

**Affiliation Agreement
between
Prairie View A&M University
and
Prairie View A&M Foundation,
an Independent Fundraising Organization**

This Affiliation Agreement is between Prairie View A&M University (the "University"), and Prairie View A&M Foundation (the "Foundation") and is effective on the 16th day of April, 2015 (the "Effective Date").

The University is an institution of higher education and a member of The Texas A&M University System (the "A&M System"). The Foundation is organized for the primary purpose of financially supporting the University in order to further the purposes, duties, and missions of the University. The parties intend that the Foundation serve an independent affiliated fundraising organization, as described in A&M System Regulation 60.01.01, *Association with Affiliated Organizations*.

The parties agree as follows:

1. The Foundation's Role and Responsibilities

- 1.1 The Foundation shall exercise its best efforts to secure gifts, grants, conveyances, devises, and bequests of funds and property for the benefit of the University. The Foundation shall design and implement programs and procedures approved by the University to solicit and receive such funds and property to further the purposes of the Foundation which benefit the University. The Foundation shall plan, direct, coordinate, and conduct fund raising from private sources.
- 1.2 The Foundation shall communicate and coordinate activities with the University. The Foundation shall conduct its activities for the benefit of the University and consistent with the University's academic plans and strategic initiatives. The Foundation shall:
- (a) Solicit or accept gifts, grants, conveyances, devises, bequests, or otherwise from any source for a use specified by the donor, provided they are consistent with the University's mission and vision;
 - (b) Provide expertise and assistance to University administration, faculty, staff, and University constituents on development and fund raising projects;
 - (c) Conduct publicity and publication programs in support of its development efforts and fund raising;
 - (d) Engage in solicitation activities which include mailings, events, programs and activities for the University; and
 - (e) Process, acknowledge, and accept all gifts and charitable sponsorships from private sources received by the Foundation.
- 1.3 The Foundation shall comply with all applicable federal and state laws. For this purpose, the Foundation shall establish rules and procedures reasonably acceptable to the University for managing its business and affairs in accordance with the requirements for tax-exempt organizations under the Internal Revenue Code and the laws of the State of Texas, including:
- (a) An ethics and conflicts of interest policy applicable to the Foundation's directors and employees; and
 - (b) Investment policies consistent with the Uniform Prudent Management of Institutional Funds Act, Chapter 163, Texas Property Code.



- 1.4 The Foundation shall accept, hold, administer, invest, and disburse funds and property as may be given to it according to the terms of each gift, provided, however, the Foundation may not accept any restricted or conditional gift which obligates the University without the prior written consent of the University.
- 1.5 The Foundation shall make contributions, grants, gifts, and transfers of property to or for the benefit of the University.
- 1.6 The Foundation shall use all assets and earnings of the Foundation for the benefit of the University and for payment of necessary and reasonable administrative expenses of the Foundation.
- 1.7 The Foundation may only charge fees to the University or against gifts to the University, consistent with A&M System Policy 60.03, *Approval of Fees for Affiliated Fund-Raising Organizations* and as outlined in Attachment 1.
- 1.8 The Foundation shall provide an annual report regarding the Foundation's activities, investment and fundraising results, and finances to the University, including, upon request, a presentation to the A&M System Board of Regents, in a format reasonably acceptable to the University.
- 1.9 Financial statements and audits
 - (a) The Foundation shall engage a reputable independent accounting firm to annually audit its financial statements.
 - (b) The Foundation shall provide its annual financial statements, including the management letter, to the University's chief financial officer within 30 days following completion of the audit.
 - (c) The Foundation's financial statements shall include the following performance ratios:
 - (1) Administrative ratio: General and administrative costs/Total expenses;
 - (2) Funding cost ratio: Fundraising expenses/Contributions;
 - (3) Support ratio: Funds back to the University/Total expenses; and
 - (4) Other performance measures reasonably requested by the University
 - (d) The A&M System chief financial officer may grant an exception to the requirements of Section 1.9(a) if the Foundation's assets total less than \$100,000 and the cost of the audit would create a hardship for the Foundation. In such case, the Foundation shall annually certify as to the segregation of duties and appropriate controls over cash receipts, disbursements, and security of information systems.
- 1.10 The Foundation shall cooperate fully with any request for access to the Foundation's records, property, or personnel by the University, the A&M System, or the designee of either as necessary to ensure compliance with the law, A&M System policy, and this Agreement.

