

**Memorandum of Agreement  
between  
Southern University at New Orleans Foundation  
and  
Southern University at New Orleans**

This Agreement is made and entered into on the **1st day of October 2020**, between the **Southern University at New Orleans** ("University") and the **Southern University at New Orleans Foundation** ("Affiliate").

**WHEREAS**, many **foundations**, associations, and closely affiliated organizations render invaluable support to and work very closely with the University; and

**WHEREAS**, such **foundations**, associations, and affiliated organizations often use the University's name in carrying out their functions, and in some cases, use University facilities, personnel, or resources in raising funds for and otherwise supporting the University and its programs; and

**WHEREAS**, private non-profit corporations organized to support and affiliated with a public university under La, R.S. 17:3390 are recognized by legislature as having an integral role; and

**WHEREAS**, because of the close association of this Affiliate with the University, it is prudent and beneficial to have a clear statement, agreed upon by the parties, of the responsibilities, authority, and the relationship of the University and this related Affiliate; and

**WHEREAS**, it is, therefore, appropriate that the University and this related Affiliate document clarify the relationship of the University and the Affiliate and their respective responsibilities and authority;

**WHEREAS**, an Affiliate by its nature is closely identified with the University by citizens, alumni, and contributors to the support and development of the University, it is important that the University and the Affiliate agree to the standards and procedures for accounting for and auditing of accounts of the Affiliate while at the same time preserving the private and independent legal status of the Affiliate;

**WHEREAS**, University recognizes that gifts coming to Affiliate are made with thoughtful care and with great affection for and devotion to the University for the purpose of supporting its students, its faculty and staff, and the institutional goals of University, and because of Affiliate's tax exempt purpose of supporting the instruction, research and public service missions of University;

**WHEREAS**, University recognizes that it has the responsibility to cooperate with Affiliate in the solicitation of gifts, to maintain the private nature of Affiliate's books and records, to preserve the confidentiality of donor records to the extent allowed by law, and to provide good stewardship of the gifts once received;



**WHEREAS**, Affiliate, likewise, recognizes that it has the responsibility to cooperate with the University in the solicitation of gifts and to provide good stewardship of the gifts once received;

**WHEREAS**, Affiliate and University recognize that all disbursements and other transactions (other than reasonable administrative and operating expenses of Affiliate provided for in its annual budget) must be for the benefit of the University and not for the private benefit of any individual or legal entity; and

**WHEREAS**, Affiliate and University recognize their mutual interest in guarding against even the appearance of impropriety in their activities:

**NOW, THEREFORE**, the University and Affiliate agree as follows:

### **1. Purpose and Status**

- 1.1. Affiliate's purpose shall be to support the University, one or more programs, facilities or research or educational opportunities offered by University.
- 1.2. In furtherance of that purpose, Affiliate shall receive, hold, invest, and administer property and make expenditures to support programs and activities designed to advance, promote, or otherwise benefit the University.
- 1.3. Affiliate has been formed as a non-profit corporation and its activities are not for the pecuniary profit or financial gain of its officers, directors or members. As confirmed by the determination letter issued by the Internal Revenue Service, Affiliate has been recognized as, and shall remain during the term of this Agreement, an organization exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code.
- 1.4. Affiliate understands that it is a University support organization as recognized by La. R.S. 17:3390 and all actions taken by Affiliate shall be consistent with and in furtherance of this purpose. In furtherance of that purpose the acts, deeds, functions, and activities of Affiliate shall not conflict with the authority of the University.
- 1.5. Affiliate is a separate legal entity from University and assumes all liability for its operations. Nothing in this Agreement shall be construed as to invalidate or restrict that private and independent legal status.

### **2. Governance**

- 2.1. Affiliate shall be under the management and control of a board of directors ("Affiliate's Board") elected by the members or shareholders of Affiliate;
- 2.2. A majority of the voting members of Affiliate's Board shall consist of individuals who are not members or employees of University or its Board of Supervisors;
- 2.3. Affiliate shall adopt procedures to ensure timely and full consideration of Affiliate's operating budgets and any significant amendments thereto.
- 2.4. Affiliate shall provide a copy of its Charter and Bylaws to University and shall promptly notify the Chancellor of Southern University at New Orleans of any proposed amendments to either.



