

RESOLUTION

**AFFILIATION AGREEMENT
BETWEEN THE UNIVERSITY OF SOUTH ALABAMA
AND THE UNIVERSITY OF SOUTH ALABAMA COLLEGE OF MEDICINE -
MEDICAL ALUMNI ASSOCIATION, INC.**

WHEREAS, the University of South Alabama College of Medicine - Medical Alumni Association, Inc. ("Corporation") was established as a non-profit, educational and charitable organization under Section 501(c)(3) of the Internal Revenue Code of 1986 for the purposes of serving the University of South Alabama ("University") through the promotion of medical education, academic and scientific research and educational projects and activities of the University of South Alabama College of Medicine, and

WHEREAS, University and Corporation have a history of interaction and cooperation that has served the interests of University, and

WHEREAS, University and Corporation anticipate that University will provide Association with specified services and facilities with which to carry out its responsibilities in exchange for the development, financial, and other service, support, and assistance Corporation shall provide University, and

WHEREAS, the Board of Directors of Corporation have approved the Affiliation Agreement as it defines the arrangements concerning services, facilities, premises, and activities between University and Corporation, and

WHEREAS, the Board of Trustees of the University of South Alabama wishes to define the aforementioned arrangements with Corporation as well,

THEREFORE, BE IT RESOLVED that the Board of Trustees of the University of South Alabama hereby approves and adopts the Affiliation Agreement between University of South Alabama and the University of South Alabama College of Medicine - Medical Alumni Association, Inc., as attached hereto.



MAR 06 2013

CAMPUS MEMORANDUM
UNIVERSITY OF SOUTH ALABAMA

Date: March 6, 2013

To: Acting President Dr. John Smith

From: Joseph F. Busta, Jr., Ph.D.

Subject: Agenda Item for March 8, 2013, University of South Alabama Board of Trustees Meeting -Affiliation Agreement Between University of South Alabama and The University of South Alabama College of Medicine Medical Alumni Association

Attached is a resolution for consideration by the Board of Trustees of the University of South Alabama concerning the adoption of the Affiliation Agreement Between University of South Alabama and The University of South Alabama College of Medicine Medical Alumni Association which discusses obligations and expectations of each to the other. This Affiliation Agreement has been approved by the Board of Directors of The University of South Alabama College of Medicine Medical Alumni Association. With your approval, this item will be presented to Board of Trustees for approval. Further, I recommend the adoption of the resolution by the Board of Trustees.

Attachment

Affiliation Agreement
Between the
University of South Alabama
and the
University of South Alabama College of Medicine-
Medical Alumni Association, Inc.

³ This Agreement is made and entered into this 5th day of March, 2012 (the Effective Date) by and between University of South Alabama (hereinafter "USA" or "University"), a public body corporate, and the University of South Alabama College of Medicine-Medical Alumni Association, Inc., a corporation duly organized under the laws of the State of Alabama (hereinafter "Corporation").

RECITALS

WHEREAS, USA is a state institution of higher learning established pursuant to the laws of the State of Alabama; and

WHEREAS, Corporation has been established as a non-profit, educational and charitable organization under Section 501(c)(3) of the Internal Revenue Code of 1986 for the purposes outlined in its Articles of Incorporation, a copy of which is attached to this Agreement as "Exhibit A;" and

WHEREAS, Corporation has as its purpose to support University through the promotion of medical education, academic and scientific research and educational projects and activities of the University of South Alabama College of Medicine (hereinafter "USACOM") and its students, as well as granting scholarships to students entering or attending USACOM, as indicated in its Bylaws, which are attached hereto as "Exhibit B;" and

WHEREAS, Corporation has the responsibility as an affiliated entity to use its resources in a responsible and effective manner to further the mission of University and to support University; and

WHEREAS, University and Corporation have a history of interaction and cooperation that has served the interests of University; and

WHEREAS, University has the authority and right to enter into agreements with affiliated 501(c)(3), not-for-profit organizations; and

WHEREAS, University and Corporation anticipate that University will provide Corporation with specified services, financial resources and facilities with which to carry out its responsibilities in exchange for the program, financial, private gifts support, and other service, support and assistance Corporation shall provide University; and

WHEREAS, USA and Corporation desire to define the arrangements concerning services, facilities, activities, program and financial relationship as set forth in this Agreement.