2. The University's Role and Responsibilities

- 2.1 The University shall work closely with the Foundation and assume a prominent role in fund raising activities.
- 2.2 The University shall communicate the University's priorities, long-term plans, and strategic initiatives to the Foundation.
- 2.3 The University shall use any funds or property received from the Foundation in accordance with any conditions imposed by the donors, within the limits of the law and consistent with the terms of this Agreement and the policies of the A&M System.
- 2.4 The University may make available to the Foundation appropriate personnel, facilities, or other support provided that the Foundation reimburses the University as provided under Articles 3 and 4.



3. Use of University Services

- 3.1 The Foundation may use the services of University employees as follows.
- (a) Clerical services associated with research and purchases of items associated with the development account housed at the University - Account No. 558107
 - (b) Clerical services associated with coordination of space needs as requested
- 3.2 The Foundation shall reimburse the University for any such services, and may not directly pay or otherwise monetarily enrich a University employees except as provided under Section 6.2.

4. Use of University Property

The Foundation may not use University property unless the terms of such use and reimbursement are provided in a separate written agreement between the parties.

5. Relationship and Limitations

- 5.1 This Agreement does not create a partnership or joint venture between the University and the Foundation. Neither party may bind the other or otherwise act in any way as the representative of the other, unless otherwise expressly agreed to in a writing signed by authorized representatives of both parties before any such act or representation. The Foundation may not represent itself as the University's agent for any purpose to any party or to allow any Foundation employee to do so unless specifically authorized, in advance and in writing, to do so by the University, and then only for the limited purpose stated in such authorization.
- 5.2 Any provision of this Agreement that conflicts with a law or regulation of the United States or the State of Texas or an A&M System policy or regulation is null and void to the extent of the conflict.

6. Representation on the Foundation Board

- 6.1 The University may appoint an ex-officio, non-voting member of the Foundation's governing board.
- 6.2 The Foundation may not provide any salary, benefits, or other compensation or monetary enrichment to the board member but the Foundation may reimburse the board member for his or her actual expenses incurred in board service to the extent consistent with the Foundation's polices and the University's rules. The Foundation shall report any such reimbursement to the University.
- 6.3 The Foundation may not permit any other University employee to serve on the Foundation's governing board.

7. Use of the University Name

- 7.1 The Foundation acknowledges that the University owns the trademark and all other rights in the name "Prairie View A&M University" (the "University Name").
- 7.2 The University grants the Foundation a nonexclusive, nontransferable license to use the University Name as part of its corporate name and to use the University Name in connection with its fundraising activities, so long as all solicitation materials are reviewed and approved by the University prior to their use.
- 7.3 The University does not grant any rights or licenses to the Foundation as to any trademark, service mark, name, or logo of the University other than the University Name. The University may extend or revoke this license at any time with or without cause, in its entirety or as to particular uses of the University Name by the Foundation.
- 7.4 The Foundation may not at any time:
- (a) Use any colorable imitation or variant form of the University Name;



- (b) Take any action that would bring the University Name into public disrepute;
- (c) Take any action that would tend to destroy or diminish the University's goodwill in the University Name; or
- (d) Challenge, contest, impair, invalidate, or take any action tending to impair or invalidate the University's rights in the University Name.

