

STATE OF NORTH CAROLINA

COUNTY OF CUMBERLAND

FAYETTEVILLE STATE UNIVERSITY

CONTRACT

THIS AGREEMENT, made and entered into by and between Fayetteville State University National Alumni Association (hereinafter referred to as NAA), and Fayetteville State University (hereinafter referred to as FSU);

RECITALS

WHEREAS, FSU is a constituent institution of the University of North Carolina; and

WHEREAS, the NAA is a North Carolina nonprofit corporation qualified under Section 501(c)(3) of the Internal Revenue Code and exists for the purposes of aiding and promoting educational and charitable purposes and lawful activities of FSU; and

WHEREAS, under the University of North Carolina's policy *Required Elements of University and Associated Entity Relationship*, the NAA is considered a "Minor Associated Entity" defined as an Associated Entity which has annual expenditures of less than \$100,000; and

WHEREAS, FSU has officially recognized the NAA as satisfying the standards and eligibility requirements as a supporting affiliated organization set forth in UNC and FSU policies and regulations; and,

NOW THEREFORE, the parties desire to formalize the relationship between FSU and the NAA by setting forth the terms and conditions in this Agreement.

TERMS

I. **APPROVED STATUS**

A. **Recognition as an Associated Entity**

In consideration for agreeing to abide by the terms and conditions of this Agreement, FSU agrees to recognize the NAA as a FSU Associated Entity defined by the University of North Carolina (UNC) as "any foundation, association, corporation, limited liability company (LLC), partnership, or other nonprofit entity that was: (a) established by officers of the University; or (b) that is controlled by the University; or (c) that raises funds in the name of the University; or (d) that has a primary purpose of providing services or conducting activities in furtherance of the University's mission pursuant to an agreement with the University; or (e) that has a tax-exempt status that is based on being a support organization for the University."

B. **Removal of Recognition**

The Chancellor may remove the NAA's approved status upon thirty (30) days advance written notice. The Chancellor shall specify in the notice the reason for the removal

which may include non-compliance or breach of this Agreement or a violation of an applicable UNC or FSU policy. The Chancellor may allow the NAA to submit, within thirty (30) days of the NAA's receipt of the notice of removal, a corrective action plan. The Chancellor shall make a determination with fifteen (15) days of receiving the corrective action plan whether: (1) to accept the plan, (2) to reject the plan or (3) to accept the plan with revisions. If the plan is rejected, the NAA's approved status shall be removed immediately and the NAA shall no longer operate as an approved associated entity. If the plan is accepted or accepted with revisions, the NAA shall immediately begin operations in accordance with the accepted plan.

II. NAA SUPPORT

A. NAA Purpose

The NAA's sole purpose shall be to promote FSU as an institution of academic excellence and to create and maintain an environment that encourages alumni participation through volunteerism and financial support.

B. Abide by Relevant University Policies; Alignment with FSU Mission and Goals

The NAA agrees to abide by the policies and regulations established by UNC and FSU, including the requirements included in this Agreement, and to assure that the activities of the NAA align with the mission, goals, and standards of or applicable to FSU, including accreditation standards applicable to institution-related entities, and athletics conference standards applicable to intercollegiate athletics programs. FSU shall make reasonable efforts to notify the NAA of the accreditation standards, athletic conference standards, and/or the institutional policies that may affect NAA's operations.

C. Fundraising and Development Activities

1. **Direction and Control**

The fundraising and development activities of the NAA shall be conducted subject to FSU's and UNC's policies and regulations and coordinated through FSU's Division of Institutional Advancement. Absent prior approval from FSU, the NAA may not engage in fundraising or development activities that impose obligations on FSU.

Activities undertaken in support of the NAA shall be conducted with due regard for protecting the reputation and dignity of FSU.

2. **Gifts Received by the NAA**

The NAA shall not hold a gift intended for FSU. A gift shall be defined as a voluntary transfer of item(s) of value from a person or organization where no material amount of goods or services are expected, implied or provided to the donor. Gifts normally take the form of cash, checks, securities, real property, or personal property and may be restricted or unrestricted to a general area of use that benefits FSU or one of its components. Such gifts shall be immediately transferred to FSU and FSU shall place the gift in an appropriate account. All

transfers of funds from the NAA shall be documented by FSU in writing or electronically in a form that has a retrievable transaction trail.

FSU shall ensure that the donor of any gift transferred by the NAA receives credit for the gift by providing a written acknowledgement of the gift to the donor and/or the NAA. Once FSU has accepted the gift, it shall become the property of FSU.

3. **Restricted, Conditional or Unlawful Gifts**

The NAA shall not accept any restricted or conditional gift that imposes an obligation on UNC, FSU or the State of North Carolina to expend resources in addition to the gift, or that impose an obligation on UNC's or FSU's operations without FSU's prior approval. In addition, the NAA may not accept a gift which has any restriction that is unlawful.

The NAA shall advise prospective donors if acceptance of a gift will be conditioned upon FSU's approval.