NOW THEREFORE, in consideration of the premises and mutual covenants contained herein, University and Corporation do hereby agree as follows:

ARTICLE 1. PERSONNEL AND SERVICES

Corporation may utilize, with the approval of the President of University, such University administrative, professional and other employees from time to time as are needed to carry out the purposes of Corporation as agreed by University.

ARTICLE 2. CORPORATION OBLIGATIONS

2.1 Corporation agrees to provide the services and compensate University as requested by University and consistent with organizational documents of both entities.

2.2 Corporation agrees that it may only use its resources to advance University's mission as outlined in its Articles of Incorporation.

2.3 Corporation agrees to maintain its financial and accounting records in accordance with Generally Accepted Accounting Principles. Corporation agrees to retain all books, accounts, reports, files and other records of Corporation relating to this Agreement, if any, and make such records available at all reasonable times for inspection and audit by University, or their agents, during the term of and for a period of five years after the completion of this Agreement.

2.4 Corporation agrees to submit to an audit, by request of University, of Corporation's books, records, and expenditures, if any. University shall have the right to audit all records, financial and otherwise, if any, of Corporation to assure that funds, resources and services provided by University are expended for the ultimate benefit of University and the Association, and are expended by Corporation for purposes consistent with the terms of this Agreement. If University funds are expended by Corporation for purposes inconsistent with this Agreement, Corporation, upon demand by University, shall reimburse such misused funds, and University shall have all rights provided by law, including the right to suspend further provision of resources under this Agreement and to terminate this Agreement.

2.5 To the extent that Corporation engages in fundraising on behalf of University, Corporation agrees to accept or solicit only those gifts that are consistent with University's missions, goals or objectives.

2.6 Corporation shall not accept any gift, donation, grant or enter into any transaction that creates any liability for University, without advance written approval of the University President.

2.7 Corporation acknowledges and agrees that University owns all copyright, interest in and right to all trademarks, trade names, logos, and service marks developed by University for use by Corporation or which contain the words "University of South Alabama," including all

such trademarks, service marks, and trade names historically associated with Corporation.

2.8 Corporation shall adopt and maintain a conflict of interest policy.

2.9 Corporation shall provide the University President reasonable notice of any regular, annual, or special meetings of its Board of Directors or of Executive Committee, and the President or his designee, the dean of the College of Medicine, shall have the right to attend any such meetings as well as the meetings of any other Corporation committees.

2.10 If Corporation should cease to exist, any Corporation assets donated to Corporation for the benefit of University must be transferred to University or to another 501(c)(3) non-profit entity designated by University through its Board of Trustees for use by the University and the College of Medicine as scholarships for students pursuing their undergraduate medical education.

ARTICLE 3. UNIVERSITY OBLIGATIONS AND OTHER IN-KIND SUPPORT

3.1 University grants Corporation a non-exclusive, non-transferable license to use University trademarks, service marks, and logos consistent with University policy and its agreement with any outside contractors pertaining to the licensing thereof, including but not limited to a license to use marks developed by University for use by Corporation.

3.2 University grants Corporation an exclusive, transferable license to use University trademarks, service marks, and logos historically associated with Corporation or developed by University or Corporation for Corporation's use.

3.3 University agrees to designate Corporation as an official affiliated entity of University.

3.4 University shall provide Corporation such other rights, privileges or benefits as it may under applicable law and as the University President, in the President's sole discretion, may determine will assist Corporation in discharging its obligations under this Agreement.

3.5 Subject to the availability of funding and the budget process, University agrees to provide Corporation with resources suitable in University's judgment for the accomplishment of Corporation's activities for University's benefit, and may include services and supplies, staff support, office space, and such financial support as agreed upon between the parties from time to time. The amount and nature of such resources shall be determined annually, on a fiscal year basis, in connection with the program planning and budget processes of University and Corporation. No provision in this Agreement shall be construed to give Corporation any legal entitlement to any University funding, personnel or other resources in any particular fiscal year. All University assets, including personal property, made available to Corporation under the terms of this Agreement shall remain the property of University unless sold, conveyed or transferred to Corporation by way of a separate written agreement.