8. Term and Termination

- 8.1 This Agreement commences on the Effective Date remains in effect for five years unless terminated as provided in this Article 8.
- 8.2 Either party may terminate this Agreement for convenience upon 180 days written notice to the other.
- 8.3 Either party may terminate this Agreement effective upon written notice to the other if the other party breaches any of the terms of this Agreement and fails to cure the breach within 30 days after receiving written notice of the breach. If the breach is incurable, the non-breaching party may terminate this Agreement effective immediately upon written notice to the breaching party.
- 8.4 Upon termination of this Agreement, the Foundation shall:
 - (a) Cease to use the University Name to solicit donations or for any other purpose and may not represent to alumni, donors, or the general public that the Foundation is affiliated with the University;
 - (b) Provide an accounting to the University of all funds and assets held by the Foundation;
 - (c) Transfer to the University or to another entity designated by the University all funds and assets donated to the Foundation (or acquired with funds donated to the Foundation) donated to the Foundation because of its association with the University. The parties shall presume all funds and assets donated to the Foundation during the term of this Agreement and any predecessor agreement were donated to the Foundation because of its association with the University.

9. General Provisions

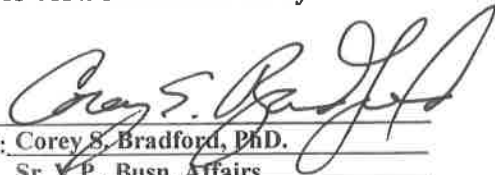
- 9.1 The substantive laws of the State of Texas (and not its conflicts of law principles) govern all matters arising out of or relating to this Agreement and all of the transactions it contemplates. Venue for any claim arising out of or relating to this Agreement and all of the transactions it contemplates is as provided under Texas law.
- 9.2 Any notices required or permitted under this Agreement will be deemed given (a) three business days after it is sent by certified or registered mail, return receipt requested, (b) the next business day after it is sent by overnight carrier, (c) on the date sent by facsimile or email transmission with confirmation of transmission and receipt, if sent during the recipient's normal business hours and if not, on the next business day, or (d) on the date of delivery if delivered personally, in each case, addressed to the intended recipient at the address below or such other address as the intended recipient may specify in writing:
 - (a) University: 151 L.W. Minor Street, Prairie View, TX 77446
 - (b) Foundation: 6436 Fannin St. Room 112, Houston, TX 77030
- 9.3 This Agreement contains the entire understanding of the parties as to the matters contained in this Agreement, and supersedes all other written and oral agreements between the parties as to those matters. The parties may execute other contracts, but those will not alter this Agreement unless expressly stated in writing.
- 9.4 This Agreement is assignable only with the written consent of both parties.



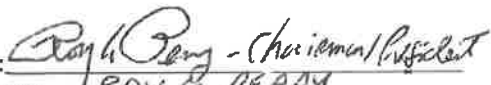
- 9.5 The University is an agency of the State of Texas and nothing in this Agreement waives or relinquishes the University's right to claim any exemptions, privileges, and immunities as may be provided by law.
- 9.6 The failure of either party at any time to require performance by the other party of any provision of this Agreement will in no way affect the right to require such performance at any time thereafter nor will the waiver by either party of a breach of any provision be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of the provision itself.
- 9.7 Each provision of this Agreement is severable. If any provision is rendered invalid or unenforceable by statute or regulations or declared null and void by any court of competent jurisdiction, the remaining provisions will remain in full force and effect if the essential terms of this Agreement remain valid, legal, and enforceable.
- 9.8 If either party fails to fulfill its obligations under this Agreement, when such failure is due to an act of God, or other circumstance beyond its reasonable control, including but not limited to fire, flood, civil commotion, riot, war, revolution, acts of foreign or domestic terrorism, or embargos, then the other party shall excuse the failure for the duration of the event and for such a time as is reasonable to enable the parties to resume performance under this Agreement, provided however, that in no event will such time extend for more than 30 days.

The parties have executed this Agreement on the dates indicated below.

Prairie View A&M University

By: 
 Name: Corey S. Bradford, PhD.
 Title: Sr. V.P., Busn. Affairs
 Date: 4/21/15

Prairie View A&M Foundation

By: 
 Name: ROY G PERRY
 Title: CHAIRMAN & PRESIDENT
 Date: 4-14-2015