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LSU BOARD OF SUPERVISORS MEETING

Board Room, University Administration Building  
3810 West Lakeshore Drive, Baton Rouge, LA 70808  
February 10, 2023 | 9:00 a.m. CT

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- I. Call to Order and Roll Call
- II. Invocation and Pledge of Allegiance
- III. Public Comment
- IV. Committee Meetings
  - A. Research and Agricultural Extension Committee
    1. The Virtual Production Studio Presentation
  - B. Academic Committee
    1. Recommendation to Approve Conferral of Degrees for CY2023 Commencement Exercises
    2. Request from LSU A&M to Name the Dale Brown/Sue Gunter Court
    3. Consent Agenda
      - a. Request from LSU Health Sciences Center – New Orleans to Name the Joseph M. Moerschbaecher, III, Ph.D. Library Commons
      - b. Request from LSU A&M to Name Two Rooms in the Football Operations Building
      - c. Request from LSU A&M to Amend the Edwin K. Hunter Chair in the Traditions of Rhetoric and Argument in Communication Studies
      - d. Request from LSU A&M to Revisit its Vision and Mission Statements
  - C. Finance Committee
    1. Request to Authorize the University to Negotiate and Execute a Contract for Dining Services
    2. Request for Authorization to Execute Agreements for Our Lady of the Lake Sponsorship/Partnership and Operation of Student Health Center
    3. Request from Pennington Biomedical Research Center to Amend the Existing Development Services Agreement with Pennington Biomedical Research Foundation
  - D. Property & Facilities Committee
    1. Request from LSU A&M to Authorize the President to Execute an Intent to Purchase Agreement with Respect to the Louisiana Emerging Technology Center Building
  - E. Athletics Committee
    1. Request from LSU A&M for Employment Contract for Lori Williams, Deputy Athletics Director for Leadership & Strategy
  - F. Risk Management (8:00 a.m. in UAB Board Conference Room 104-A)

*The Board or its Committees may enter into Executive Session in accordance with the provisions of LA R.S. 42:17*

1. FY 2023 2nd Quarter Audit Summary
2. FY 2023 Audit Plan Update
- V. Reconvene Board Meeting
- VI. Approval of Minutes from the December 9, 2022 Meeting
- VII. Personnel Actions Requiring Board Approval
- VIII. Reports from Faculty Advisors and Staff Advisors
- IX. President's Report
- X. Approval of Committee Recommendations
- XI. Chair's Report
- XII. Adjournment



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## Board of Supervisors

### RESEARCH & AGRICULTURAL EXTENSION COMMITTEE

BOARD OF SUPERVISORS MEETING | FEBRUARY 10, 2023

The LSU logo is displayed in a bold, yellow, sans-serif font in the upper left corner. The background of the slide features a dark purple color with a grid of small, glowing dots that create a perspective effect, receding into the distance. On the right side, there is a blurred image of a person in a dark suit, possibly a student or staff member, standing in a hallway or studio setting with bright lights.

# Virtual Production Studio

## A New Frontier For Storytelling

Scholarship First, Students Always, **Forever LSU.**

February 10, 2023

**TECHNOLOGY** AT THE SPEED OF  
**CREATIVITY**

Then...



**TECHNOLOGY** AT THE SPEED OF  
**CREATIVITY**

...Now

**VIRTUAL PRODUCTION** combines physical and virtual filmmaking techniques to create cutting-edge media.

Photorealistic sets  
created with  
video game 3D  
engines

+ Display on large  
+ high resolution  
LED walls

+ Sync cameras  
with game  
engines for depth  
and realism

# EXTENDED REALITY (XR) STUDIO

Art and Technology for Industry and Agency

## The LSU XR Studio

Located in the LSU Digital Media Center

Initial funding by Louisiana Economic Development

## Features

- 10' x 20' LED wall
- Integrated digital camera
- Motion capture and lighting system
- Processors and rendering system

## Timeline

- 2020: Secured \$1.25M, 5-year funding
- 2021: Studio established, classes begin
- 2022: \$5M+ NASA Digital Twin project



# NEXT GENERATION TALENT AND IMPACT

By The Numbers...In Only 2 Years

- 250** Students directly engaged with XR Studio via new or augmented classes
- 15** Courses across campus impacted by the XR Studio (*4 new, 11 augmented*)
- 4** Colleges currently using the studio (*A&D, MDA, HSS, and Engineering*)
- 9** Student projects ranging from aerial silks, stand-up comedy, dance, and short films
- 11** Graduate students funded on the NASA Michoud Digital Twin project



# XR | SUMMER E-SPORTS BOOTCAMPS



# XR | IMMERSIVE PRODUCTION



**XR** | STUDENT FILM  
PROJECTS



**XR** | STUDENT FILM  
PROJECTS



## Building A Foundational Digital Twin for MAF

### A Next-Gen AR/VR Capability for MAF

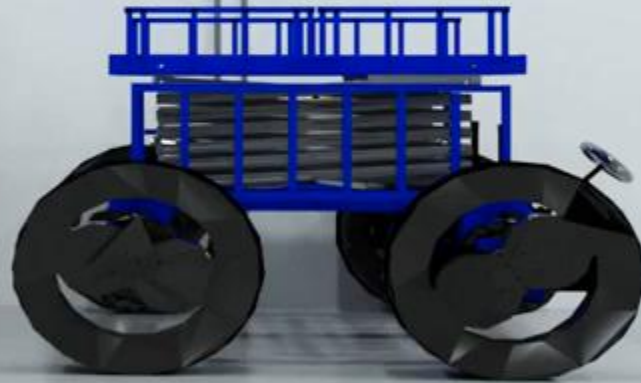
- Mission: SLS and Artemis
- Expertise: Digital art and design, Engineering
- Phase 1 Tasks: Data, 3D Scans, Models, Workflow
- Phase 1 Goals: Prototype AR Factory, Training

### Current Status

- Team: 11 Grad Students in Digital Art, Engineering
- Weekly standup, coordination with MAF
- Equipment and Software Testing
- Asset mapping and data security



# MICHOUD | THE DIGITAL TWIN



# **FUTURE** | THE HORIZON

Growth On Every Front

## **People**

Asst. Professor, Joint Appointment between Digital Art and Theater  
Studio management and development support personnel

## **Programs**

Additional courses in Digital Production, AR/VR, Sound, Digital Twinning, Photogrammetry  
New undergraduate certification in Virtual Production

## **Partners**

Entertainment/Film: Crafty Apes, Celtic, Studios, LSU Athletics  
Agencies: NASA, Department of Defense

## **Places**

Digital Twinning and 3D Scanning Labs, Workstations  
Additional studio buildout and construction

**THANK YOU** |   
QUESTIONS?





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## Board of Supervisors

### ACADEMIC COMMITTEE

BOARD OF SUPERVISORS MEETING | FEBRUARY 10, 2023



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## Board of Supervisors

### Recommendation to Approve Conferral of Degrees for CY2023 Commencement Exercises

Date: February 10, 2023

#### 1. Bylaw Citation

Pursuant to Article VII, Section 1, Paragraph C of the Bylaws of the Louisiana State University Board of Supervisors, this matter is a significant board matter.

- C. The Board shall award degrees. For candidates meeting the faculty's requirements for a degree, certificate, or diploma, the Board approves the conferral degrees and authorizes the President and respective Chancellor to award the degree. Honorary degrees and posthumous degrees are included, and the President shall establish processes for review of honorary and posthumous degrees. Approval by the Board is not required for educational programs regulated by the Board of Elementary & Secondary Education or any non-credit continuing education program. All recipients of credentials from approved programs shall enjoy the honors, rights, and privileges of possessing such a credential. Such degrees and certificates shall carry the seal of the University.

#### 2. Summary of Matter

The campuses of LSU are seeking approval of degrees to be conferred on candidates meeting degree requirements for commencement exercises whether they be virtual or on campus for the entire 2023 calendar year.

This request provides flexibility for campuses to book venues, ensure capacity and safety concerns, and select vendors.

#### 3. Business Plan

N/A

#### 4. Fiscal Impact

N/A

#### 5. Description of Competitive Process

N/A

#### 6. Review of Legal Documents

N/A

#### 7. Parties of Interest

N/A

**8. Related Transactions**

N/A

**9. Conflicts of Interest**

N/A

**10. Attachments**

**RESOLUTION**

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Louisiana State University and Agricultural & Mechanical College does hereby approve the degrees to be conferred on candidates meeting degree requirements for graduation from the campuses of the University during commencement exercises in CY 2023.



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## Board of Supervisors

### Request from LSU A&M to Name the Dale Brown/Sue Gunter Court

**Date:** February 10, 2023

#### 1. Bylaw Citation

Pursuant to Article VII, Section 1, Paragraph N of the Bylaws of the Louisiana State University Board of Supervisors, this matter is a significant board matter.

- N. Such other matters that are not expressly delegated herein or hereafter by the Board to the President or a Chancellor and which reasonably should be considered to require Board approval as generally defined above, or which the Board hereafter determines to require Board approval.

#### 2. Summary of Matter

LSU A&M requests adding Sue Gunter's name to the PMAC court, to which the court will be named the Dale Brown/Sue Gunter Court. Coach Gunter was a United States Olympic coach, served as the LSU's women's basketball coach from 1982-2004, and was inducted into the Naismith Basketball Hall of Fame, the Collegiate Basketball Hall of Fame, the Louisiana and Mississippi Hall of Fame, and the LSU Athletics Hall of Fame.

Sue Gunter coached for a total of 22 years, had two SEC tournament championships, appeared at 14 NCAA tournaments, 1 Final 4 appearance, 4 Elite 8 appearances, and 8 Sweet 16 appearances. She was named the SEC Coach of the Year twice and was honored as an SEC Living Legend in 2004.

The LSU Hall of Fame Committee met on March 17, 2022 and approved this proposal. This naming is symbolic of the tremendous history and tradition of the LSU women's sports programs.

#### 3. Review of Business Plan

N/A

#### 4. Fiscal Impact

N/A

#### 5. Description of Competitive Process

N/A

#### 6. Review of Legal Documents

A memo from the Director of Athletics and the Faculty Athletics Representative/Chair of the Hall of Fame Committee requesting this naming along with approvals from the LSU A&M Naming Committee are on file in the Office of Academic Affairs.

**7. Parties of Interest**

N/A

**8. Related Transactions**

N/A

**9. Conflicts of Interest**

N/A

**10. Attachments**

**RESOLUTION**

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Louisiana State University and Agricultural & Mechanical College does hereby approve the request from LSU A&M to Name the Dale Brown/Sue Gunter Court.



## Board of Supervisors

### Request from LSU Health Sciences Center – New Orleans to Name the Joseph M. Moerschbaecher, III, Ph.D. Library Commons

**Date:** February 10, 2023

#### 1. Bylaw Citation

Pursuant to Article VII, Section 1, Paragraph N of the Bylaws of the Louisiana State University Board of Supervisors, this matter is a significant board matter.

- N. Such other matters that are not expressly delegated herein or hereafter by the Board to the President or a Chancellor and which reasonably should be considered to require Board approval as generally defined above, or which the Board hereafter determines to require Board approval.

#### 2. Summary of Matter

LSU Health Sciences Center at New Orleans would like to honor and recognize the nearly four decades of exemplary service to the campus and dedication to its students of Joseph M. Moerschbaecher, III, PhD, former Vice Chancellor for Academic Affairs and Dean of the Graduate School, who passed last year after a short battle with esophageal cancer.

Dr. Moerschbaecher joined the faculty of the LSU Health Sciences Center at New Orleans in 1983 as an Assistant Professor of Pharmacology and Experimental Therapeutics, rose to become Head of that department in 1989, and was further promoted to Vice Chancellor for Academic Affairs and Dean of Graduate Studies in 1998, the position from which he retired shortly before his death. Over his long administrative career, Dr. Moerschbaecher remained not only an active researcher and visionary administrator but also an award-winning teacher who always prioritized the education and training of students across all disciplines.

During Hurricane Katrina, Dr. Moerschbaecher remained on the LSU Health New Orleans campus to safeguard both the students and the research enterprise and was instrumental in maintaining the integrity of its academic and research programs after the storm. As a part of the post-Katrina restoration of the floodwater-inundated campus, Dr. Moerschbaecher conceived and oversaw the construction in 2009 of the Library Commons as a centralized, beautiful, peaceful space for the students and broader campus community to gather and study. This architecturally-unique common space includes displays for historical healthcare artifacts as well as other items associated with Charity Hospital and the institution, many of which he enjoyed selecting and others of which were from his personal collections.

In recognition of his long service, his dedication to the more than 20,000 graduates whose careers he helped shape, his commitment to their studies through support of research, education and the construction of academic spaces, and his unwavering dedication to the integrity, mission, and academic goals of the institution, the LSU Health Sciences Center at New Orleans, with the unanimous concurrence of its Faculty Senate, seeks approval to name the Library Commons to honor the life, legacy, and contributions of Joseph M. Moerschbaecher, III, Ph.D.

**3. Review of Business Plan**

N/A

**4. Fiscal Impact**

N/A

**5. Description of Competitive Process**

N/A

**6. Review of Legal Documents**

A memo from Vice Chancellor of Academic Affairs Janet Southerland and interim Chancellor Steve Nelson are on file in the Office of Academic Affairs.

**7. Parties of Interest**

N/A

**8. Related Transactions**

N/A

**9. Conflicts of Interest**

N/A

**10. Attachments**

**RESOLUTION**

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Louisiana State University and Agricultural & Mechanical College does hereby approve the request from LSU Health Sciences Center – New Orleans to Name the Joseph M. Moerschbaecher, III, Ph.D. Library Commons.



