

Guide to Leases and Use Agreements

Middle Tennessee State University
Campus Planning / Construction Administration

2018

Consists of these six parts:

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Special Alternative Agreement Forms

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L 00450	Lease Proposal Quotation Form
L 00515	Lease Agreement form (TBR institution is Lessee)
	Administrative Forms
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MUTUAL USE AGREEMENT
INVOLVING MIDDLE TENNESSEE STATE UNIVERSITY

This Agreement, entered into as of this _____ day of _____, _____, made by and between

_____ and _____

Each party shall have the role of "Owner" or "User" of respective facilities that are the subjects of this agreement.

WITNESSETH:

- A.** This Agreement provides for the User to have access to and use of certain facilities of the Owner for specific hours and days, with the Owner retaining the facilities for its own use during other times, and the Owner retaining responsibility for normal utilities, security, upkeep, maintenance, and custodial care. The general Terms and Conditions are hereby made a part of this Agreement as fully as if incorporated verbatim herein, and are those contained in:

**MTSU CPCA January 2018 Standard
Document 40703 (2 pages) Mutual or Transient Use Terms and Conditions**

B. TERM AND SCHEDULING:

- (1) The term of this Use Agreement shall commence on _____ and shall end on _____. Normal Notice for Termination shall be: _____ days.

- C. RENTAL** shall be the mutual in-kind value of each party's use of the other's facilities.

D. PURPOSES:

- (1) Users shall generally confine activities on premises to the following purposes:
- (2) Users will be further permitted to use common areas and convenience facilities on the same premises, and shall restrict use to areas reasonably necessary.

- E. NOTICES** shall be addressed:

F. LOCATION 1: that the first named party will provide for use by the second named party:

(1) Space description

(2) During the Term of this Agreement, during the following periods:

(3) Exceptions to the normal periods of use, for holiday closings or other reasons, include:

(4) Specific scheduling of User's activities on the premises shall be managed by:

G. LOCATION 2: that the second named party will provide for use by the first named party:

(1) Space description

(2) During the Term of this Agreement, during the following periods:

(3) Exceptions to the normal periods of use, for holiday closings or other reasons, include:

(4) Specific scheduling of User's activities on the premises shall be managed by:

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto:

BY: _____
Institution Executive

BY: _____
Institution Executive

Signatures must be by persons having contractual authority for the institutions, typically a President for University or Community College and the Vice-Chancellor or designated Director for a Technology Center. Individual names and titles should be edited in place of the generic "Institution Executive", and this note removed.

TRANSIENT USE AGREEMENT
INVOLVING MIDDLE TENNESSEE STATE UNIVERSITY

This Agreement, entered into as of this _____ day of _____, _____, made by and between

_____ hereinafter called the Owner, and

_____ hereinafter called the User.

WITNESSETH:

- A.** This Agreement provides for the User to have access to and use of certain facilities of the Owner for specific hours and days, with the Owner retaining the facilities for its own use during other times, and the Owner retaining responsibility for normal utilities, security, upkeep, maintenance, and custodial care. The general Terms and Conditions are hereby made a part of this Agreement as fully as if incorporated verbatim herein, and are those contained in:

MTSU CPCA January 2018 Standard

Document 40703 (2 pages) Mutual or Transient Use Terms and Conditions

- B. TERM OF AGREEMENT:** The term of this Agreement shall commence on _____ and shall end on _____. Normal Notice for Termination shall be: _____ days.

- C. RENTAL** shall be: _____, payable in installments of \$ _____ per _____.

- D. NOTICES** shall be addressed:
to Owner at: _____ to User at: _____

E. LOCATION: The Owner hereby agrees to let the User access and make use of certain premises with the appurtenances situated in the County of _____, City of _____, located at _____, and more particularly described as follows:

- (1) **Primary Use Area:** The User will have full use of this area:

- (2) **Secondary Use Area:** The User will be further permitted to use these common areas on the same premises:

- (3) **Restricted Area:** The User will refrain from entering or using these areas:

- (4) During the Term of this Use Agreement, the User shall have use of Primary and Secondary areas during the following periods:

- (5) Exceptions to the normal periods of use, due to Owner closings for holidays or other reasons, include:

- (6) Specific scheduling of User's activities on the premises shall be managed by:

- (7) The User shall generally confine its activities on premises to the following purposes:

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto:

OWNER

USER

BY: _____
Institution Executive

BY: _____
Institution Executive

Signatures must be by persons having contractual authority for the institutions, typically a President for University or Community College and the Vice-Chancellor or designated Director for a Technology Center. Individual names and titles should be edited in place of the generic "Institution Executive", and this note removed.