3.6 The University President will encourage all parts of University to collaborate with

Corporation in implementing Corporation's programs and services.

3.7 The University President agrees to inform Corporation on a regular basis of University's needs and priorities.

ARTICLE 4. COMPLIANCE

Corporation shall comply with any and all applicable federal, state, and local laws and regulations.

ARTICLE 5. INDEMNIFICATION

Corporation agrees to indemnify and hold harmless University, including its agents and employees from any and all claims, demands, suits or liabilities of any nature, or on account of any of the actions or inactions of Corporation. Corporation agrees to reimburse University and its agents and employees for any expenses incurred by them or as a result of legal action or inaction, including reasonable attorney fees, provided funds are available for such purpose.

ARTICLE 6. INSURANCE

Corporation agrees to carry insurance satisfactory to University through the appropriate and approved University fund or outside agency to cover directors' and officers' liability, special event liability, premises liability, and general liability.

ARTICLE 7. REPORTING

Corporation shall, within one hundred twenty (120) days following the close of its Fiscal Year, submit a detailed annual report of the work and financial condition of Corporation to the President of University, and any other reports as required by this Agreement, by the Bylaws of Corporation, or by applicable law.

ARTICLE 8. TERMINATION AND RENEWAL

8.1 This Agreement shall have a term of five years, if not renewed by mutual consent of the parties before that date.

8.2 This Agreement may be terminated for any reason by written approval and consent of University and Corporation upon ninety (90) days written notice.

8.3 Either party may terminate this Agreement for cause, including a breach of this Agreement, upon thirty (30) days written notice.

8.4 If this Agreement is terminated for any reason, including because the Agreement has expired without being renewed under Article 8.1, the following articles shall survive the termination: Articles 2.10, 5, 8 and 9.

8.5 The Corporation agrees to cease using the University's name, marks and logos in the event the Corporation dissolves, ceases to be a non-profit corporation, ceases to be recognized as a tax exempt entity under Section 501(c)(3) of the Internal Revenue Code, or this Agreement is terminated.

ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1 This Agreement shall be construed, governed, interpreted and applied in accordance with the laws of the State of Alabama.

9.2 The parties agree that Corporation is not the agent or employee of University, and nothing in this Agreement creates an employment or other agency relationship between the parties. Corporation is not a subsidiary of University and is not directly or indirectly controlled by University.

9.3 University and the Corporation agree that Corporation's donor and giving records and any other financial or commercial information possessed by Corporation or provided by Corporation to University concerning individuals or corporations that provide Corporation financial support are confidential and proprietary. Unless required to disclose such information by applicable law, University and Corporation agree not to disclose to third parties and to keep confidential the giving records, giving history, and financial or commercial information of individuals and corporations that provide financial support to Corporation.

9.4 In the performance of this Agreement, Corporation shall not deny opportunities, employment or otherwise, to any person on the basis of race, color, religion, national origin, age, sex, sexual orientation, disability status, genetic information or veteran status.

9.5 The parties hereto acknowledge that this Agreement sets forth the entire Agreement and understanding of the parties hereto as to the subject matter hereof, and shall not be subject to any change or modification except by the execution of a written instrument subscribed to by the parties hereto.

9.6 The provisions of this Agreement are severable, and in the event that any provisions of this Agreement shall be determined to be invalid or non-enforceable under any controlling body of the law, such invalidity or non-enforceability shall not in any way affect the validity or enforceable nature of the remaining provisions hereof.

9.7 The failure of either party to assert a right hereunder or to insist upon compliance with any term or condition of this Agreement shall not constitute a waiver of that right or excuse a similar subsequent failure to perform any such term or condition by the other party.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals and duly executed this Agreement the day and year set forth below.

University of South Alabama

By: _____

Name: _____

Title: _____

Date: _____

University of South Alabama College of
Medicine-Medical Alumni Association, Inc.

By: J. Jelks, MD

Name: Jim Ringold, MD

Title: President USA Com Alumni Assoc

Date: 2/5/13