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## Board of Supervisors

### Request from LSU A&M to Name Two Rooms in the Football Operations Building

Date: February 10, 2023

#### 1. Bylaw Citation

Pursuant to Article VII, Section 1, Paragraph N of the Bylaws of the Louisiana State University Board of Supervisors, this matter is a significant board matter.

- N. Such other matters that are not expressly delegated herein or hereafter by the Board to the President or a Chancellor and which reasonably should be considered to require Board approval as generally defined above, or which the Board hereafter determines to require Board approval.

#### 2. Summary of Matter

LSU A&M, on behalf of Scott Woodward, Director of Athletics, requests the naming of two rooms in the Football Operations Building: The Kelly Family Team Room and the A. Michael Aura MD Safeties Meeting Room.

Coach Brian Kelly and his wife Paqui have been generous donors to the LSU Athletic Department, and the Athletic Department would like to honor his family with this naming.

Dr. Michael Aura is a graduate of LSU A&M and LSU Medical School in Shreveport and currently serves as the Medical Director for the Shreveport Rehabilitation Hospital. He has been a generous donor to the Athletic Department, and the Athletic Department would like to honor him with this naming.

#### 3. Review of Business Plan

N/A

#### 4. Fiscal Impact

N/A

#### 5. Description of Competitive Process

N/A

#### 6. Review of Legal Documents

A memo from the Director of Athletics requesting this naming along with approvals from the LSU A&M Naming Committee are on file in the Office of Academic Affairs.

#### 7. Parties of Interest

N/A



**8. Related Transactions**

N/A

**9. Conflicts of Interest**

N/A

**10. Attachments**

**RESOLUTION**

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Louisiana State University and Agricultural & Mechanical College does hereby approve the request from LSU A&M to Name Two Rooms in the Football Operations Building.



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## Board of Supervisors

### Request from LSU A&M to Amend the Edwin K. Hunter Chair in the Traditions of Rhetoric and Argument in Communication Studies

**Date:** February 10, 2023

#### **1. Bylaw Citation**

Pursuant to Article VII, Section 1, Paragraph N of the Bylaws of the Louisiana State University Board of Supervisors, this matter is a significant board matter.

- N. Such other matters that are not expressly delegated herein or hereafter by the Board to the President or a Chancellor and which reasonably should be considered to require Board approval as generally defined above, or which the Board hereafter determines to require Board approval.

#### **2. Summary of Matter**

The donor of the original Edwin K. Hunter Chair in the Traditions of Rhetoric and Argument in Communication Studies wishes to revise the beneficiary college, purpose of the donation, and the name of the Chair. The donor originally made a donation of \$1.2 million to the LSU Foundation to establish an endowed chair fund, which has now been requested to benefit any STEM field.

The requested revised name of the endowed chair will be the Edwin K. Hunter Chair for Communication of Science Research, and its purpose will be to foster critical thinking and effective communication by scientists and allied technical experts between one another, those who support their work, and the public. The recipient of the Chair will be a full-time faculty member in the College of Science, Engineering, Agriculture, Coast and Environment, or the School of Veterinary Medicine.

#### **3. Review of Business Plan**

N/A

#### **4. Fiscal Impact**

N/A

#### **5. Description of Competitive Process**

N/A

#### **6. Review of Legal Documents**

N/A

#### **7. Parties of Interest**

N/A

**8. Related Transactions**

N/A

**9. Conflicts of Interest**

N/A

**10. Attachments**

**RESOLUTION**

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Louisiana State University and Agricultural & Mechanical College does hereby approve the request from LSU A&M to amend the Edwin K. Hunter Chair in the Traditions of Rhetoric and Argument in Communication Studies.



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## Board of Supervisors

### Request from LSU A&M to Revise its Vision and Mission Statements

**Date:** February 10, 2023

#### 1. Bylaw Citation

Pursuant to Article VII, Section 1, Paragraph A of the Bylaws of the Louisiana State University Board of Supervisors, this matter is a significant board matter.

- A. Any matter having a significant or long-term impact, directly or indirectly, on the finances or the academic, educational, research, and service missions of the University or any of its campuses.

#### 2. Summary of Matter

All degree-granting campuses of the LSU System are accredited by the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC). Accreditation by SACSCOC

“signifies that the institution (1) has a mission appropriate to higher education, (2) has resources, programs, and services sufficient to accomplish and sustain its mission, (3) maintains clearly specified educational objectives that are consistent with its mission and appropriate to the degrees it offers, and (4) that it is successful in assessing its achievement of these objectives and demonstrating improvements.”

SACSCOC requires institutions to meet thresholds of specific characteristics to maintain accreditation. Specifically, SACSCOC Standard 2.1 (Institutional Mission) requires that, *“The institution has a clearly defined, comprehensive, and published mission specific to the institution and appropriate for higher education. The mission addresses teaching and learning and, where applicable, research and public service.”* Furthermore, per SACSCOC Standard 4.2 (Mission Review), all institutional mission statements must be reviewed and reaffirmed regularly by the respective governing board. LSU A&M’s next SACSCOC Reaffirmation is scheduled for 2024.

LSU A&M requests review and affirmation of their newly revised mission statement. These statements are linked together and provide the strategic aims for the Scholarship First Agenda – to secure our future, elevate lives, and advance the state of Louisiana. Additionally, these statements demonstrate our focus on Louisiana and the world’s future, and our essential mission of learning, discovery, and service to the community, the state, and our students.

#### Current Vision and Mission Statements

**Vision:** As the Flagship institution of the state, the vision of Louisiana State University is to be a leading research-extensive university, challenging undergraduate and graduate students to achieve the highest levels of intellectual and personal development.

**Mission:** Designated as a Land, Sea, and Space Grant institution, the mission of Louisiana State University is the generation, preservation, dissemination, and application of knowledge and cultivation of the arts.

Revised Vision and Mission Statements

Vision: As Louisiana's flagship university, LSU will deploy the knowledge generated through the work of our faculty and students to build a more healthy, prosperous, and secure future for the state.

Mission: Designated as a Land, Sea, and Space Grant institution, LSU secures, elevates, and advances Louisiana and the world through the generation, preservation, dissemination, and application of knowledge and cultivation of the arts and develops students who are prepared, confident, and inspired to achieve lifelong success.

**3. Review of Business Plan**

A memo from LSU A&M's Executive Vice President & Provost is on file at the LSU Office of Academic Affairs.

**4. Fiscal Impact**

N/A

**5. Description of Competitive Process**

N/A

**6. Review of Legal Documents**

N/A

**7. Parties of Interest**

N/A

**8. Related Transactions**

N/A

**9. Conflicts of Interest**

N/A

**10. Attachments**

**RESOLUTION**

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Louisiana State University and Agricultural & Mechanical College does hereby approve the request from LSU A&M to Revise its Vision and Mission Statements.



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# Board of Supervisors

## FINANCE COMMITTEE

BOARD OF SUPERVISORS MEETING | FEBRUARY 10, 2023



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## Board of Supervisors

### Request to Authorize the University to Negotiate and Execute a Contract for Dining Services

**Date:** February 10, 2023

#### 1. Bylaw Citation

Pursuant to Article VII, Section 1

- I. Any matter having a significant or long-term impact, directly or indirectly, on the finances or the academic, educational, research, and service missions of the University or any of its campuses

#### 2. Summary of Matter

LSU seeks to award a new contract for the operation of dining services and snack vending on the LSU A&M, LSU Eunice, and LSU Alexandria campuses. The current contract expires June 30, 2023. As an important aspect of the student experience on our campuses, LSU seeks a supplier that will act as a true strategic and operational partner in ensuring that the dining services program fully aligns with the University's mission, culture, and standards of excellence. Priorities for the new partnership include:

- Enhance and promote the overall dining experience for all members of the LSU community.
- Ensure and deliver high customer satisfaction ratings from students, staff, and visitors.
- Provide high quality, nutritious food that meets dietary restrictions/requirements of students throughout all Foodservice locations that reflect customer preferences.
- Offer a variety of food choices at multiple locations on all campuses.
- Provide food choices for student athletes addressing their specific need for a high-performance diet.
- Support LSU's Supplier Diversity Program by providing opportunities for historically underutilized businesses to participate as suppliers and subcontractors.
- Provide catering and conference Foodservices satisfying a wide range of client needs.
- Offer students, staff, and visitors vending options conveniently located across each campus.
- Provide student employment and engagement opportunities, including exploring student-run concepts.
- Incorporate the use of local producers, suppliers, subcontractors, and brands.
- Provide pricing that is competitive when evaluated against pricing offered by colleges and universities locally and nationally to ensure a strong price/value comparison and a positive perception of the LSU Dining Services Program.
- Provide substantial investment to support the LSU Dining Services Program and enable LSU to provide the high-quality dining service desired.
- Provide the latest innovations in technology and marketing for operations, mobile ordering capability, food delivery mechanisms, and Equipment; to enhance customer experience, convenience, and participation across all campuses and venues.

Key Performance Indicators (KPI's) will be included in the final contract to ensure that the priorities are being implemented and targets are being achieved.

### **3. Review of Business Plan**

N/A

### **4. Fiscal Impact**

As a revenue-generating contract, LSU will realize a positive financial impact resulting from the new contract. Both proposals include capital investments from the supplier over 10 years across the three campuses. The proposals also include increased dining commission rates over the current contract, in-kind contributions, vending commissions, and initial cash payments at all three campuses. The proposals include KPI's with risk payments that will be used to ensure that all financial and operational targets are met.

### **5. Description of Competitive Process**

LSU Auxiliary Services began collaborating with the Office of Procurement Services on the specifications for the Solicitation for Offers (SFO) in 2021. An SFO was advertised on April 6, 2022. Proposals were evaluated on a number of criteria, including the respondents' qualifications and experience, a technical proposal, a Veteran and Hudson initiative proposal, and a financial proposal. A comprehensive evaluation team comprised of student representatives, stakeholders at all impacted campuses, Auxiliary Services, Athletics, and Residential Life reviewed responses to the SFO.

### **6. Review of Legal Documents**

LSU Auxiliary Services, LSU Procurement Services, LSU Athletics, LSUE, LSUA, and the Office of General Counsel will develop the dining services contract based on the proposal submitted in response to the SFO, oral presentations, and subsequent Best and Final Offer (BAFO).

### **7. Parties of Interest**

LSU, LSUE, LSUA, selected vendor

### **8. Related Transactions**

N/A

### **9. Conflicts of Interest**

None known.

### **10. Attachments**

N/A



## RESOLUTION

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College does hereby authorize the President, or his designee, acting on behalf and in the name of the Board, and in consultation with general counsel, to negotiate and execute an agreement for dining services as determined by a competitive bid and evaluation process, with all such agreements and documents as well as any subsequent amendments thereto, to contain the terms and conditions, that the President deems in the best interest of LSU.



# MANAGEMENT OF LSU DINING SERVICES

Presented by:

Kimberly Lewis

*Executive Vice President and Chief Administrative Officer*



# LSU | Evaluation Committee

## **Margot Carroll**

*Assistant Vice President for Auxiliary Services*

## **Lizzie Shaw**

*Student Government President*

## **John Sweat**

*Residence Hall Association Vice President*

## **Matthew LaBorde**

*Executive Associate Athletic Director for Business Operations/CFO*

## **Amy Greagoff**

*LSUE – Vice Chancellor for Business Affairs*

## **Peter Trentacoste**

*Executive Director of Residential Life*

## **Deron Thaxton (ex-officio)**

*LSUA – Vice Chancellor for Finance and Administrative Services/CFO*

## **Tyler Kearney (ex-officio)**

*Associate Vice President for Finance & Administration*

## **Procurement Team**

## **Michele Montero**

*Assistant Vice President of Procurement & Property Management*

## **Jamie Maddie**

*Procurement Contract Manager*

## **Amy Guillot**

*Procurement Contract Specialist*

# LSU | Current Dining Locations

## •The 5 Dining Hall

- Take 5 C-Store
- Popeyes (now open)

## •The 459 Dining Hall

- 459 Outtakes C-Store

## •Athletics Nutrition Center

## •The Club at Union Square

## The Student Union

- Create
- Chick-fil-A
- On the Geaux
- Panda Express
- Student Choice
- Union CC's
- Zippy's Express
- Einstein's Bagels
- Sonic
- Smoothie King

## Law Center

- CC's Coffee

## College of Business

- CC's Coffee

## Library

- CC's Coffee

## Art & Design Building

- City Pork

## Engineering Building

- Panera Bread

## UREC

- Smoothie King

## Foster Hall

- T-Beaux's Creole Café (coming soon)

## Vet School

- 3 Little Pigs Café & Eatery



# MEAL PLAN PRICING 2022-2023

Type of Plan	Plan	Meals	Paw Points	Price Per Semester
Resident	19 Tiger Meals	19 per week	\$150	\$2,413
Resident	15 Tiger Meals	15 per week	\$375	\$2,250
Resident	12 Tiger Meals	12 per week	\$600	\$2,217
Resident (Greek)	Greek Plan	8 per week	\$350	\$1,438
Commuter	Tiger Commuter 400	0	\$400	\$400
Commuter	Tiger Commuter 800	0	\$800	\$800
Commuter	Tiger 45-550	45	\$550	\$988
Commuter	Tiger 35-450	35	\$450	\$798
Commuter	Tiger 25-350	25	\$350	\$595
RA	RA Plan 60/ RA Staff 60	60	—	\$647
RA	RA Faculty Plan	30	—	\$330
Athletic	Athletic Lunch	75	—	\$750