TENANT USE AGREEMENT

BETWEEN MIDDLE TENNESSEE STATE UNIVERSITY & OTHER STATE INSTITUTIONS

is entered into as of this _____ day of _____, _____, between
the Holder: _____

the Tenant: _____

A. This agreement provides for a Holder institution to convey long-term, exclusive use of space to a Tenant institution, and incorporates the Standard Terms and Conditions for a Tenant Use Agreement between two Tennessee Board of Regents institutions that are in effect at the time of execution of this lease. Prior to the execution of this lease, if special provisions were agreed upon, such provisions are described below or incorporated by reference below and attached hereto.

B. **LOCATION:** The Holder hereby will provide unto the Tenant the use of these premises:

C. **TERM AND RENT:** Tenant use shall commence on _____ incurring rental of \$ _____, payable in installments of \$ _____ per _____ and end on _____, unless terminated. Normal Notice for Termination shall be: _____ days.

D. **SERVICES AND UTILITIES:** The Holder shall furnish the following:

(Inclusion is indicated by an "X" in the box to the left of the numbered item.)

- | | | |
|--|---|--|
| <input type="checkbox"/> 1) All utilities (except telephone) | <input type="checkbox"/> 4) Drinking Fountain | <input type="checkbox"/> 7) Hot and Cold Water Equipment |
| <input type="checkbox"/> 2) Janitor Services & Supplies | <input type="checkbox"/> 5) Elevator Service | <input type="checkbox"/> 8) Air Conditioning Equipment |
| <input type="checkbox"/> 3) Restroom Supplies | <input type="checkbox"/> 6) Heat Equipment | |

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto:

HOLDER

TENANT

BY: _____
Institution Executive

BY: _____
Institution Executive

Signatures must be by persons having contractual authority for the institutions, typically a President for University or Community College and the Vice-Chancellor or designated Director for a Technology Center. Individual names and titles should be edited in place of the generic "Institution Executive", and this note removed.

LEASE AGREEMENT FORM

(MTSU institution is Lessor)

This Instrument Prepared By:

Administrative use only:

Agency:
Allotment Code: _____
No. _____

Middle Tennessee State University
 1301 East Main St
 Murfreesboro, Tennessee 37132

This Lease, entered into as of this _____ day of _____, _____,
 made by and between

hereinafter called the Lessee, and

the Middle Tennessee State University , on behalf of

hereinafter called the State.

WITNESSETH:

1. LOCATION: The State hereby leases unto the Lessee those certain premises with the appurtenances situated in the
 County of _____, City of _____, located at _____

2. DESCRIPTION: The premises above are more particularly described as follows: _____

3. USE: The above described premises will be used by the Lessee for the purpose of _____

and for no other purpose whatsoever. In using the premises, the Lessee shall comply with all federal, state, and local laws and rules and regulations, as well as the policies of the Tennessee Board of Regents.

4. TERM: The term of this lease shall commence on _____ and shall end on _____
with such rights of termination as are hereinafter set forth. If the date of occupancy is other than the commencement date, then the rental period shall begin with the date of occupancy, provided that the rental period shall begin no later than thirty (30) days after the space is made available to the Lessee in accordance with the conditions of this lease.

5. **RENTAL:** The Lessee agrees to pay to the State as rent for said premises the sum of: _____ rent of \$ _____, payable in installments of \$ _____ per _____. Rental shall be payable in advance to State at the address specified in Paragraph 8, or to such other address as the State may designate by a notice in writing.

6. **TERMINATION:**

a) **FOR CONVENIENCE:** State may terminate this lease at any time effective on or after the date shown below for "State Earliest Termination" by giving written notice to the Lessee at least the number of days shown below for "State Advance Notice Required" prior to the date when such termination becomes effective. Lessee may terminate this lease at any time effective on or after the date shown below for "Lessee Earliest Termination Date" by giving written notice to the State at least the number of days shown below for "Lessee Advance Notice Required" prior to the date when such termination becomes effective.