### **3. General Duties and Responsibilities of Affiliate**

- 3.1. Operate Affiliate for the primary benefit of the University in accordance with Affiliate's Articles of Incorporation and tax-exempt purpose;
- 3.2. Solicit and accept appropriate things of value in accordance with applicable law;
- 3.3. Receive, hold, and administer such donations and gifts in accordance with donor intent and applicable law;
- 3.4. Expend funds for the establishment and operation of Affiliate and for any reasonable expense's incidental to the conduct of the affairs of Affiliate;
- 3.5. Provide information required for the University to prepare annual reports containing the following information, in a format mutually agreed upon by University and Affiliate:
  - 3.5.1. The amount of funds expended in the previous year in support of University programs broken down by category (e.g., travel expense reimbursements, grants, salary supplements),
  - 3.5.2. The value of any non-monetary support provided to the university which shall be considered "in-kind" reimbursement for purposes of La, R.S. 17:3390(B)(3);
  - 3.5.3. A listing of any University official or employee for whom the Affiliate has made a payment or reimbursement on their behalf in excess of \$1,000 in accordance with La. R.S. 17:3390(F).
- 3.6. Reimburse University, directly or in-kind, for the value of any facilities, personnel, or other support provided by University to Affiliate, as mutually agreed to by the parties, pursuant to the provisions of R.S. 17:3390(B)(3);
- 3.7. Perform such other specific duties and responsibilities as are set forth elsewhere in this Agreement; and
- 3.8. Perform other services as mutually agreed upon by the University and the Affiliate, at the direction of the Chancellor who is guided by the University's Strategic Plan and who ultimately assumes responsibility for all fundraising activities.
- 3.9. All transactions between the university and affiliate will have the respective liabilities and obligations between the parties clearly articulated in a separate written agreement.

### **Records, Internal Controls, and Funds Management**

- 3.10. The books and records of Affiliate shall be kept in accordance with generally accepted accounting principles and shall be audited annually in accordance with generally accepted auditing standards by an independent professional auditor.
- 3.11. Copies of the annual audit and a copy of Affiliate's most recent IRS Form 990 filing, excluding such schedules, exhibits and information that are not required to be disclosed to the public under applicable provisions of the Internal Revenue Code, shall be provided to the University. A copy of Affiliate's annual audit shall also be furnished to the Legislative Auditor.
- 3.12. Affiliate shall take appropriate corrective action to remedy any audit findings. Audit findings which have not either been resolved through corrective action within ninety (90) days following issuance of the annual audit, or as to which corrective action reasonably designed to resolve the issue has not been taken within ninety (90) days following issuance of the annual audit, shall be reported to the University in writing.
- 3.13. Affiliate shall adopt and practice appropriate internal controls to protect against the risk of fraud and mismanagement. Such controls shall be evaluated and/or tested in accordance with Generally Accepted Auditing Standards as part of Affiliate's annual financial audit.



- 3.14. University may, in its sole discretion, deliver for deposit with Affiliate funds which have been donated to the University by private individuals or entities or which have been provided from the state to the University pursuant to the Board of Regents Support Fund or other programs. If University does so, such funds will be managed in accordance with a Funds Management Agreement/Policy. (The policy shall be made available to the University, upon request.)
- 3.15. If Affiliate (or a subsidiary) acts as a depository for public funds in accordance with the provisions of section 5.5, said funds shall be subject to any agreed upon auditing procedures as required by the Legislative Auditor, the Board of Supervisors, and Board of Regents. Such procedures shall be performed by an independent professional auditor who shall furnish the University and the Board of Supervisors, as well as the Legislative Auditor and the Board of Regents, if necessary, copies of his annual report relating to such agreed upon procedures. All findings or exceptions involving public funds, or the misuse of public funds shall be reported without delay to the University for appropriate action with a copy to the chief financial officer and general counsel. Any such findings or exceptions involving Board of Regents program funds shall also be reported to the Board of Regents' chief financial officer. University may require specific corrective action as it deems necessary in order to protect the integrity of public funds held by Affiliate. University may also demand the immediate withdrawal of some or all public funds on deposit with Affiliate. As required by R.S. 17:3390(C), all records of Affiliate directly pertaining to such public funds shall be subject to the provisions of R.S. 44:1 et seq. (Public Records Law).

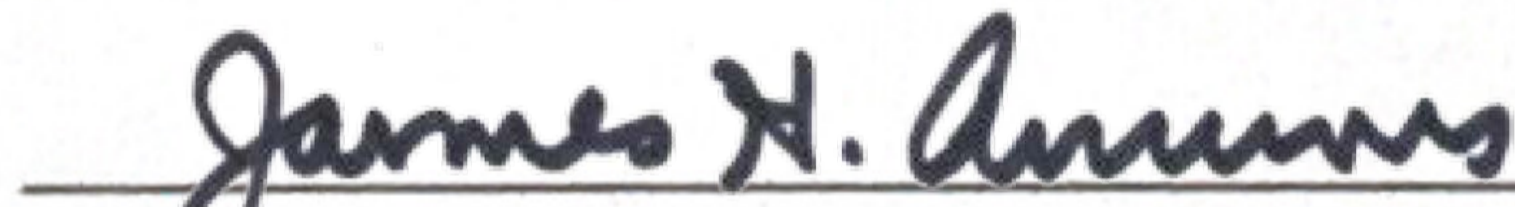
THUS, DONE this \_\_\_\_ day of \_\_\_\_\_ 2020, by the undersigned duly authorized representatives.

**For Affiliate:**



Mr. Frank Williams  
President/CEO  
Southern University at New Orleans Foundation

**For University:**



Dr. James H. Ammons, Jr.  
Chancellor  
Southern University at New Orleans