### Meal Plans Comparisons

Default, Most Popular, Recommended, or Most Comparable Meal Plans

<u>Institution</u>	<u>Meal Plan Name</u>	<u>Meal Plan Type</u>	<u>Meals Available</u>	<u>Available DB</u>	<u>Fall 2022</u>	<u>Fall 2022 (w.o. DB)</u>	<u>Fall 2023</u>	<u>% Increase</u>
Vanderbilt University	First Years	Weekly	21 MPW	\$225.00	\$ 3,571	\$ 3,346		
University of Alabama	All Access	Unlimited	Unlimited	\$0.00	\$ 2,213	\$ 2,213		
University of Georgia	7-Day All Access	Unlimited	Unlimited	\$250.00	\$ 2,297	\$ 2,047		
Mississippi State University	Ultimate	Unlimited	Unlimited	\$150.00	\$ 2,184	\$ 2,034		
University of Arkansas	15-Meal-Plus	Weekly	15 MPW	\$185.00	\$ 2,200	\$ 2,015		
University of Tennessee	Unlimited 7	Unlimited	Unlimited	\$300.00	\$ 2,305	\$ 2,005		
University of Kentucky	All Access Blue	Unlimited	Unlimited	\$250.00	\$ 2,249	\$ 1,999	\$ 2,440	8.5%
University of South Carolina	All Access	Unlimited	Unlimited	\$250.00	\$ 2,210	\$ 1,960		
University of Florida	Unlimited Blue	Unlimited	Unlimited	\$250.00	\$ 2,100	\$ 1,850		
University of Mississippi	Weekly 12	Weekly	12 MPW	\$0.00	\$ 1,797	\$ 1,797		
Texas A&M University	Block 180	Block	180 meals/semester	\$500.00	\$ 2,281	\$ 1,781		
Louisiana State University	12 Tiger Meals	Weekly	12 MPW	\$600.00	\$ 2,217	\$ 1,617		
Auburn University	Weekly 5	Weekly	5 MPW	\$450.00	\$ 1,300	\$ 850		
University of Missouri	Zou Silver	DB	DB	\$455.00	\$ 890	\$ 435		
Sources: University websites.								
Notes:								
<sup>1</sup> University of Kentucky's meal plans are increasing 8.5-10% for AY2023-24.								
<sup>2</sup> LSU meal plans typically have higher declining balance ("Paw Points") portions of the meal plans, which students provided positive feedback on in surveys last spring.								
<sup>3</sup> Auburn and Missouri offer declining balance-only								

# LSU | Scoring Methodology

Evaluation Criteria	Possible Points
<p>RESPONDENT QUALIFICATIONS AND EXPERIENCE (Section 5)</p> <ul style="list-style-type: none"> <li>• Management Offer</li> <li>• Respondent Financial Information</li> <li>• Supplier Diversity Plans</li> <li>• Subcontractor Information</li> <li>• Respondent Qualifications</li> <li>• Respondent Experience</li> <li>• Personnel Qualifications</li> </ul>	13
<p>TECHNICAL OFFER (Section 6)</p> <ul style="list-style-type: none"> <li>• Partnership</li> <li>• Culinary Approach and Product Sourcing</li> <li>• Catering Services</li> <li>• Vending Services</li> <li>• Customer Feedback</li> <li>• Marketing</li> <li>• Wellness</li> <li>• Sustainability</li> <li>• Technology</li> <li>• Safety, Sanitation, and Security</li> <li>• Transition and Implementation Plan</li> <li>• Investment Plan</li> <li>• Continuous Improvement</li> <li>• Residential Dining</li> <li>• Retail Dining</li> <li>• Athletic Performance Nutrition Center</li> <li>• Athletics Concessions Services (LSUE &amp; LSUA)</li> </ul>	40
<p>FINANCIAL OFFER (Section 7)</p>	35
<p>VETERAN AND HUDSON INITIATIVE (Section 8)</p>	12
<p>Total Points Possible</p>	100

# LSU | Proposal Highlights

	<u>Vendor A</u>	<u>Vendor B</u>
KPI's with Risk Payments	✓	✓
Opportunities for Student Engagement & Employment	✓	✓
Commitments to Utilizing HUB Partnerships	✓	✓
New Concepts/Locations	✓	✓
New Sustainability & Wellness Initiatives	✓	✓
Responsiveness to Student Trends	✓	✓
New Technologies to Enhance Dining Experience	✓	✓

## Additional Considerations:

- Athletics Dining
- Oral Presentations





# **QUESTIONS**



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## Board of Supervisors

### **Request for Authorization to Execute Agreements for Our Lady of the Lake Sponsorship/Partnership and Operation of Student Health Center.**

**Date:** February 10, 2023

#### **1. Bylaw Citation**

This matter is brought before the board pursuant to Article VII, Section 1(J) "Major Contracts."

#### **2. Summary of Matter**

This past spring, Our Lady of the Lake committed to \$170M in cash and in-kind funding for the Baton Rouge Campus. The funding is comprised of naming rights, research grants, athletic medical support and infrastructure for the HSCNO medical school campus located in Baton Rouge.

The overall relationship is a ten-year strategic partnership with OLOL being named as the "Exclusive Championship Healthcare Partner" of LSU and receiving marketing and promotional rights commensurate with this title.

The initial parameters of the funding were originally outlined in a letter of intent. The parties have now negotiated the details of the partnership which includes OLOL providing management and operation of the LSU Sports Medicine Clinic and the LSU Student Health Center (the "Student Clinics") where it will make an in-kind contribution of \$3M per year in medical care from its extensive network for uninsured/underinsured students.

The partnership documents consist of two primary agreements. The first is a Master Affiliation Agreement which governs the relationship between the parties and marketing rights. The second is a cooperative endeavor agreement which governs the operation of the Student Clinics by OLOL within the parameters of the partnership.

#### **3. Review of Business Plan**

Finance and Athletics have reviewed the financial aspects of this transaction.

#### **4. Fiscal Impact**

This is a revenue generating contract for the university. However, OLOL will be allocated a portion of the student health center fee that corresponds to the amount necessary for operational expenses for the Student Clinics.

#### **5. Description of Competitive Process**

N/A

#### **6. Review of Legal Documents**

The documents were negotiated and reviewed by the chief administrative officer and office of general counsel in consultation with LSUF and TAF as it related to sponsorship and fundraising.

#### **7. Parties of Interest**

N/A

#### **8. Related Transactions**

N/A

#### **9. Conflicts of Interest**

None.

### **RESOLUTION**

**NOW, THEREFORE, BE IT RESOLVED** the Board of Supervisors of Louisiana State University and Agricultural & Mechanical College (the "Board") does hereby authorize the President, in consultation with the chief administrative officer, to execute the Master Affiliation Agreement, Cooperative Endeavor Agreement, and all other documents related to and necessary to consummate the sponsorship/partnership agreement with Our Lady of the Lake on the terms contained in and described in the attached agreements.

## **MASTER AFFILIATION AGREEMENT**

THIS MASTER AFFILIATION AGREEMENT is made and entered into as of the Effective Date by and between Franciscan Missionaries of Our Lady Health System, Inc. (“**FMOLHS**”), a Louisiana non-profit corporation, Our Lady of the Lake Hospital, Inc. d/b/a Our Lady of the Lake Health (“**LOL**”), a Louisiana non-profit corporation (FMOLHS and LOL, collectively referred to herein as the “**LOL Parties**”), Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, a public constitutional corporation of the State of Louisiana, on behalf of itself and the LSU Health Sciences Center New Orleans and LSU Athletics (collectively, “**LSU**”). Each of the above are also referred to herein individually as “**Party**” and collectively as “**Parties.**”

### **RECITALS**

**WHEREAS**, FMOLHS is a nonprofit health system serving as the parent of ten hospital campuses and related ancillary services throughout Louisiana and Mississippi;

**WHEREAS**, LOL is a nonprofit Louisiana corporation licensed as and operating a full service and accredited major teaching hospital committed to developing medical and clinical professionals in the State in order to improve access to healthcare in Louisiana in general, and Baton Rouge, LA, specifically;

**WHEREAS**, LSU is a public constitutional corporation organized an existing under the laws of the State of Louisiana;

**WHEREAS**, Tiger Athletic Foundation (“**TAF**”) is a private 501(c)(3) tax-exempt organization;

**WHEREAS**, LSU Foundation (“**Foundation**”) is a 501(c)(3) tax exempt organization;

**WHEREAS**, LSU and LOL entered into a transformational public-private partnership in 2010, as amended in 2013, building a new model of care that optimized the use of all resources to improve the health status of Louisiana, improve the training opportunities for health care professionals, including but not limited to certain LSU medical residents, fulfill the need for continued physician education in the State of Louisiana and fulfill LSU’s obligation pursuant to Louisiana law to provide free or reduced cost care to certain patients qualifying for such care;

**WHEREAS**, the Foundation, in association with LSU, LSU Athletics, and TAF issued a Request for Information, seeking a partner to enter into an innovative, long-term, health-focused partnership which would advance LSU's service to and investment in LSU’s students, faculty, and facilities, the LSU sports medicine program, LSU’s local community and the State of Louisiana;

**WHEREAS**, LOL again responded to the call of LSU to truly transform the health of Louisiana through an affiliation to establish a national model for a campus health partnership and ensure LSU has the services and resources to support whole person health, an interdisciplinary

partnership that drives collaborative scholarship and innovative research, a leading sports medicine program that promotes peak physical and mental performance;

**WHEREAS**, the mission of LSU and OLOL are both consistent and complementary in their goals of providing high quality medical education, research and clinical care in support of the Affiliation;

**WHEREAS**, in order to achieve these goals, OLOL and LSU will enter into various collaborative agreements, including but not limited to, a Cooperative Endeavor Agreement consistent with the terms of the Affiliation;

**WHEREAS**, in exchange for certain financial and other commitments of OLOL in support of the Affiliation, LSU has agreed that the OLOL Parties shall jointly serve as the exclusive Championship Health Partner of LSU's Baton Rouge A&M campus;

**WHEREAS**, this Agreement establishes the overall framework for the Affiliation.

**NOW, THEREFORE**, in consideration of the foregoing and the mutual agreements and covenants hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

## **Section 1. DEFINITIONS**

(A) **"Affiliate"** means as to any person or entity, any person or entity that directly or indirectly controls, is controlled by, or is under common control with, such person or entity. The term "control" used in the preceding sentence shall mean the possession, directly or indirectly, of the power either to direct or cause the direction of the management and policies or to adopt capital and operating budgets and strategic plans of an entity whether through ownership of voting equity, by contract or otherwise.

(B) **"Affiliation"** means the agreement of the Parties to further achieve their Shared Mission, by coordinating and collaborating with respect to the rights and obligations described in this Agreement and Collaborative Agreements.

(C) **"Affiliation Dispute Notice"** means a written notice sent by the Notice Party to the other Parties after informal discussions of the Notice Party's desire to refer a Dispute for more formal executive discussions.

(D) **"Agreement"** means this Master Affiliation Agreement.

(E) **"CEA"** means the Cooperative Endeavor Agreement to be entered into contemporaneously with this Agreement by and among OLOL and LSU.

(F) **"Change of Law"** means changes to any Health Care Law or Tax-Exempt Requirement.

(G) **"CMS"** means the Centers for Medicare and Medicaid Services.

(H) **“Code”** means the Internal Revenue Code of 1986, as amended.

(I) **“Collaborative Agreements”** means, in addition to this Agreement, the agreements described in Section 4 of this Agreement.

(J) **“Commencement Date”** means February 22, 2023.

(K) **“Confidential Information”** means information that is deemed confidential or proprietary by a Disclosing Party and provided to a Receiving Party.

(L) **“Covered Business Category”** means the category of businesses who are classified as those providing Health Services (as defined herein). During the Term and any renewal Term, in the event of any material change in the OLOL Parties’ business, including due to an offering of new products or services or change in business strategy, the OLOL Parties may notify LSU of such change, in which case the parties shall promptly thereafter and in good faith discuss a potential change in the definition of “Covered Business Category” to reflect such material change in the OLOL Parties’ business.

(M) **“Defaulting Party”** means a Party that fails to timely pay any Material Amount due under any of the Collaborative Agreements.

(N) **“Disclosing Party”** means a Party who provides Confidential Information to a Receiving Party as set forth in Section 11(H) and Section 12(E) below.

(O) **“Dispute”** means a dispute, disagreement or claim arising out of or related to this or any other Collaborative Agreement except for a dispute, disagreement or claim arising under the license agreements, if any, which shall be addressed separately in accordance with the terms and conditions therein.

(P) **“Dispute Process”** means the process for addressing Disputes set forth in Section 6.

(Q) **“Effective Date”** means the date on which the Agreement is signed by the Parties.

(R) **“Financial Default”** means OLOL’s failure to timely pay a cash contribution in excess of a Material Amount to LSU, TAF or the Foundation as described in one or more Collaborative Agreements.

(S) **“Financial Default Cure Period”** means forty-five (45) days following the provision of notice of Financial Default by the non-Defaulting Party to the Defaulting Party to pay the amount owed in full.

(T) **“Governing Principles”** means, in addition to the Recitals, the commitments of the Parties set forth in Section 2 of this Agreement.

(U) **“Health Care Laws”** means all applicable statutes, laws, ordinances, rules and regulations of any governmental authority with respect to regulatory or other matters primarily relating to healthcare providers and healthcare services (including, without limitation, Section 1128(b) of the

Social Security Act, as amended, 42 U.S.C. § 1320a-7(b) (Criminal Penalties Involving Medicare or State Health Care Programs), commonly referred to as the “Federal Anti-Kickback Statute,” and the Social Security Act, as amended, §§ 1877, 42 U.S.C. §§ 1395nn (Prohibition Against Certain Referrals), commonly referred to as “Stark Statute”).