State Earliest Termination Date	State Advance Notice Required	Lessee Earliest Termination Date	Lessee Advance Notice Required
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b) **FOR CAUSE:** The State may in its sole discretion immediately terminate this lease and re-enter and take possession of premises at any time for any of the following causes:

- (1) Failure to disclose any conflict or potential conflict of interest existing at the date of this lease or hereafter created; and
- (2) Any other breach of the terms of this lease by Lessee which is not adequately remedied within twenty (20) days of the mailing of written notices thereof to Lessee.

7. **ABANDONMENT:** Lessee must notify State in writing of any planned absence from premises in excess of the number of consecutive days shown below for "Maximum Abandonment". If Lessee is absent from the premises in excess of the number of consecutive days shown below for "Maximum Abandonment" without notifying the State, the State may treat the premises as abandoned and shall have the right to terminate the lease, re-enter and take the premises, and take possession of contents located in the premises at the time of termination. The State shall hold said contents for the benefit of the Lessee for an additional number of days shown below for "Minimum Contents Hold"; after which, if Lessee has not claimed said contents, the State may sell said contents and apply the proceeds of the sale to any amounts due and owing to the State by Lessee.

Maximum Abandonment:	Minimum Contents Hold:
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8. **NOTICES:** All Notices herein provided to be given, or which may be given, by either party to the other, shall be deemed to have been fully given when made in writing and deposited in the United States mail, certified and postage prepaid, and addressed as follows:

To the
Lessee at:

To the
State at: **Middle Tennessee State University
Office of Campus Planning
PO Box 44
1301 East Main St
Murfreesboro, Tennessee 37132**

- 9. ASSIGNMENT AND SUBLETTING:** The Lessee shall not assign or sublet all or any part of the leased premises without the written consent of the State.
- 10. INSPECTION:** The State reserves the right to enter and inspect the leased premises, at reasonable times, and to render services and make any necessary repairs to the premises.
- 11. ALTERATIONS:** Lessee shall make no changes or alterations in the building(s) located on the premises without written consent of the State. If alterations are made, except as otherwise agreed upon in writing, the Lessee will, at its own expense, upon the expiration of the term hereby created or extension thereof or upon termination of the lease for any reason, restore the building to the identical conditions as when entered upon the lease.
- 12. SURRENDER OF POSSESSION:** Upon termination or expiration of this lease, the Lessee will peaceably surrender to the State the leased premises in as good order and condition as when received, reasonable use and wear thereof excepted. Upon termination, the State may recover from Lessee an amount equal to the value of any damage to the premises beyond reasonable wear and tear.
- 13. QUIET POSSESSION:** State agrees that Lessor shall at all times during the existence of this lease peaceably and quietly have, hold and enjoy the leased premises, without suit, trouble or hindrance from the Lessor, or any person claiming under the State, provided that Lessee is in compliance with its obligations and keeps and performs the covenants contained herein.
- 14. REPAIR AND MAINTENANCE:** During the lease term, State shall maintain the premises in good repair and tenantable condition, including elevator (if any), plumbing, heating, electrical, air conditioning and ventilating equipment and fixtures, periodic painting, furnishing and replacing electrical light bulbs, fluorescent tubes, ballasts and starters, and air conditioning and ventilating equipment filters, to the end that all such facilities are kept in good operating condition except in case of damage arising from a willful or negligent act of the Lessee's agent, invitee, or employee.
- 15. DESTRUCTION:**
- a) If the leased premises are totally destroyed by fire or other casualty, this lease shall terminate. If such casualty shall render ten (10) percent or less of the floor space of the leased premises unusable for the purpose intended, State shall effect restoration of the premises as quickly as is reasonably possible. In the event such casualty shall render more than ten (10) percent of such floor space unusable but not constitute total destruction, at its option, either party may terminate this lease.
 - b) In the event of any such destruction other than total, where the lease has not been terminated as herein provided, the State shall diligently prosecute the repair of the premises.
 - c) In the event the Lessee remains in possession of the premises though partially destroyed, the rental as herein provided shall be reduced by the same ratio as the net square feet the Lessee is precluded from occupying bears to the total net square feet in the leased premises. "Net square feet" shall mean actual inside dimensions.

16. LIABILITY: Lessee covenants and agrees to indemnify, protect, and save harmless the State against and from all claims, demands, damages, suits, or causes of action whatsoever asserted by any person, firm, or corporation arising out of or in any way connected with the use and occupancy of the leased premises by Lessee, and that Lessee will reimburse the State for all costs and expenses, including attorneys' fees, which may be incurred by the State in connection with any such claims, demands, causes of action, or suits. Any claim alleging personal injury or property damage resulting from the negligence of the State, its employees or officials, shall be filed with the Claims Commission of the State of Tennessee for disposition in accordance with state law. Damages recoverable against the State shall be expressly limited to claims paid by the Commission.