III. **ORGANIZATIONAL REQUIREMENTS**

A. **State Nonprofit Entity**

The NAA agrees that it is currently organized as a separate non-profit legal entity recognized under and in compliance with the laws of the State of North Carolina. The NAA further agrees that, at all times, it will remain in compliance with North Carolina law. Should it ever become non-compliant, the NAA shall immediately notify the Chancellor.

B. **Tax-Exempt Status**

The NAA agrees that it currently maintains both federal and state tax-exempt status. Should it ever lose its tax-exempt status, the NAA agrees to immediately notify the Chancellor.

C. **Dissolution of NAA**

The NAA agrees that no later than August 30, 2015, its articles of incorporation will provide that upon dissolution of the NAA, unless otherwise designated by the donor of an asset, all of NAA's assets shall revert to (a) FSU, (b) another FSU associated entity, approved by FSU, and/or (c) some combination of the above.

D. **Director of Alumni Affairs as Member**

FSU's Director of Alumni Affairs shall be an ex-officio non-voting regular member of the NAA's Board of Directors.

E. **Chief Executive Officer**

FSU's chief financial officer shall not serve as NAA's chief executive officer.

F. Audit Committee

The NAA's by-laws shall provide for a committee which shall receive (a) the audit report of the firm that conducts the NAA's annual audit, and (b) relevant tax forms to be submitted by the NAA.

F. Reports

1. The NAA must file annual reports with the Chancellor covering the following items:
 - a. A list of all members of the NAA's Board of Directors;
 - b. A copy of the publicly disclosed portion of the NAA's Form 990, or other series 990 form or other similar information return; and
 - c. A copy of the NAA's CPA audit report and related management letters and responses to management letters.
2. At the request of the Chancellor or the Chair of the FSU Board of Trustees, the NAA shall meet with the requesting person, his or her designee, or FSU's internal auditor and allow that person to inspect any information requested.

G. Record Retention Schedule

The NAA shall have a policy governing retention and destruction of documents including electronic files. The policy shall prohibit destruction of documents if an audit, other than in the ordinary course, investigation into wrongdoing, or litigation is anticipated or underway.

IV. FINANCIAL AND ACCOUNTING CONTROLS

A. Prudent Management of Assets

The NAA shall be responsible for control and management of all assets of the NAA, including prudent management of all membership dues and other funds provided to support the NAA. The NAA shall use sound fiscal and business principles, ensure that a sound internal control structure is in place, and follow generally accepted accounting procedures in its management of all assets.

B. Annual Budgets

The NAA shall create an annual operations and capital budget. If requested to do so, NAA representatives shall meet with the Chancellor (or designee) to review the NAA's proposed annual operations and capital budget and any subsequent proposed material changes to such annual operations and capital budget. The NAA, in setting its budget, shall consider in good faith all suggestions offered by the Chancellor (or designee) regarding the proposed budget and how the budget might be better aligned with FSU's mission, goals, and objectives.

C. **Annual CPA Audit**

The NAA shall have an annual audit conducted by an independent CPA firm. The NAA shall provide copies of the audit report, management letters, and responses to management letters to the Chancellor, through the Chancellor to the University's Board of Trustees and to the UNC President, and through the UNC President to the UNC Board of Governors.

D. **Audit Findings**

Within ninety (90) days of the issuance of an audit report with audit findings, the NAA shall demonstrate to the Chancellor and to the UNC Vice President for Finance that satisfactory progress has been made to implement a corrective action plan. Failure of the NAA to receive an unqualified audit opinion, to comply with the reporting requirements of this Agreement, or to satisfactorily implement a corrective action plan in response to an audit finding may result in the NAA losing its approved status.

E. **Bank Accounts**

The NAA may establish bank and investment accounts external to FSU to support its programs and/or activities. All such accounts shall be disclosed in writing to FSU. Funds deposited into such accounts shall be limited to those generated by the NAA for its activities and/or programs. Gifts intended for FSU shall not be deposited in such accounts unless the NAA has received written approval from FSU to do so.

F. **Monetary Transfers**

All transfers of funds from the NAA to FSU must be documented in writing or electronically in a form that has a retrievable transaction trail.

G. **Acquisition of Debt**

The NAA may not acquire debt in excess of \$100,000 that is not to be publicly traded without first notifying the Chancellor (or designee) and consulting with the UNC Vice President for Finance.

H. **Officer and Employee Compensation**

All salary and non-salary compensation provided by the NAA to its officers or employees (if any) shall be approved by the NAA's Board of Directors. The NAA shall comply with UNC Board of Governors Policy # 300.1.1 concerning the prohibition of payments to specified University employees. This requirement does not prohibit the NAA from reimbursing its officers or employees (if any) for expenditures made on behalf of the NAA.

I. **Whistleblower Protection**

The NAA shall have a confidential and anonymous mechanism to encourage individuals to report any inappropriateness within the NAA's financial management and shall prohibit punishment of or retaliation against for reporting problems.

V. USE OF FSU'S NAME AND SYMBOLS

The NAA may, in connection with its lawful business and activities, use FSU's name as well as FSU's logo, seal, and other symbols and marks. The NAA shall use FSU's name and its logo, seal, and other symbols and marks only in connection with the services rendered for the benefit of FSU and in accordance with the guidance and directions furnished by FSU or its representatives or agents.