(V) “**Health Services**” means any person or organization who furnishes, directly or through contract, any medical and other health care services (including physician services, hospital services, diagnostic services, physical therapy services, or durable medical equipment services) in the normal course of business.

(W) “**Initial Dispute Notice**” means the written notice of a Dispute sent by the Notice Party, which notice shall be sufficiently detailed to reasonably inform the other Parties of the nature and underlying facts of the Dispute.

(X) “**Initial Term**” means the initial term of this Agreement, which shall be ten (10) years beginning on the Commencement Date.

(Y) “**Material Amount**” means, with respect to a Financial Default, an amount of Five Million Dollars (\$5,000,000) or more.

(Z) “**Media**” means all forms of promotional, marketing and/or advertising media now known or not yet existing, including, without limitation, print, radio, Internet, cinema, television or other broadcast or streaming (whether free-to-air, pay, cable, OTT, interactive or any other form of transmission) commercials and material, billboards, and point of sale material.

(AA) “**Notice Party**” means the Party claiming and initiating a Dispute by sending an Initial Dispute Notice.

(BB) “**Official Designations**” means (i) “Exclusive Championship Health Partner of LSU”, (ii) “Official Championship Health Partner of LSU”, (iii) “Official Health Partner of LSU”, (iv) “Official Partner of LSU”, (v) “Exclusive Championship Health Partner of Louisiana State University”, (vi) “Official Championship Health Partner of Louisiana State University”, (vii) “Official Health Partner of Louisiana State University”, (viii) “Official Partner of Louisiana State University”, (ix) “Proud Championship Health Partner of LSU”, (x) “Proud Health Partner of LSU”, (xi) “Proud Partner of LSU”, (xii) “Proud Championship Health Partner of Louisiana State University”, (xiii) “Proud Health Partner of Louisiana State University”, (xiv) “Proud Partner of Louisiana State University” and (xv) any other official designations (exclusive or non-exclusive) for the OLOL Parties relative to LSU on which the Parties may mutually agree, it being understood that LSU in good faith shall consider approving a request by the OLOL Parties for an official designation that is consistent with the OLOL Parties’ rights pursuant to this Agreement.

(CC) “**OLOL Rules**” means all rules, regulations policies and procedures applicable to OLOL or any person present at or performing services at OLOL facilities, including without limitations applicable legal requirements, The Joint Commission requirements, accreditation and licensing requirements, medical staff bylaws, hospital service standards, OLOL policies and procedures, corporate compliance programs, Ethical and Religious Directives for Catholic Health Care

Services (“ERDs”), Catholic Social Teachings, adopted "best practices," departmental requirements and coding and billing procedures as they may be amended from time to time.

(DD) “**Order**” means an order, injunction, judgment, decree, ruling, assessment or arbitration award of any governmental body or arbitrator.

(EE) “**Person**” means an individual or an entity (including but not limited to a corporation, general or limited partnership, a limited liability company, trust, or governmental unit) other than a Party or one of its Affiliates.

(FF) “**Public Records Act**” means Louisiana Revised Statutes 44:1, et seq.

(GG) “**Qualified Individual**” means an individual from outside the State of Louisiana with an understanding of academic health care and integrated health care delivery in a system context and significant experience resolving disputes.

(HH) “**Receiving Party**” means a Party who receives Confidential Information from a Disclosing Party as set forth in Section 11(H) and Section 12(E) below.

(II) “**Renewal Term**” means a period of time for which this Agreement is renewed by written agreement of the Parties.

(JJ) “**Research Programs**” means research related services or programs.

(KK) “**Shared Mission**” has the meaning set forth in Section 2(A) of this Agreement.

(LL) “**Sports Medicine Clinics**” means the clinics established by OLOL exclusively serving LSU student athletes and located as of the Effective Date of this Agreement at Broussard and in the Football operations center.

(MM) “**State**” means the State of Louisiana.

(NN) “**Tax Exempt Requirement**” means requirement(s) applicable to tax-exempt entities under Sections 501(c)(3) or 115 of the Internal Revenue Code.

(OO) “**Termination Date**” means the date the Wind Down Period shall end, which shall be (i) upon the expiration of the Initial Term or the Renewal Term then in effect, as applicable, or (ii) in the case of a Termination Notice, six (6) months from the date of the Termination Notice.

(PP) “**Termination Notice**” means a Party’s written notice of its intent to terminate this Agreement as well as all other Collaborative Agreements.

(QQ) “**Wind Down Period**” means a transition period upon the termination of the Affiliation to minimize potential disruption to the education, research and patient care services provided by OLOL and LSU, all as set forth in Section 8 below.



**Section 2. GOVERNING PRINCIPLES AND COMMITMENTS OF THE PARTIES.**

The Parties expressly acknowledge and agree that to achieve their mutual goals and objectives, the following Governing Principles will at all times guide the governance and decision-making of the Affiliation:

(A) **Shared Mission of Affiliation.** The Shared Mission of the Affiliation is to build upon the Parties' existing public-private partnership to truly transform the health of Louisiana. All Parties seek to demonstrate to Louisiana and beyond how LSU and OLOL can have a far greater impact together than separately, working jointly to extend healthcare accessibility to LSU students on LSU's Baton Rouge campus most in need whom the Parties are privileged to serve through expanding access, promoting equity and caring for the whole person. The Parties pledge to improve the health and wellbeing of the communities they service, with a particular focus on LSU students on LSU's Baton Rouge campus; support athletic excellence; foster research to catalyze economic development and innovation; and transform education for the future.

(B) **Shared Vision and Goals.** The Parties expressly acknowledge and agree that their goals in engaging in the Affiliation include the following:

- (i) Growing and enhancing medical education, research and the availability of Health Services, with a particular focus on LSU students on LSU's Baton Rouge campus;
- (ii) Promoting and supporting applied, clinical, and basic science research;
- (iii) Improving the quality and enhancing the patient experience of clinical care provided through the Affiliation;
- (iv) Maintaining and improving access to safety net health care services for vulnerable populations, specifically including LSU students of LSU's Baton Rouge campus;
- (v) Improving the health status of Louisiana residents, specifically including LSU students on LSU's Baton Rouge campus through the continued development of population health activities;
- (vi) Improving the quality, safety, and capacity of the health care facilities on LSU's Baton Rouge campus to improve access to quality care; and
- (vii) Retaining a better workforce for Louisiana by integrating health care and education.

(C) **Affiliation Components.** The Parties agree that the Affiliation expands upon existing relationships and education programs of OLOL and LSU and is composed of the following commitments, some of which have been documented as described below and included as attachments to this Agreement, and others, which will be further described herein or in separate agreements as described below:

- (i) LSU Sports Medicine Partner. OLOL, TAF, and LSU entered into a Gift and Pledge Agreement, effective June 30, 2022, whereby OLOL paid a \$6 million contribution, and commits to 9 additional annual contributions to create the OLOL Student-Athlete Health and Wellness Fund, which will be used solely to invest in programs benefitting the health and wellness of LSU student-athletes;
- (ii) In-Kind Care – Student and University Health. In line with the mission of FMOLHS and OLOL and current practices of servicing residents in the Baton Rouge metropolitan area, OLOL will provide equitable access to health care services to all LSU students by, in

part, furnishing in-kind charity care to uninsured and underinsured LSU students. OLOL shall establish programs valued at \$3 million annually for 10 years to serve uninsured and underinsured LSU students. Notwithstanding the forgoing, OLOL and LSU hereby acknowledge and agree that such funds shall not be used to provide free or reduced rate care to LSU students or any other commercial insurance, Medicaid or Medicare patients, except to the extent such free or reduced rate care is provided in accordance with the Financial Assistance for Student Health Policy, other related policies, and all federal and state laws and regulatory provisions;

(iii) LSU School of Medicine New Orleans Baton Rouge Branch Campus. Subject to compliance with applicable law and the provisions of this Agreement, OLOL shall invest \$20 million through a combination of philanthropic and direct investments (which may or may not be made to LSU) to be used for, but not limited to, growth in new and existing residency and fellowship programs at OLOL, dually promoted programs to expand high school students' interests in healthcare, and programs that provide broad training opportunities in clinical and non-clinical health-related professions;

(iv) Our Lady of the Lake Health Interdisciplinary Science Building. OLOL and the LSU Foundation entered into a Science Building Pledge Agreement, effective March 22, 2022, whereby OLOL paid a \$15,000,000.00 to name the building the Our Lady of the Lake Health Interdisciplinary Science Building, pursuant to the terms and provisions of the Science Building Pledge Agreement;

(v) OLOL-Direct Medical Support. OLOL shall create efficiencies and develop mechanisms designed to reduce overall costs of health and wellness care to LSU Athletics. The mechanism of cost reduction shall be accomplished by: (a) management of health care services furnished to the athletes within the Sports Medicine Clinics and the contracts associated with the medical providers in those clinics; (b) utilization of OLOL services for a fair market value rate documented in fee schedules; and (c) reduced cost of care for those athletes that meet the criteria of the OLOL Financial Assistance Program or other similar policies. OLOL anticipates the savings will be a minimum of \$1 million annually for 10 years. For the avoidance of doubt, this support requires no payment from OLOL to LSU;

(vi) LSU Student Health Center. In response to OLOL's interest of furnishing equivalent health care to LSU students and LSU student athletes, OLOL commits to invest \$10 million to develop an end-to-end healthcare experience within the LSU Student Health Center, which will be operated similarly to the OLOL LSU Health Clinics, including but not limited to maintaining the LSU Student Health Center as an LSU-OLOL cobranding presence;

(vii) OLOL Research Fund. OLOL, the LSU Foundation, and LSU entered into a Gift Agreement effective June 30, 2022, whereby OLOL paid a \$1,700,000.00 contribution, and commits to four annual additional \$1,700,000.00 contributions and a final \$1,500,000.00 contribution to be paid by July 31, 2027 to establish a research fund, held within the LSU Foundation, to be utilized at the discretion of the LSU President for institution-wide research that spans all LSU campuses within an emphasis on social determinants of health or such other priorities as may be agreed to by the Parties;

(viii) Sports Properties Partnership. OLOL and PlayFly Sports Properties, LLC entered into a Sponsorship Agreement, effective June 15, 2018, whereby PlayFly Sports Properties, LLC (formerly known as Outfront Media Sports, Inc.) (“PlayFly”) furnishes OLOL certain marketing rights with respect to LSU Athletics. OLOL and PlayFly shall restate that Sponsorship Agreement for a continued payment of at least \$1,000,000.00 per year for 10 years; and

(ix) OLOL Programmatic Support Fund. OLOL, TAF, and LSU entered into a Gift and Pledge Agreement, effective June 30, 2022, whereby OLOL made a \$500,000 contribution, and commits to 9 additional annual contributions of \$500,000.00 each, to establish the Our Lady of the Lake Programmatic Support Fund for LSU Athletics to be used for items including, but not limited to, special events to address emerging community needs and brand recognition opportunities to leverage unique occasions, as determined by LSU in consultation with OLOL and TAF.

The commitments described in Section 2(C)(i), Section 2(C)(ii), Section 2(C)(iii), Section 2(C)(v), and Section 2(C)(vi) shall be described in the CEA, as described below. The remaining commitments shall be governed pursuant to the terms of the applicable gift agreement.

### **Section 3. OVERSIGHT OF AFFILIATION.**

(A) **Oversight Advisory Committee.** OLOL and LSU will establish an Oversight Advisory Committee (the "OAC").

(i) **OAC Responsibilities.** Subject to the other terms and conditions of this Agreement, the OAC shall have overall advisory responsibility for managing the Affiliation, including, without limitation:

- (a) Review, oversight and recommending actions of the activities and findings of the Athletics/Sports Medicine Institute Committee;
- (b) Review, oversight and recommending actions of the activities and findings of the Student Health Clinical Services Committee;
- (c) Attempting to resolve any issues or disputes in the Affiliation that are subject to the Dispute Process; and
- (d) General oversight and assessment of the clinical quality and financial performance of the Affiliation.

(ii) **OAC Membership.** The OAC shall be comprised of eight (8) members with the following, or equivalent, positions. For OLOL, the members shall be the President of OLOL, or his or her designee; the President of FMOLHS, or his or her designee; the FMOLHS Chief Operating Officer; and the OLOL Chief Medical Officer. For LSU, the members shall be the President of LSU, or his or her designee, the EVP and Provost of LSU or his or her designee, the Director of Athletics or his or her designee, and the EVP and Chief Administrative Officer of LSU or his or her designee.

(iii) **OAC Advisory Only.** Notwithstanding anything to the contrary in this Agreement, the OAC shall be an advisory committee to assist in the implementation and operation of the Affiliation. Final decision making authority with respect to the Affiliation will reside in the chief executive officers and governing boards of the Parties and each of the Parties reserves the right to make final decisions with respect to such Party's assets and operations.

(iv) **OAC Meetings; Participation.** The OAC shall meet every six (6) months or as otherwise determined to be necessary, to review the performance and address any issues of the Affiliation. Each Party shall cause its designated representatives to regularly participate in OAC meetings and related activities and support the OAC in carrying out its purposes.

(v) **Voting.** Recommendations requiring the action of the OAC shall be authorized by majority vote.

#### **Section 4. COLLABORATIVE AGREEMENTS**

This Agreement provides the overall framework for the Affiliation. In addition to this Agreement, the Collaborative Agreements described below have been or will be executed. Subject to the Wind Down procedures set forth in Section 8, termination or expiration of this Agreement in accordance with its terms will automatically result in termination of each of the Collaborative Agreements, except for the agreements described in Sections 4(A) through 4(E) below, the termination of which shall be controlled by the terms of each applicable agreement. With respect to OLOL and LSU, in the case of a conflict between the terms of this Agreement and any other Collaborative Agreement, the terms of this Agreement shall control.