17. UTILITIES: The State shall be responsible for furnishing the following utilities:

Lessee shall be responsible for payment of all other utilities.

18. TIME OF THE ESSENCE: Time is of the essence of this lease, and the terms and provisions of this lease shall extend to and be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns to the respective parties hereto.

19. HOLDING OVER: In the event the Lessee remains in possession of the premises after the expiration of the lease term, or any extension thereof, this lease shall be automatically extended on a month to month basis, subject to thirty (30) days termination by either party, and otherwise on the terms and conditions herein specified, so far as applicable.

20. Prior to the execution of this lease, the special provisions which are described below and/or attached hereto and incorporated by reference were agreed upon.

IN WITNESS WHEREOF, this lease has been executed by the parties hereto:

LESSEE

STATE

BY: _____

Name: _____

Title: _____

*must be notarized if Term is greater than 5 years
or lease consideration is more than \$40,000 per year*

Note: in preparing the final Lease instrument for execution, italicized notes within this signature area may be deleted, blanks for inapplicable signatures may be deleted, blanks for additional signatures by lessor may be added, and personal names and titles may be added or adjusted, as appropriate. This signature area has been prepared here to indicate typical signatures required.

BY: _____

Institution Executive
*President for University or College or Vice-Chancellor for a Technology Center,
and notarized if Term > 5 years or rental > \$40,000 per year*

BY: _____

System Executive
Chancellor or designee if Term > 5 years or rental > \$15,000 per year

BY: _____

Commissioner of Finance and Administration
if Term > 5 years or rental > \$40,000 per year

**Approved as to
form and legality:** _____

Attorney General
if Term > 5 years or rental > \$40,000 per year

BY: _____

Governor
if this supplements or modifies an existing Lease which was signed by the Governor.

MUTUAL OR TRANSIENT USE
TERMS AND CONDITIONS

FOR AN AGREEMENT INVOLVING MIDDLE TENNESSEE STATE UNIVERSITY

1. **TERM:** The term of the Agreement shall commence and end on the dates set forth in the Agreement, with such rights of termination as are hereinafter expressly set forth. If the date of occupancy is other than the commencement date, then the rental period shall begin with the date of occupancy.
2. **HOLDING OVER:** In the event the User remains in possession of the premises after the expiration of the Agreement term, or any extension thereof, the Agreement shall be automatically extended on a month to month basis, subject to thirty (30) days termination by either party, and otherwise on the terms and conditions herein specified, so far as applicable.
3. **RENTAL:** User shall pay rental in arrears on the last day of payment periods as set forth in the Agreement. Rent payable for any interval of time less than one payment period shall be determined by prorating the periodic rental specified in the Agreement, based on the actual number of days in the period. Rental shall be paid to Owner at the address specified for Notices in the Agreement, or to such other address as the Owner may designate by a notice in writing.
4. **APPROPRIATIONS:** All terms and conditions of the Agreement are made subject to the continued appropriations by the appropriate Legislative Body.
5. **ASSIGNMENT AND SUBLETTING:** The User shall not assign the Agreement without the written consent of the Owner.
6. **NOTICES:** All Notices herein provided to be given, or which may be given, by either party to the other, shall be deemed to have been fully given when made in writing and deposited in the United States mail, certified and postage prepaid, and addressed as set forth in the Agreement.
7. **ALTERATIONS:** The User shall have the right during the term of the Agreement to make alterations, attach fixtures and erect additions, structures or signs in or upon the premises with the written consent of the Owner, with such consent not to be unreasonably withheld. Such fixtures, additions, structures or signs so placed in or upon or attached to the premises under the Agreement or any prior agreement of which the Agreement is an extension or renewal shall be and remain the property of the User and may be removed therefrom by the User prior to the termination or expiration of the Agreement or any renewal or extension thereof, or within a reasonable time thereafter.
8. **INSPECTION:** The Owner reserves the right to enter and inspect the premises, at reasonable times, and to render services and make any necessary repairs to the premises.
9. **SERVICES AND UTILITIES:** The Owner shall continue normal and customary janitorial services and utilities during the Agreement term at Owner's sole cost, to preserve the habitability and usability of the primary and secondary use areas.
10. **REPAIR and MAINTENANCE:** During the Agreement term, Owner shall maintain the premises and appurtenances that Owner provides in good repair and tenantable condition, including, but not limited to the maintenance and repair of the elevator, if any, plumbing, heating, electrical, air conditioning and ventilating equipment, and fixtures, to the end that all such facilities are kept in good operating condition except in case of damage arising solely from a willful or negligent act of the User's agent, invitee, or employee. Owner's obligations shall also include, but are not limited to, periodic painting to the satisfaction of the User, furnishing and replacing electrical light bulbs, fluorescent tubes, ballasts and starters, and air conditioning and ventilating equipment filters. In case Owner, after notice in writing from the User requiring the Owner to comply with the requirements of this paragraph in regard to a specified condition, shall fail, refuse or neglect to comply therewith, or in the event of an emergency constituting a hazard to the health or safety of the User's employees, property, or invitees, the User may perform such maintenance or make such repair at its own cost and, in addition to any other remedy the User may have, may deduct the amount thereof from the rent that may then be or thereafter become due hereunder.
11. **SPACE AUDIT:** The Owner certifies that the amount of space, as described in the Agreement, is accurate to the best of its knowledge. The User reserves the right to perform physical measurements of the space and adjust the rental amount based upon the amount of space as measured. If the measured amount is less than the amount of space indicated in the Agreement, the adjustment in rent shall be a percentage reduction equal to the percentage difference between the space as reported by the Owner and that actually measured by the User. In all cases, the User shall use the current Building Owner's and Manager's Association (BOMA) standards of measurements for either single or multi-tenant occupancy, whichever is applicable.

