STATE OF ARKANSAS
EXECUTIVE DEPARTMENT

PROCLAMATION

EO 20-33

TO ALL TO WHOM THESE PRESENTS COME—GREETINGS

EXECUTIVE ORDER PURSUANT TO THE PUBLIC HEALTH EMERGENCY CONCERNING COVID-19, AS DECLARED IN EXECUTIVE ORDER 20-03 AND EXTENDED BY EXECUTIVE ORDER 20-25, FOR THE PURPOSE OF PROTECTING ARKANSAS BUSINESSES FROM LIABILITY RELATED TO COVID-19.

WHEREAS: On March 11, 2020, by Executive Order 20-03, an emergency was declared for the entire State of Arkansas due to the outbreak of COVID-19; and

WHEREAS: On May 5, 2020, by Executive Order 20-25, the emergency was extended, and that emergency is ongoing; and

WHEREAS: COVID-19 continues to spread within the State of Arkansas and adjoining states, threatening the public safety of the citizens of Arkansas, and such spread is expected to continue; and

WHEREAS: Arkansas business owners are fearful of opening their businesses or keeping them open during the COVID-19 outbreak because of the threat of litigation arising from alleged exposure to COVID-19 on their premises or during activities that they manage; and

WHEREAS: It is essential to the economic and financial stability of the State of Arkansas during this emergency for businesses in the state to reopen or to remain open to provide goods and services to the people of Arkansas without the threat of civil liability related to COVID-19; and

WHEREAS: I, as Governor, in consultation with the Secretary of Health, have determined that more actions must be taken to protect the people of the State of Arkansas from COVID-19.

NOW, THEREFORE, I, Asa Hutchinson, Governor of the State of Arkansas, acting under the authority vested in me by Ark. Code Ann. §§ 12-75-101 *et seq.*, after consultation with the Secretary of Health, do hereby Issue this Executive Order pursuant to the on-going public health emergency as declared in Executive Order 20-03 and extended by Executive Order 20-25, and order the following:

(1) To protect businesses that open or remain open during the COVID-19 emergency, all persons in the State of Arkansas and the person's employees, agents, and officers shall be immune from civil liability for damages or injuries caused by or resulting from exposure of an individual to COVID-19 on the premises owned or operated by those persons or during any activity managed by those persons.

(2) The immunity provided under this Executive Order does not apply to willful, reckless, or intentional misconduct resulting in injury or damages. It is presumed that a person and person's employees, agents, and officers are not committing willful, reckless, or intentional misconduct under this order if the person and the person's, agents, and officers are (a) substantially complying with health and safety directives or guidelines issued by the Governor or the Secretary of the Department of Health; or (b) acting in good faith

while attempting to comply with health and safety directives or guidelines issued by the Governor or the Secretary of the Department of Health.

(3) The immunity provided under this Executive Order does not extend to workers' compensation benefits paid by or on behalf of an employer to an employee under the Workers' Compensation Law, Ark. Code Ann. § 11-9-101 et seq., or a comparable workers' compensation law of another jurisdiction.

(4) The immunity provided under this Executive Order is in addition to any other immunity provided by state or federal law.

(5) The immunity provided under this Executive Order applies to claims brought before the Arkansas State Claims Commission.

(6) The immunity provided under this Executive Order applies to all actions, lawsuits, or claims filed after the date of its execution and shall automatically expire when the emergency is terminated.

(7) The following terms are defined for purposes of this Executive Order:

A. "COVID-19" means coronavirus disease 2019 or the virus that causes coronavirus disease 2019 in some individuals.

B. "COVID-19 public health emergency" means a public health emergency declared by the Governor under the Arkansas Emergency Services Act of 1973, Ark. Code Ann. § 12-75-101 et seq., and resulting from the emergence and spread of COVID-19.

C. "Person" means an individual, entity, organization, group, association, partnership, business, institution of learning, commercial concern, corporation, or company.

D. "Premises" means real property and any appurtenant building or structure.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Arkansas to be affixed this 15th day of June, in the year of our Lord 2020.

Asa Hutchinson, Governor