(A) **TAF Gift and Pledge Agreement.** OLOL, LSU and TAF previously entered into that certain Gift and Pledge Agreement, as described in Section 2(C)(i) and Section 2(C)(ix). A copy of the Gift and Pledge Agreement is attached hereto as Exhibit 4(A). Prior to or concurrently with the execution of this Agreement, the Parties and TAF shall enter into an amendment to the Gift and Pledge Agreement in substantially the same form attached hereto as Exhibit 4(A)(2) (the "TAF Gift Amendment").

(B) **CEA.** OLOL and LSU shall execute a CEA (the "CEA"), substantially in the form attached hereto as Exhibit 4(C). Key provisions of the CEA will include, but will not necessarily be limited to: (a) the creation of the OLOL Student-Athlete Health and Wellness Fund, as described in Section 2(C)(i); (b) the furnishing of in-kind charity care by OLOL to uninsured and underinsured LSU students, as described in Section 2(C)(ii); (c) the support of LSU Health Sciences Center – Baton Rouge educational programs, as described in Section 2(C)(iii); (d) the creation of efficiencies and development of mechanisms designed to reduce the overall costs of health and wellness care historically incurred by LSU, as described in Section 2(C)(v); and (e) the investment in the operation of the LSU Student Health Center, as described in Section 2(C)(vi).

(C) **Interdisciplinary Science Building Pledge Agreement.** OLOL and LSU Foundation previously entered into that certain Science Building Pledge Agreement, as described in Section 2(C)(iv). A copy of the Science Building Pledge Agreement is attached hereto as Exhibit 4(C).

(D) **LSU Foundation Gift Agreement.** OLOL, LSU and LSU Foundation previously entered into that certain Gift Agreement, as described in Section 2(C)(vii). A copy of the Gift Agreement is attached hereto as Exhibit 4(D). Prior to or concurrently with the execution of this Agreement, the Parties and LSU Foundation shall enter into an amendment to the Gift Agreement in substantially the same form attached hereto as Exhibit 4(D)(2) (the “Foundation Gift Amendment”).

(E) **Sponsorship Agreement.** OLOL and PlayFly shall enter into a Sponsorship Agreement, as described in Section 2(C)(vii), upon mutually agreeable terms, no later than December 31, 2022.

(F) **Facilities Use Agreement.** OLOL and LSU entered into a Facilities Use Agreement, effective as of July 1, 2022, for the use of certain clinic spaces on LSU campus. A copy of the Facilities Use Agreement is attached hereto as Exhibit 4(E).

(G) **Clinic Leases.** LSU shall lease the following spaces to OLOL or its Affiliate for the physician clinics listed below at a fair market value rate, and upon commercially reasonable landlord/tenant terms, pursuant to one or more lease agreements to be entered into by LSU and OLOL (or its Affiliate) no later than February 22, 2023:

- (i) Broussard Athletic Facility;
- (ii) Student Health Center; and
- (iii) space within the LSU football operations building.

The Parties acknowledge and agree that any OLOL payment obligations under the lease described in Section 4(G)(ii) shall be invoiced to OLOL and credited by OLOL’s allocation of the Student Health Fee (as described in Section 2.1(h) of the CEA) and the leases described in Section 4(G)(i) and 4(G)(ii) shall be invoiced to OLOL and credited to OLOL by the financial commitments made by OLOL under Sections 2(C)(i) or 2(C)(vi) of this Agreement. OLOL shall not make any separate payments to LSU to cover the lease of space described in this Section.

(H) **Additional Spaces.** OLOL or its Affiliate may lease space in the LSU Student Union to operate the MyChart Bar and the Faculty and Staff Clinic, provided that OLOL shall not be required to lease either in connection with the Affiliation. OLOL decision to not lease these spaces shall not impact the Championship Health Partnership with LSU. In the event the Parties proceed with a lease, the lease will be at fair market value, and upon commercially reasonable landlord/tenant terms, pursuant to a lease to be negotiated between the Parties.

(I) **Employee Services Agreement.** The staff of the Student Health Center will be subject to a contract for professional or personal services between LSU to OLOL, upon commercially reasonable terms, pursuant to an agreement to be negotiated between the Parties and executed no later than February 22, 2023. The Parties acknowledge and agree that any OLOL payment obligations under the employee agreement shall be invoiced to OLOL and credited by OLOL’s allocation of the Student Health Fee (as described in Section 2.1(h) of the CEA). OLOL shall not make any separate payments to LSU to cover the contract with employees described in this Section.

**Section 5. EXCLUSIVITY.**

(A) Throughout the Initial Term and any Renewal Term, OLOL will have the exclusive rights defined below within the Covered Business Category:

- (i) The use of the phrase, or reference as, the “Championship Healthcare Partner” of LSU and all other similar titles or monikers identified in this Agreement as Official Designations;
- (ii) The use of LSU trademarks, trade names and logos and any other trademarks, trade names and logos created to be associated with the Official Designations, which will be developed and approved by a Branding Committee comprising OLOL and LSU representatives, each acting reasonably;
- (iii) The exterior naming of the LSU interdisciplinary science building;
- (iv) Co-Branding (with LSU as primary) of the LSU Baton Rouge A&M campus Student Health Center; and
- (v) All rights validly conveyed by virtue of OLOL’s current and future sponsorship agreements with PlayFly.

(B) Throughout the Initial Term and any Renewal Term, the OLOL Parties will be recognized as the exclusive Championship Health Partner of the LSU Baton Rouge A&M campus through the use of any Official Designations. No Person in the Covered Business Category, other than the OLOL Parties (or its permitted assigns or recipients of its pass-through rights pursuant to Section 5(A)(iv) below), shall be recognized with respect to the LSU Baton Rouge A&M campus with a title or designation of similar meaning, including any title or designation encompassing any sub-category within the Covered Business Category (i.e., “Proud Urgent Care Provider of LSU”), or permitted use of any LSU trademarks, trade name or logos, without the prior written consent of OLOL; provided, however, OLOL acknowledges the current LCMC Health partnership with LSU, which includes the creation and construction of a cancer center; cancer research, treatment and care; and the pursuit of the National Cancer Institute Designation. LCMC Health is expressly permitted to use the LCMC-LSU Cancer Center partnership moniker when referring to the relationship it shares with LSU with respect to its cancer endeavors.

(C) For the avoidance of doubt, LSU and its officially recognized affiliated fundraising organizations, including but not limited to Foundation and TAF, may solicit donations and sponsorships within the Covered Business Category and recognize donors and sponsors through:

- (i) on-field presentations, public address, press and media announcements (including re-posting of such announcements by donors and sponsors);
- (ii) naming of academic or non-athletic buildings, facilities, spaces, campus units, scholarships and programs;
- (iii) naming of interior spaces of athletic buildings and facilities so long as such naming does not include the trademarks or logos of such donor or sponsor; and

(iv) advertising, promotion, sponsorship, publication, promotional events for services in the Covered Business Category that may occur with respect to LSU campuses, facilities, colleges and universities that are not located on or are not component parts of the LSU Baton Rouge A&M campus so long as any use of trademarks, trade names or logos with respect thereto are limited to the campus specific trademarks, trade names or logos and not those associated with the LSU Baton Rouge A&M campus.

(D) Intentionally omitted.

(E) The OLOL Parties may authorize or grant in writing the rights granted to them in this Agreement to one or more entities listed on Schedule 5(E) as such is amended with approval by LSU, with such approval not to be unreasonably withheld, conditioned or delayed, to market, produce or distribute products or services within the Covered Business Category or to market its general corporate identity; provided, however, that any such utilization shall be in accordance with the terms of this Agreement and the OLOL Parties shall remain liable for all of its duties and obligations pursuant to this Agreement notwithstanding any such pass-through rights.

(G) **Student-Athlete Name, Image and Likeness.** Subject to the other provisions of this Agreement, the laws of the State and the athletic rules promulgated by any governing body that has the power to regulate LSU Athletics, including, without limitation, the Southeastern Conference and the National Collegiate Athletic Association (the “**Athletics Related Rules**”) throughout the Initial Term and any Renewal Term, LSU will use efforts no less than the efforts LSU makes for any of its other sponsors to facilitate introduction to LSU student-athletes.

**Section 6. DISPUTE RESOLUTION.** Except with respect to the Gift and Pledge Agreement, Science Building Agreement, Gift Agreement and Sponsorship Agreement, and subject to Section 6(D) below regarding Financial Defaults, in the event of a Dispute, the Dispute Process below shall be the exclusive means available to the Parties, and the Parties shall follow the Dispute Process in a good faith attempt, to resolve the Dispute:

(A) **Informal Discussions.** The Notice Party shall first send the Initial Dispute Notice to the other Parties. Within fifteen (15) days of the other Parties’ receipt of the Initial Dispute Notice, the leadership of the Affiliation, including, without limitation, the Vice President, Quality and Academic Affairs for OLOL and the Executive Vice President and Chief Administrative Officer for LSU, as appropriate, will confer in an effort to resolve the Dispute through informal negotiation. The Parties shall strive in good faith to resolve all Disputes through the informal process in accordance with this Section whenever possible; provided, however, if forty-five (45) days have elapsed since issuance of the Initial Dispute Notice and the Parties have neither resolved the Dispute nor made sufficient progress towards resolving the Dispute, in either instance to the reasonable satisfaction of the Notice Party, then the Notice Party may refer the Dispute for more formal negotiations according to and as set forth in Section 6(B) below.

(B) **Executive Discussions.** If the Notice Party desires to refer the Dispute for more formal negotiations according to this Section, the Notice Party shall send an Affiliation Dispute Notice to the other Parties, and the Parties shall follow the procedure set forth below in a good-faith attempt to resolve the Dispute:

(i) The Dispute will be referred to the OAC for discussion and resolution at a regular or special meeting of the OAC held within thirty (30) days of the issuance of the Affiliation Dispute Notice, provided that the President of FMOLHS and the President of LSU shall not participate.

(ii) If the OAC is unable to resolve the Dispute in accordance with Section 6(B)(i) above, then the OLOL President and LSU President and/or their designees shall attempt to resolve the Dispute one-on-one.

(C) **Mediation.** If the OLOL President and the LSU President and/or their designees are unable to resolve the Dispute, the Notice Party may refer the Dispute for non-binding mediation as follows:

(i) The Parties shall identify a Qualified Individual. Upon disclosure of any prior relationships with any Party or any principal of any Party or any other actual or potential conflict of interest and the agreement of the Parties and the Qualified Individual, such Qualified Individual will serve as mediator.

(ii) If the Parties are unable to agree on a Qualified Individual to act as the mediator, each Party will name a Qualified Individual, and those two (2) Qualified Individuals will select a third Qualified Individual who, upon disclosure of any prior relationships with any Party or any principal of any Party or any other actual or potential conflict of interest, will serve as the mediator.

(iii) The mediator shall mediate the Dispute for a period of time not to exceed sixty (60) days (unless extended by mutual agreement of the Parties). The Parties will follow such process(es) as the mediator may prescribe, including without limitation submission of written position statements, participation in conference calls, and attendance at meetings. All proceedings in connection with the mediation are for purposes of settlement and shall be confidential and inadmissible as evidence at any trial, hearing, or other legal proceeding. The mediator shall not issue any findings of fact, conclusions of law, or recommendations.

(iv) In the event that the Dispute is not resolved to a Party's satisfaction at the conclusion of mediation, such Party may elect as a matter of right to issue a Termination Notice and initiate the wind down and dissolution of the Affiliation in accordance with Section 8. In accordance with Section 7(E), no Party to this Agreement or the CEA shall have a right to injunctive or other relief to prevent termination of this Agreement or the CEA and wind down of the Affiliation following such Termination Notice, but shall not be precluded from pursuing a claim for damages for wrongful termination of this Agreement or the CEA or to enforce any other remedy under law owed to such Party under this Agreement or the CEA. In the event that any Party elects to incur legal expenses



to pursue a claim for monetary damages or enforce any right under the Agreement or the CEA, the prevailing Party will be entitled to recover such legal expenses, including, without limitation, reasonable attorneys' fees, costs and necessary disbursements, in addition to such other money damages or other relief to which such Party shall be entitled.

(D) **Financial Defaults.** In the event of a Financial Default, the Parties are not required to follow the Dispute Process set forth in Section 6 above. Instead, the Defaulting Party shall have a Financial Default Cure Period following the provision of notice of Financial Default by the non-Defaulting Party to the Defaulting Party to pay the amount owed in full. If the Defaulting Party: (i) fails to cure a Financial Default in full within the Financial Default Cure Period, or (ii) incurs three (3) or more Financial Defaults in any given fiscal year within the Term, regardless of whether cured, the non-Defaulting Party may issue a notice of intent to terminate this Agreement and the CEA under which the Financial Default arose, and initiate wind down and dissolution of the Affiliation in accordance with Section 8. In accordance with Section 7(E) of this Agreement, neither the Defaulting Party nor any other party to this Agreement or the CEA shall have a right to injunctive or other relief to prevent termination of this Agreement or the CEA and wind down of the Affiliation under this Section, but shall not be precluded from pursuing a claim for damages for wrongful termination of this Agreement or the CEA or to enforce any other remedy under law owed to such Party under this Agreement. In the event that any Party elects to incur legal expenses to pursue a claim for monetary damages or enforce any right under the Agreement or the CEA, the prevailing Party will be entitled to recover such legal expenses, including, without limitation, reasonable attorneys' fees, costs and necessary disbursements, in addition to such other money damages or other relief to which such Party shall be entitled.