13. DESTRUCTION: If the premises are totally destroyed by fire or other casualty, the Agreement shall terminate. If such casualty shall render ten (10) percent or less of the floor space of the premises unusable for the purpose intended, Owner shall effect restoration of the premises as quickly as is reasonably possible, but in any event within thirty (30) days.

In the event such casualty shall render more than ten (10) percent of such floor space unusable but not constitute total destruction, Owner shall forthwith give notice to User of the specific number of days required to repair the same. If Owner under such circumstances shall not give such notice within fifteen (15) calendar days after such destruction, or if such notice shall specify that such repairs will require more than ninety (90) days to complete from date such notice is given, User, in either such event, at its option, may terminate the Agreement or, upon notice to Owner, may elect to undertake the repairs itself, deducting the cost thereof from the rental due to become due under the Agreement and any other agreement between Owner and User.

In the event of any such destruction other than total, where the User has not terminated the Agreement as herein provided, or pursuant to the terms hereof has not elected to make the repairs itself, Owner shall diligently prosecute the repair of the premises and, in any event, if repairs are not completed within the period of thirty (30) days for destruction aggregating ten (10) percent or less of the floor space, or within the period specified in Owner's notice in connection with partial destruction aggregating more than ten (10) percent, the User shall have the option to terminate the Agreement or complete the repairs itself, deducting the cost thereof from the rental due or to become due under the Agreement and any other agreement between Owner and User.

In the event the User remains in possession of the premises though partially destroyed, the rental as herein provided shall be reduced by the same ratio as the net square feet the User is thus precluded from occupying bears to the total net square feet in the premises. "Net square feet" shall mean actual inside dimensions and shall not include public corridors, stairwells, elevators, and restrooms.

14. TERMINATION: User may terminate the Agreement at any time by giving written notice to the Owner prior to the date when such termination becomes effective by at least the number of days set forth in the Agreement for Notice Required. Notice shall commence on the day after the date of mailing. The number of days shall be waived in cases of:

- (a) Termination or consolidation of the User operations or programs housed in the premises because of loss of funding or otherwise; or,
- (b) Lack of funding by the appropriate legislative body for obligations required of the User by the Agreement.

15. SURRENDER OF POSSESSION: Upon termination or expiration of the Agreement, the User will peaceably surrender to the Owner the premises in as good order and condition as when received, reasonable use and wear thereof and damage by earthquake, fire, public calamity, the elements, acts of God, or circumstances over which the User has no control or for which Owner is responsible pursuant to the Agreement, excepted. The User shall have no duty to remove any improvements or fixtures placed by it on the premises or to restore any portion of the premises altered by it, save and except in the event the User elects to remove any such improvement or fixture and such removal causes damages or injury to the premises and then only to the extent of any such damage or injury.

End of Terms and Conditions