants is injured or otherwise damaged during Lessee's occupation of the Center, Lessee agrees to replace or repair such injured real or personal property in accordance with the desires and wishes of The Mississippi Bar Foundation. The Mississippi Bar Foundation shall have the sole option to require either repair or replacement of real or personal property that was damaged during Lessee's occupation of the Center.

Lessee also warrants that it will return the Center to The Mississippi Bar Foundation in as good condition and as good a state of cleanliness as Lessee received the Center from The Mississippi Bar Foundation. If The Mississippi Bar Foundation finds it necessary to employ personnel to clean up the Center after Lessee's occupation thereof, Lessee agrees to be responsible for all costs of such clean up.

In addition to the other provisions of this Agreement, The Mississippi Bar Foundation shall have the option to retain Lessee's deposit as necessary to effect the terms of this Indemnity Agreement.

LESSEE

BY: _____

I, _____, am the _____
of Lessee above, and I have actual authority to enter into this Indemnity Agreement on behalf of
Lessee.