A. NAA Communications

The NAA shall conduct business in its own name and all correspondence, advertisements, and other communications by the NAA shall clearly indicate that the communication is from the NAA, and not from the FSU or UNC.

B. No Delegated Authority

The NAA shall not delegate the authority to use the FSU's name or symbols to any person or entity without the written approval of the Chancellor.

C. Cessation of Usage

The NAA agrees to cease using FSU name and symbols in the event one or more of the following occurs:

1. the NAA dissolves;
2. the Chancellor removes recognition of the NAA in accordance with Section I.B. of this Agreement, or
3. the NAA ceases to be a non-profit corporation or ceases to be recognized by the Internal Revenue Service as described in section 501(c)(3) of the Internal Revenue Code.

VI. BONDING AND INSURANCE

A. Bonding

The NAA should consider requiring bonding of any employees it may have.

B. Insurance

The NAA, working in collaboration with FSU's insurance and risk management personnel, should evaluate the potential risks arising from the operation of the NAA and after evaluating such risk obtain commercially reasonable amounts of general liability and directors' and officers' insurance.

VII. ADMINISTRATIVE AND OTHER SERVICES

A. Services Provided by FSU

The NAA may, upon approval by the appropriate FSU official, use FSU assets, facilities, and personnel pursuant to the terms of this Agreement.

When FSU personnel provide services for the NAA and there arises a conflict between FSU and the NAA, FSU's employee must comply with FSU's policies, regulations, and directives.

B. Reimbursement of Costs

Any reimbursement to FSU for services provided to the NAA by FSU shall be made pursuant to a written agreement between FSU and the NAA entered into before the services are provided.

VIII. CONFLICT OF INTEREST AND ETHICS

A. Required Policies

The NAA shall have conflict of interest and ethics policies, as approved by FSU, pertaining to the following:

- relationships between FSU, the NAA, members of the NAA Board of Directors and persons doing business with the NAA, and
- required ethical standards for the members of the Board of Directors and NAA employees (if any).

B. Transactions Between NAA and Others

All transactions (other than reimbursements.) between the NAA and an individual member, officer, director, or employee (if any) of the NAA must be approved by the NAA's Board of Directors.

C. Recusal from Business Decisions

No NAA individual member, officer, director, or employee (if any) having a private business interest in a NAA business transaction may be involved in the decision with respect to whether the NAA should enter into such transaction.

D. NAA Scholarships

No NAA scholarship or similar award may be made to an individual member, officer, director, or employee (if any) of the NAA or to a family member of such person unless the recipient of the award is determined by an independent awards committee or the scholarship or similar award is overseen by the FSU's Financial Aid Office.

IX. CONFIDENTIALITY

Neither the NAA nor FSU shall disclose or use any private, confidential, proprietary, nor trade secret information provided from one to the other except as required in and by the terms of this Agreement or as required by law. The NAA recognizes the obligation of FSU to comply with the North Carolina Public Records laws.

X. INDEMNIFICATION

The NAA shall indemnify and hold harmless FSU, its governing board, officers, employees, agents, and students in their official and personal capacities, from and against any and all claims, damage, liability, injury, expense, demands, and judgments, including court costs and attorney's fees, arising out of the NAA's performance of this Agreement to the extent any such claims, damage, liability, injury, expense, demand or judgment is caused by the NAA or any FSU employee acting at the direction of the NAA. This provision shall continue beyond termination or expiration of this Agreement.

XI. MISCELLANEOUS REQUIREMENTS

A. Notice

Any notice to either party hereunder must be in writing signed by the party giving it, and shall be deemed given when mailed postage prepaid by U.S. Postal Services first class, certified, or express mail, or other overnight mail service, or hand delivered, when addressed as follows:

To UNIVERSITY: Fayetteville State University
Attn: Vice Chancellor for Institutional Advancement
1200 Murchison Road
Fayetteville, North Carolina 28301

To the NAA: FSU National Alumni Association, Inc.
Attn: President

or to such other addressee as may be hereafter designated by written notice. All such notices shall be effective only when received by the addressee.

B. Term and Termination

FSU may terminate this agreement at any time if the NAA fails to abide by FSU's or UNC's policies or regulations.

C. Lobbying and Political Activities

The NAA shall comply with all provisions of the Internal Revenue Code and all State laws regarding lobbying and political activity.

D. Courses and Seminars

The NAA may not offer any course or seminar in which FSU's name is used without first obtaining FSU's permission.

E. Waiver


If the application of any of the requirements of this Agreement is of limited benefit and is unduly burdensome, the UNC President may waive that requirement as to that specific NAA under circumstances that are set out in writing and supported by FSU.

IN WITNESS WHEREOF, UNIVERSITY and the authorized representative(s) of the NAA have executed this Agreement on this 1st day of July, 2015.

FSU

By 
James A. Anderson
Chancellor

NAA

By 
Raymond Privott
President