## **Section 7. TERM AND TERMINATION.**

(A) **Term.** Unless earlier terminated as provided herein, and subject to any applicable Wind Down Period provided in Section 8, this Agreement shall begin on the Commencement Date and shall continue for ten (10) years (the "Initial Term"). Beginning on the expiration of the eighth (8<sup>th</sup>) year of the Initial Term, the Parties shall begin good faith negotiations to extend the term for an additional ten (10) year period and shall finalize such negotiations by the expiration of the ninth (9<sup>th</sup>) year of the Initial Term.

(B) **Termination Events.** Any Party may give a Termination Notice prior to the expiration of the Initial Term or any Renewal Term upon the occurrence of any of the following events:

- (i) The mutual agreement of the Parties;
- (ii) Failure of any Party to execute the CEA by February 22, 2023;
- (iii) Termination of any of the Collaborative Agreements without the consent of the other Parties thereto, provided that termination of any of the Collaborative Agreements without the consent of all Parties thereto shall result in the termination of this Agreement, the CEA and the Collaborative Agreements described in Sections 4(F) – 4(I) above;

(iv) Any Party has made any representation or warranty in this Agreement or any other Collaborative Agreement which is at any time found to have been inaccurate in any material respect at the time such warranty or representation was made, provided that inaccuracies that are not the result of intentional misrepresentation, are not reasonably anticipated to have a material impact on the Affiliation, or which are corrected on or before the Commencement Date, shall be excused and shall not be grounds for a Termination Notice under this Section;

(v) In accordance with Section 6(D), if OLOL fails to cure a Financial Default in full within the Financial Default Cure Period;

(vi) If a Party shall apply for or consent to the appointment of a receiver, trustee or liquidator of such party or of all or a substantial part of its assets, file a voluntary petition in bankruptcy, make a general assignment for the benefit of creditors, file a petition or an answer seeking reorganization or arrangements with creditors or to take advantage of any insolvency law, or if an order, judgment or decree shall be entered by any court of competent jurisdiction, on the application of a creditor, adjudicating such Party bankrupt or insolvent, and such order, judgment or decree shall be entered by any court of competent jurisdiction, on the application of a creditor, adjudicating such Party bankrupt or insolvent, and such order, judgment or decree shall continue unstayed and in effect for any period of ninety (90) consecutive days;

(vii) A breach by OLOL or LSU of any material term of this Agreement or any other Collaborative Agreement and a failure to cure such breach within forty-five (45) following receipt of written notice from the non-breaching party; or

(viii) Any Dispute regarding a Party's right to terminate this Agreement in accordance with Section 7(B)(ii), Section 7(B)(iii), or Section 7(B)(iv) shall be subject to the Dispute Process in Section 6.

(C) **Effects of Termination Notice.** The issuance of a Termination Notice will commence the Wind Down Period as provided in Section 8. The Parties will continue to comply with all terms and conditions of this Agreement and the CEA throughout the Wind Down Period.

(D) **Termination Upon Termination of the CEA.** The expiration or termination of the CEA shall automatically terminate this Agreement subject to the Wind Down Period as provided in Section 8.

(E) **Express Waiver of Claims for Injunctive Relief.** No Party nor any other party to this Agreement or the CEA shall have a right to injunctive or other relief to prevent termination of this Agreement or the CEA and wind down of the Affiliation at any time following the occurrence of any event that could give rise to a Termination Notice under Section 7(B) of this Agreement.

**Section 8. WIND DOWN RESOLUTION.** The Parties acknowledge and agree that if the Affiliation is terminated for any reason, it is imperative that the Parties continue to work together in good faith, in accordance with the Governing Principles, and as fiduciaries to the Affiliation,

during the Wind Down Period to minimize potential disruption to the education, research and patient care services provided by OLOL and LSU.

(A) **Wind Down Period.** The Wind Down Period will commence upon (i) upon the expiration of the Initial Term or the Renewal Term then in effect, as applicable, or (ii) in the case of a Termination Notice, six (6) months from the date of the Termination Notice and will end on the Termination Date.

(B) **Wind Down Process.** As soon as practicable following commencement of the Wind Down Period, the Parties shall begin discussions for the winding down of the Affiliation. LSU and OLOL will establish a committee consisting of at least four (4) people, with each of LSU and OLOL appointing an equal number of members of the committee, to coordinate and oversee such process. The Parties will work together in good faith to minimize the impact of the transition on patient care, which will be more fully described in the CEA. Additional areas to be addressed and, to the extent possible, concluded during the Wind Down Period to assure an orderly transition will include, but are not limited to, the following:

(i) Ongoing compliance with all terms and conditions of all Collaborative Agreements through the Termination Date;

(ii) Reasonable communication and cooperation with the other parties to the Collaborative Agreements (e.g. TAF, the Foundation and PlayFly) regarding any necessary actions or documentation for winding down the Affiliation; and

(iii) Such other issues as the Parties may need to address to assure the orderly transition with minimal disruption to the education, research and patient care services provided by OLOL and LSU.

## **Section 9. REPRESENTATIONS AND WARRANTIES.**

(A) **LSU Representations and Warranties.** LSU represents and warrants that the statements contained in this Section 9(A) are correct and complete as of the Effective Date or will be correct and complete as of the Commencement Date.

(i) LSU is a public constitutional corporation organized under the laws of Louisiana. LSU is validly existing and in good standing under the laws of Louisiana.

(ii) This Agreement constitutes the legal, valid and binding obligation of LSU, enforceable against it in accordance with its terms, and any other agreement executed and delivered by LSU in connection with this Agreement will constitute the legal, valid and binding obligation of LSU, enforceable against it in accordance with its terms. LSU's Board of Supervisors has authorized the execution and delivery of this Agreement and such other documents to which it is a party and the performance of all of LSU's obligations hereunder and thereunder.

(iii) To LSU's knowledge, neither the execution and delivery of this Agreement nor the consummation or performance of any obligation under any of the Collaborative Agreements will, directly or indirectly (with or without notice or lapse of time):

(a) Conflict with any resolution adopted by LSU's Board of Supervisors;

(b) Give any governmental body or other person the right to any successful remedy or relief under any legal requirement to which LSU may be subject;

(c) Contravene, conflict with, or result in a violation or breach of any of the terms or requirements of, or give any governmental body the right to revoke, withdraw, suspend, cancel, terminate or modify any governmental authorization held by LSU; or

(d) Cause OLOL to become subject to, or to become liable for the payment of, any liability of LSU.

(iv) LSU warrants that it will not take any action, fail to take any action, enter into any agreement or consummate any transaction that would prevent LSU from performing its obligations under this Agreement or any other Collaborative Agreement.

(v) All corporate actions of LSU necessary for the execution, delivery, and performance of this Agreement and the performance of the Collaborative Agreements and requiring board approvals have been taken pursuant to proper and valid board approval. The execution and delivery of this Agreement and all other documents executed in connection herewith by LSU and the performance of its obligations under the Collaborative Agreements will not result in the creation of any material lien, charge, or encumbrance of any kind or the acceleration of any material indebtedness or other material obligation of LSU and are not and will not be prohibited by, do not and will not materially violate or conflict with any provision of, and do not and will not constitute a material default under or a material breach of the governing documents of LSU, nor will it have a material adverse effect upon any contract, lease, agreement, indenture, mortgage, pledge, lease, sublease, option, or commitment to which LSU is a party or by which LSU is bound.

(vi) All LSU personnel who are medical providers providing services under this Affiliation are participating in or otherwise authorized to receive reimbursement from Medicare and Medicaid. To the extent directly related to this Affiliation, all necessary certifications and contracts required for participation in such programs are in full force and effect and have not been amended or otherwise modified, rescinded, revoked or assigned, and, to LSU's knowledge, no condition exists or event has occurred which in itself or with the giving of notice or the lapse of time or both would result in the suspension, revocation, impairment, forfeiture or non-renewal of any such third-party payer program, or, except as expressly disclosed by LSU to OLOL through due diligence, the obligation to make any repayment with respect to any federal health care program. No LSU personnel providing services under the Affiliation are excluded from participation in Medicare, Medicaid or any other federal health care program.

(vii) To LSU's knowledge, except as expressly disclosed by LSU to OLOL through due diligence, no LSU personnel providing services in under the Affiliation have engaged in any activities which are prohibited under any Health Care Law, or the regulations promulgated thereunder pursuant to such statutes, or related state or local statutes or regulations, or which are prohibited by rules of professional conduct, including the following: (a) knowingly and willfully making or causing to be made a false statement or representation of a fact in any application for any benefit or payment; (b) knowingly and willfully making or causing to be made any false statement or representation of a fact for use in determining rights to any benefit or payment; (c) knowingly and willingly concealing any event affecting the initial or continued right to receive any benefit or payment with intent to fraudulently secure such benefit or payment in an amount or quantity greater than that which is due or which is authorized; or (d) knowingly and willfully soliciting or receiving any remuneration (including any kickback, bribe, or rebate), directly or indirectly, overtly or covertly, in cash or in kind or offering to pay or receive such remuneration (1) in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part by Medicare or Medicaid or (2) in return for purchasing, leasing, or ordering or arranging for or recommending purchasing, leasing, or ordering any good, facility, service or item for which payment may be made in whole or in part by Medicare or Medicaid. LSU is not a party to any Corporate Integrity Agreement or similar settlement, compliance, or oversight agreement with any governmental body relating to the Health Care Laws, but only to the extent such agreements are reasonably likely to have a material adverse effect on the Affiliation.

(viii) There is no Order to which LSU is subject that would limit or affect LSU's ability to enter into or perform any obligation under this Agreement or any other Collaborative Agreement.

Notwithstanding anything herein to the contrary, the Parties acknowledge and agree that LSU's non-compliance with any of the representations and warranties made under this Section 9(A) that are not reasonably anticipated to have a material adverse effect on the Affiliation shall not be grounds for a Termination Notice under Section 7(B).

**(B) OLOL Representations and Warranties.** OLOL represents and warrants that the statements contained in this Section 9(B) are correct and complete as of the Effective Date or will be correct and complete as of the Commencement Date.

(i) OLOL is a nonprofit corporation organized under the laws of Louisiana. OLOL is validly existing and in good standing under the laws of Louisiana.

(ii) This Agreement constitutes the legal, valid and binding obligation of OLOL, enforceable against it in accordance with its terms, and any other agreement executed and delivered by OLOL in connection with this Agreement will constitute the legal, valid and binding obligation of OLOL, enforceable against it in accordance with its terms. OLOL's Board of Directors has authorized the execution and delivery of this Agreement and such

other documents to which it is a party and the performance of all of OLOL's obligations hereunder and thereunder.

(iii) To OLOL's knowledge, neither the execution and delivery of this Agreement nor the consummation or performance of any obligation under any of the Collaborative Agreements will, directly or indirectly (with or without notice or lapse of time):

(a) Breach any resolution adopted by OLOL's Board of Directors;

(b) Give any governmental body or other person the right to any successful remedy or relief under any legal requirement to which OLOL may be subject;

(c) contravene, conflict with, or result in a violation or breach of any of the terms or requirements of, or give any governmental body the right to revoke, withdraw, suspend, cancel, terminate or modify any governmental authorization held by OLOL; or

(d) Cause LSU to become subject to, or to become liable for the payment of, any liability of OLOL.

(iv) OLOL warrants that it will not take any action, fail to take any action, enter into any agreement or consummate any transaction that would prevent OLOL from performing its obligations under this Agreement.

(v) All corporate actions of OLOL necessary for the execution, delivery, and performance of this Agreement and the performance of the Collaborative Agreements and requiring board approvals have been taken pursuant to proper and valid board approval. The execution and delivery of this Agreement and all other documents executed in connection herewith by OLOL and the performance of its obligations under the Collaborative Agreements will not result in the creation of any material lien, charge, or encumbrance of any kind or the acceleration of any material indebtedness or other material obligation of OLOL and are not and will not be prohibited by, do not and will not materially violate or conflict with any provision of, and do not and will not constitute a material default under or a material breach of the governing documents of OLOL, nor will it have a material adverse effect upon any contract, lease, agreement, indenture, mortgage, pledge, lease, sublease, option, or commitment to which OLOL is a party or by which OLOL is bound.

(vi) All OLOL personnel who are medical providers providing services under the Affiliation are participating in or otherwise authorized to receive reimbursement from Medicare and Medicaid. To the extent directly related to the Affiliation, all necessary certifications and contracts required for participation in such programs are in full force and effect and have not been amended or otherwise modified, rescinded, revoked or assigned, and, to OLOL's knowledge, no condition exists or event has occurred which in itself or with the giving of notice or the lapse of time or both would result in the suspension, revocation, impairment, forfeiture or non-renewal of any such third-party payer program, or, except as expressly disclosed by OLOL to LSU through due diligence, the obligation to make any repayment with respect to any federal health care program. No OLOL personnel providing

services under the Affiliation are excluded from participation in Medicare, Medicaid, or any other federal health care program.

(vii) To OLOL's knowledge, except as expressly disclosed by OLOL to LSU through due diligence, no OLOL personnel providing services under the Affiliation have engaged in any activities which are prohibited under any Health Care Law, or the regulations promulgated thereunder pursuant to such statutes, or related state or local statutes or regulations, or which are prohibited by rules of professional conduct, including the following: (a) knowingly and willfully making or causing to be made a false statement or representation of a fact in any application for any benefit or payment; (b) knowingly and willfully making or causing to be made any false statement or representation of a fact for use in determining rights to any benefit or payment; (c) knowingly and willingly concealing any event affecting the initial or continued right to receive any benefit or payment with intent to fraudulently secure such benefit or payment in an amount or quantity greater than that which is due or which is authorized; or (d) knowingly and willfully soliciting or receiving any remuneration (including any kickback, bribe, or rebate), directly or indirectly, overtly or covertly, in cash or in kind or offering to pay or receive such remuneration (1) in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part by Medicare or Medicaid or (2) in return for purchasing, leasing, or ordering or arranging for or recommending purchasing, leasing, or ordering any good, facility, service or item for which payment may be made in whole or in part by Medicare or Medicaid. OLOL is not a party to any Corporate Integrity Agreement or similar settlement, compliance, or oversight agreement with any governmental body relating to the Health Care Laws, but only to the extent such agreements are reasonably likely to have a material adverse effect on the Affiliation.

(viii) There is no Order to which OLOL is subject that would limit or affect OLOL's ability to enter into or perform any obligation under this Agreement or any other Collaborative Agreement.

Notwithstanding anything herein to the contrary, the Parties acknowledge and agree that OLOL's non-compliance with any of the representations and warranties made under this Section 9(B) that are not reasonably anticipated to have a material adverse effect on the Affiliation shall not be grounds for a Termination Notice under Section 7(B).

**(C) FMOLHS Representations and Warranties.** FMOLHS represents and warrants that the statements contained in this Section 9(C) are correct and complete as of the Effective Date or will be correct and complete as of the Commencement Date.

(i) FMOLHS is a nonprofit corporation organized under the laws of Louisiana. FMOLHS is validly existing and in good standing under the laws of Louisiana.

(ii) This Agreement constitutes the legal, valid and binding obligation of FMOLHS, enforceable against it in accordance with its terms, and any other agreement executed and delivered by FMOLHS in connection with this Agreement will constitute the legal, valid

and binding obligation of FMOLHS, enforceable against it in accordance with its terms. FMOLHS' Board of Trustees has authorized the execution and delivery of this Agreement and such other documents to which it is a party and the performance of all of FMOLHS' obligations hereunder and thereunder.

(iii) To FMOLHS' knowledge, neither the execution and delivery of this Agreement nor the consummation or performance of any obligation under any of the Collaborative Agreements will, directly or indirectly (with or without notice or lapse of time):

(a) Breach any resolution adopted by FMOLHS' Board of Trustees;

(b) Give any governmental body or other person the right to any successful remedy or relief under any legal requirement to which FMOLHS may be subject;

(c) contravene, conflict with, or result in a violation or breach of any of the terms or requirements of, or give any governmental body the right to revoke, withdraw, suspend, cancel, terminate or modify any governmental authorization held by FMOLHS; or

(d) Cause LSU to become subject to, or to become liable for the payment of, any liability of FMOLHS.

(iv) FMOLHS warrants that it will not take any action, fail to take any action, enter into any agreement or consummate any transaction that would prevent FMOLHS from performing its obligations under this Agreement.

(v) All corporate actions of FMOLHS necessary for the execution, delivery, and performance of this Agreement and the performance of the Collaborative Agreements and requiring board approvals have been taken pursuant to proper and valid board approval. The execution and delivery of this Agreement and all other documents executed in connection herewith by FMOLHS and the performance of its obligations under the Collaborative Agreements will not result in the creation of any material lien, charge, or encumbrance of any kind or the acceleration of any material indebtedness or other material obligation of FMOLHS and are not and will not be prohibited by, do not and will not materially violate or conflict with any provision of, and do not and will not constitute a material default under or a material breach of the governing documents of FMOLHS, nor will it have a material adverse effect upon any contract, lease, agreement, indenture, mortgage, pledge, lease, sublease, option, or commitment to which FMOLHS is a party or by which FMOLHS is bound.

(vi) To FMOLHS' knowledge, except as expressly disclosed by FMOLHS to LSU through due diligence, no FMOLHS personnel providing services under the Affiliation have engaged in any activities which are prohibited under any Health Care Law, or the regulations promulgated thereunder pursuant to such statutes, or related state or local statutes or regulations, or which are prohibited by rules of professional conduct, including the following: (a) knowingly and willfully making or causing to be made a false statement or representation of a fact in any application for any benefit or payment; (b) knowingly and



willfully making or causing to be made any false statement or representation of a fact for use in determining rights to any benefit or payment; (c) knowingly and willingly concealing any event affecting the initial or continued right to receive any benefit or payment with intent to fraudulently secure such benefit or payment in an amount or quantity greater than that which is due or which is authorized; or (d) knowingly and willfully soliciting or receiving any remuneration (including any kickback, bribe, or rebate), directly or indirectly, overtly or covertly, in cash or in kind or offering to pay or receive such remuneration (1) in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part by Medicare or Medicaid or (2) in return for purchasing, leasing, or ordering or arranging for or recommending purchasing, leasing, or ordering any good, facility, service or item for which payment may be made in whole or in part by Medicare or Medicaid. FMOLHS is not a party to any Corporate Integrity Agreement or similar settlement, compliance, or oversight agreement with any governmental body relating to the Health Care Laws, but only to the extent such agreements are reasonably likely to have a material adverse effect on the Affiliation.

(vii) There is no Order to which FMOLHS is subject that would limit or affect FMOLHS's ability to enter into or perform any obligation under this Agreement or any other Collaborative Agreement.

Notwithstanding anything herein to the contrary, the Parties acknowledge and agree that FMOLHS' non-compliance with any of the representations and warranties made under this Section 9(C) that are not reasonably anticipated to have a material adverse effect on the Affiliation shall not be grounds for a Termination Notice under Section 7(B).

**Section 10. REGULATORY COMPLIANCE.** This Agreement is intended to comply with all, Athletics Related Rules, Health Care Laws and all requirements applicable to tax-exempt entities under Sections 501(c)(3) or 115 of the Code, and nothing herein is intended to require, nor shall this Agreement or any other Collaborative Agreement be construed or interpreted as requiring, directly or indirectly, explicitly or implicitly, any Party to take any action that would violate any Athletics Related Rules, Health Care Law, jeopardize its tax-exempt status or the tax-exempt status of its bonds, if any, or impact its ability to receive governmental or private funds for the provision of health care services. Accordingly, each Party represents that to the best of its knowledge no part of any consideration paid hereunder is a prohibited payment for the recommending or arranging for the referral of business or the ordering of items or services; nor are any payments intended to induce illegal referrals of business. If any Party determines in good faith that the terms of this Agreement or any other Collaborative Agreement violate any Athletics Related Rules, Health Care Law or Tax Exempt Requirement, or in case of a Change of Law that results in any Party determining in good faith that this Agreement or any Collaborative Agreement would or could potentially violate any Health Care Law in any material respect or jeopardize its tax-exempt status, the Parties will negotiate in good faith to amend this Agreement and/or any other Collaborative Agreement to assure continuing compliance with all Athletics Related Rules, Health Care Laws and Tax Exempt Requirements. If the Parties disagree as to the impact of any Athletics Related Rules, Health Care Law, Tax Exempt Requirement or Change of Law on this Agreement or any other Collaborative Agreement, or are unable to reach agreement on an amendment to this Agreement or any other

Collaborative Agreement to the satisfaction of both Parties, such disagreement will be considered a Dispute subject to resolution in accordance with the Dispute Process under Section 6.

## **Section 11. OWNERSHIP AND MANAGEMENT OF INTELLECTUAL PROPERTY**

(A) **Research Activity Terms.** With respect to any research activities conducted as part of the Affiliation for which collaboration between OLOL and LSU may result in Inventions or other Intellectual Property, the provisions of this Section 11 shall apply. Notwithstanding the foregoing, the Parties may elect to modify the provisions of Section 11 for specific research activities by a separate agreement, the provisions of which shall supersede, to the extent inconsistent, the terms of this Section 11. All research activities conducted as part of the Affiliation shall comply with the applicable conflict of interest policies of OLOL and LSU.

(B) **Development and Notice.** As soon as reasonably possible in each case, and prior to any disclosure to third parties, all Inventions shall be disclosed in writing to the OLOL partnership representative and LSU partnership representative using an Invention disclosure form approved by both OLOL and LSU. The OLOL partnership representative and LSU partnership representative shall be kept fully informed in writing of the progress and results of all research and development work done with respect to such Inventions. Once such Invention is disclosed to the Parties, the Invention shall be maintained in confidence between the Parties, subject to the provisions of Section 11(H).

### **(C) Ownership; Prosecution.**

(i) Unless otherwise agreed to by the Parties in a separate written agreement with respect to a particular Invention or other Intellectual Property, any Invention or Intellectual Property which results from any research or other collaborative activity conducted jointly between the Parties shall be owned equally by the Parties.

(ii) The Parties will jointly select and approve outside counsel prior to incurring any IP Expenses. If the Parties cannot agree on outside counsel, OLOL shall select such outside counsel pursuant to its obligations under Section 11(C)(iv) hereof.

(iii) The Parties will each use their best efforts to ensure that joint inventors, co-authors, and other persons involved in the development of the Intellectual Property fully cooperate in the preparation, filing, prosecution and maintenance of the Patent Rights and other Intellectual Property.

(iv) Unless otherwise agreed to by the Parties with respect to a specific Invention or Intellectual Property, OLOL shall be responsible for preparing, filing, prosecuting, defending, and maintaining the Patent Rights or other IP rights made in the name of both Parties and will consult with and keep LSU fully informed of the status thereof. OLOL will copy LSU on all IP-related communications, including, but not limited to, patent applications, copyright applications, office actions, and responses. The Parties each have the right to review and comment upon the wording of specifications, claims, and responses to office actions prior to their submission to the appropriate governmental office. Patent

Rights or other IP rights will not be abandoned without the written consent of both Parties. If OLOL anticipates extraordinary IP Expenses arising from the preparation, filing, prosecution, maintenance or defense of any patent application, patent, or other 113 right contemplated by this Agreement, then OLOL will provide LSU with full details and together the Parties will determine a mutually acceptable course of action prior to incurring such expenditures.

(v) Either Party may, upon reasonable written notice to the other Party, discontinue paying its portion of the IP Expenses associated with any particular patent application, patent, or IP right within any national jurisdiction (the "Discontinuing Party"). The other Party may continue to pay the IP Expenses (the "Continuing Party") and in so doing will own all right, title and interest in and to that Intellectual Property and its associated patent application, patent, or applicable rights within such national jurisdiction. The Discontinuing Party shall have no further rights in and to that particular Invention, patent application, patent, or Intellectual Property within such national jurisdiction and shall execute any assignments necessary to transfer full title to the Continuing Party.

(D) **Licensing.** The Parties agree to cooperate to commercialize, utilize and exploit each Invention, Patent Rights, or Intellectual Property, and will keep each other informed of all interest expressed by third parties. Notwithstanding the above, neither Party has any right to commercialize, utilize, exploit and/or license the Invention, Patent Rights, or Intellectual Property without the express written permission of the other Party, which will not be unreasonably withheld. All licenses with respect to the Invention, Patent Rights, or Intellectual Property will be made jointly in the name of and executed by both Parties and will be negotiated and administered by OLOL.

(E) **Expenses, Payments, and Reports.**

(i) Each Party agrees to share IP Expenses in proportion to its ownership interest in the IP. Each Party will be responsible for paying the percentage of IP Expenses equal to its respective ownership percentage interest in the IP. Both Parties recognize the other Party may incur certain legal expenses regarding the Invention, Patent Rights, or Intellectual Property with matters pertaining solely to the Party incurring such expense. In such circumstances, such expenses will not be considered IP Expenses. OLOL will maintain adequate records showing all IP Expenses incurred, which will be made available to LSU for inspection upon reasonable written notice.

(ii) Within thirty (30) days of receiving bills for any IP Expenses, OLOL will provide LSU with an invoice for IP Expenses reporting the amount and purpose of incurring such expenses, and the amount of IP Expenses owed by LSU. Subject to the provisions of this Section, LSU shall reimburse OLOL within thirty (30) days of receiving an invoice for IP Expenses from OLOL.

(iii) Subject to the provisions of Section 11(C)(v) and Section 11(D), License Revenue shall be shared by the Parties. In accordance with Section 11(C)(v), the Discontinuing Party shall receive no proceeds from License Revenue attributable to a discontinued patent, patent application, or other Intellectual Property right other than its reimbursement of contributed

IP Expenses, if any. Any License Revenue will be first applied to any unreimbursed IP Expenses incurred by OLOL. In addition, after reimbursement of IP Expenses, the Parties may mutually agree to hold all or a portion of any remaining License Revenue in anticipation of future unreimbursed IP Expenses. When the Parties agree to distribute License Revenue, each Party will receive a percentage of License Revenue equal to its respective ownership percentage interest in the IP.

(iv) Within thirty (30) days of receiving License Revenue from any licensee, OLOL will provide LSU with a written report accounting for the total amount of License Revenue received from any licensee, the amount of License Revenue to reimburse IP Expenses, the amount of License Revenue to be held in anticipation of future unreimbursed IP Expenses, the amount of License Revenue retained by OLOL, and the amount of License Revenue due LSU. Simultaneously with the report's delivery, OLOL will pay LSU the amount due LSU. All payments to LSU will be by check payable to LSU or its designated payee and sent to the notice address provided in this Agreement, or such other address as LSU may designate in writing.

(v) LSU will have the right to hire an independent, certified public accountant reasonably acceptable to OLOL to audit financial records relating to License Revenue and/or IP Expenses at its own expense. Such audits may be exercised during normal business hours upon at least thirty (30) days prior written notice to OLOL.

(vi) Each Party will be solely responsible for calculating and distributing License Revenues as specified under its respective patent policy or royalty policy to its respective Inventors and other persons involved in the development of the Intellectual Property.

**(F) Prior Ownership.**

(i) Notwithstanding the foregoing, OLOL retains ownership of any Intellectual Property that it owns prior to the Commencement Date of this Agreement, or that is developed independently by OLOL and using only OLOL resources and facilities. Specifically, the systems, methods, procedures and controls employed by OLOL in the performance of this Agreement are proprietary in nature and shall be and remain the property of OLOL, and shall not at any time be utilized, distributed, copied or otherwise employed by LSU except in the performance of LSU's duties hereunder during the Term of this Agreement.

(ii) Notwithstanding the foregoing, LSU retains ownership of any Intellectual Property that it owns prior to the Commencement Date of this Agreement, or that is developed independently by LSU and using only LSU resources and facilities.

**(G) Infringement.**

(i) If either Party becomes aware of potential infringement of any Intellectual Property rights, including the Patent Rights, then that Party shall notify the other Party as soon as possible so that the Parties can discuss and determine how best to resolve such infringement.

If the Parties agree to commence an action for patent infringement or other suitable cause of action, then they agree that the reasonable expenses and disbursements paid in connection with such action shall be considered IP Expenses and all monies actually received as a result of the infringement action shall be treated as License Revenue. If the Parties cannot agree to commence such an action, then either Party shall have the right to prosecute such action, and that Party shall bear all the expense and be entitled to retain all monies received from such action.

(ii) The Parties will each use their best efforts to ensure that joint inventors or other persons involved with the Intellectual Property cooperate and supply all assistance reasonably requested in connection with any legal action to address such infringement.

(iii) If during such legal action, either Party decides to discontinue its participation in the action, then the continuing Party may pay all future expenses associated with such action and will retain all monies or consideration from such action after first reimbursing any legal action related expenses incurred by the discontinuing Party at a rate equal to the percentage of total expenses contributed by the discontinuing Party.

(H) **Confidential Information.**

(i) Subject to the provisions of Section 12(E)(viii), other Legal Requirements related to Confidential Information and the publication rights as set forth in Section 11(H)(ii) and Section 11(H)(iii), OLOL, LSU, and Joint Inventors shall retain in confidence, and will not disclose to a third party without the written consent of the other Party: (a) any Invention and documents related thereto, (b) any information in documents marked "confidential" forwarded to one Party by the other Party, (c) any biological materials related to the Invention, and (d) any patent application included in the Patent Rights. Each Party's obligation of confidence hereunder will be fulfilled by using at least the same degree of care with the other Party's Confidential Information it uses to protect its own Confidential Information. This obligation shall exist while this Agreement is in force and for a period of three (3) years thereafter.

(ii) Notwithstanding the provisions of Section 11(H)(i), OLOL and LSU will be free to: (a) publish information relating to the Invention and/or Patent Rights in scientific journals, (b) use the Invention and/or Patent Rights in research, teaching and other educationally-related purposes, and (c) maintain the Invention and make it available to the nonprofit research community solely for non-commercial research, teaching and other educationally-related purposes; provided, however, that any such transfer or use of the Invention will be administered by a suitable agreement barring commercial use of the Invention (i.e., material transfer agreement, confidentiality agreement, etc.). Additionally, OLOL and LSU agree to supply the other with a copy of any manuscript prior to its submission for publication to permit the other to evaluate it in order to determine if it contains patentable subject matter relating to the Invention and/or Patent Rights. Within thirty (30) days after receiving a manuscript intended for publication, the receiving Party shall notify the submitting Party whether a patent application will be filed in accordance with the terms and conditions herein. At the request of the receiving Party, the submitting Party agrees to delay publication for no

less than thirty (30) days from notice from the receiving Party (the "Delay Period") in order to enable the preparation and filing of a patent application on any patentable subject matter described in the manuscript. If, at the end of the Delay Period, the Parties are unable to mutually agree to an acceptable publication date to allow a patent application to be filed, then the submitting Party shall be free to publish without the receiving Party's approval.

(iii) Nothing herein will preclude OLOL or LSU from making confidential reports or disclosures as required by any organizations which provided funding that resulted in the creation of all or a part of the Invention and/or Patent Rights.

## **Section 12. GENERAL PROVISIONS**

(A) **Interpretation.** In this Agreement, unless a clear contrary intention appears:

- (i) the singular number includes the plural number and vice versa;
- (ii) reference to any Person includes such Person's successors and assigns but, if applicable, only if such successors and assigns are not prohibited by this Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity or individually;
- (iii) reference to any gender includes the other gender;
- (iv) reference to any agreement, document, or instrument means such agreement, document, or instrument as amended or modified and in effect from time to time in accordance with the terms thereof;
- (v) reference to any Legal Requirement means such Legal Requirement as amended, modified, codified, replaced, or reenacted, in whole or in part, and in effect from time to time, including rules and regulations promulgated
- (vi) "hereunder," "hereof," "hereto," and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Article, Section or other provision hereof;
- (vii) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term;
- (viii) "or" is used in the inclusive sense of "and/or";
- (ix) with respect to the determination of any period of time, "from" means "from and including" and "to" means "to but excluding";
- (x) references to "day" shall mean a business day; and

(xi) references to documents, instruments or agreements shall be deemed to refer as well to all addenda, exhibits, schedules or amendments thereto.

(B) **Legal Representation of the Parties.** This Agreement was negotiated by the signatories hereto with the benefit of legal representation, and any rule of construction or interpretation otherwise requiring this Agreement to be construed or interpreted against any signatory hereto shall not apply to any construction or interpretation hereof.

(C) **Expenses.** Except as otherwise provided in this Agreement, each Party to this Agreement will bear its respective fees and expenses incurred in connection with the preparation, negotiation, execution, and performance of this Agreement and the other Collaborative Agreements, including all fees and expense of its representatives.

(D) **Public Announcements.** Any public announcement, press release, or similar publicity with respect to this Agreement or the Collaborative Agreement will be issued, if at all, at such time and in such manner as the Parties shall mutually determine.

(E) **Confidential Information.**

(i) **Restricted Use of Confidential Information.** Subject to Section 12(E)(vii), except as otherwise required by law, a Receiving Party acknowledges the confidential and proprietary nature of Confidential Information received from the Disclosing Party and agrees that such Confidential Information to the extent allowed by law (a) shall be kept confidential by the Receiving Party; (b) shall not be used for any reason or purpose other than to evaluate and perform under the Collaborative Agreements; and (c) without limiting the foregoing, shall not be disclosed by the Receiving Party to any other person, except in each case as otherwise expressly permitted by the terms of this Agreement or with the prior written consent of an authorized representative of LSU or OLOL, as applicable. A Party shall disclose the Confidential Information of the other Party only to its representatives who require such material and are informed of the obligations of this Section. Each Party shall (x) enforce the terms of this Section as to its respective representatives; (y) take such action to the extent necessary to cause its representatives to comply with the terms and conditions of this Section; and (z) be responsible and liable for any breach of the provisions of this Section by it or its representatives.

(ii) **Exceptions.** This Section does not apply to that part of the Confidential Information of a Disclosing Party that a Receiving Party demonstrates (a) was, is, or becomes generally available to the public other than as a result of a breach of this Section by the Receiving Party or its representatives; (b) was or is developed by the Receiving Party independently of and without reference to any Confidential Information of the Disclosing Party; or (c) was, is, or becomes available to the Receiving Party on a non-confidential basis from a third party not bound by a confidentiality agreement or any legal, fiduciary or other obligation restricting disclosure.

(iii) **Legal Proceedings.** Subject to Section 12(E)(vii), if a Receiving Party becomes compelled by law or is requested by a governmental body having regulatory jurisdiction

over the Collaborative Agreements to make any disclosure that is prohibited or otherwise constrained by this Section, that Receiving Party shall provide the Disclosing Party with prompt notice of such compulsion or request so that it may seek an appropriate protective order or other appropriate remedy or waive compliance with the provisions of this Section. In the absence of a protective order or other remedy, the Receiving Party may disclose that portion (and only that portion) of the Confidential Information of the Disclosing Party that, based upon advice of the Receiving Party's counsel, the Receiving Party is legally compelled to disclose or that has been requested by such governmental body, provided, however, that the Receiving Party shall use reasonable efforts to obtain reliable assurance that confidential treatment will be accorded by any person to whom any Confidential Information is so disclosed. The provisions of this Section do not apply to the Dispute Process or any legal proceedings between the Parties related to the Collaborative Agreements.

(iv) Return or Destruction of Confidential Information. Except as required by law, if this Agreement is terminated, each Receiving Party shall, to the extent allowed by law, (a) destroy all Confidential Information of the Disclosing Party prepared or generated by the Receiving Party without retaining a copy of any such material; (b) promptly deliver to the Disclosing Party all other Confidential Information of the Disclosing Party, together with all copies thereof, in the possession, custody or control of the Receiving Party or, alternatively, with the written consent of the Disclosing Party, destroy all such Confidential Information; and (c) certify all such destruction in writing to the Disclosing Party, provided, however, that the Receiving Party may retain a list that contains general descriptions of the information it has returned or destroyed to facilitate the resolution of any controversies after the Disclosing Party's Confidential Information is returned.

(v) Attorney-Client Privilege. The Disclosing Party is not waiving, and will not be deemed to have waived or diminished, any of its attorney work-product protections, attorney-client privileges, or similar protections and privileges as a result of disclosing its Confidential Information (including Confidential Information related to pending or threatened litigation) to the Receiving Party, regardless of whether the Disclosing Party has asserted, or is or may be entitled to assert, such privileges and protections. The Parties (a) share a common legal and commercial interest in all of the Disclosing Party's Confidential Information that is subject to such privileges and protections; (b) are or may become joint defendants in legal proceedings to which the Disclosing Party's Confidential Information covered by such protections and privileges relates; (c) intend that such privileges and protections remain intact should any party become subject to any actual or threatened legal proceeding to which the Disclosing Party's Confidential Information covered by such protections and privileges relates; and (d) intend that after the consummation of the Collaborative Agreements the Receiving Party shall have the right to assert such protections and privileges. No Receiving Party shall admit, claim, or contend, in proceedings involving any Party or otherwise, that any Disclosing Party waived any of its attorney work-product protections, attorney-client privileges, or similar protections and privileges with respect to any information, documents or other material not disclosed to a Receiving Party due to the Disclosing Party disclosing its Confidential Information (including Confidential Information related to pending or threatened litigation) to the Receiving Party.



(vi) Trade Secret Protection. Any trade secrets of a Disclosing Party shall also be entitled to all of the protections and benefits under applicable trade secret law and any other applicable law. If any information that a Disclosing Party deems to be a trade secret is found by a court of competent jurisdiction not to be a trade secret for purposes of this Section 12(E)(vi), such information shall still be considered Confidential Information of that Disclosing Party for purposes of this Section to the extent included within the definition. In the case of trade secrets, each Party hereby waives any requirement that the other Party submit proof of the economic value of any trade secret or post a bond or other security.

(vii) HIPAA Override. Notwithstanding anything to the contrary in this Agreement, any Confidential Information which constitutes “protected health information” as defined in HIPAA shall be maintained by the Parties in accordance with the provisions of HIPAA and the HITECH Act and the rules and regulations promulgated thereunder, and such provisions, rules, and regulations shall take precedence over any other provisions of this Agreement governing Confidential Information to the extent there is a conflict between the terms of this Agreement and such provisions, rules, and regulations of HIPAA and the HITECH Act and each Party will act in accordance therewith.

(viii) Public Records Request. The financial and other records created by, for or otherwise belonging to OLOL shall remain in the possession, custody, and control of OLOL regardless of whether, or the method by which, LSU reviews and/or audits such records in connection with the rights and obligations of this Agreement. LSU and OLOL consider records of OLOL to be proprietary to OLOL and, to the extent that OLOL makes any such records or documents available to LSU, such records shall be clearly marked as confidential and/or proprietary to indicate OLOL's position that such records or documents are not public records. To the extent a public records request is received by LSU pursuant to a Public Records Act request which may include documents marked as confidential and/or proprietary to OLOL, LSU will use its best efforts to give notice to OLOL that LSU has received such a public records request prior to producing any documents considered to be proprietary to OLOL, and if such notice cannot be provided to OLOL before LSU is required to produce such documents, LSU shall provide notice to OLOL as soon thereafter as possible. In the event that OLOL objects to the production and believes that the records are not subject to production pursuant to the Public Records Act, OLOL will immediately so notify LSU in writing and take such action as OLOL deems necessary to protect the disclosure of such records. OLOL will defend, indemnify and hold harmless LSU and its employees, officers, attorneys and agents from and against any costs, expenses, liabilities, attorneys fees, losses, damages, fines and/or penalties resulting from or relating to LSU's failure to produce such documents in response to a public records request.

(F) **Notices.** Except as otherwise provided in this Agreement, any notice, payment, demand, request, or communication required or permitted to be given by any provision of this Agreement shall be in writing and shall be duly given by the applicable Party if personally or electronically delivered to the applicable Party, or if sent by overnight courier or by certified or registered mail, at its address set forth below:

If to LSU:  
Louisiana State University  
3810 West Lakeshore Drive, Room 124  
Baton Rouge, LA 70808  
Attention: President

With a copy to:  
Louisiana State University  
3810 West Lakeshore Drive, Room 124  
Baton Rouge, LA 70808  
Attention: General Counsel

If to OLOL:  
5000 Hennessey Boulevard  
Suite \_\_\_\_\_  
Baton Rouge, LA 70808  
Attention: Chief Executive Officer

With a copy to:  
FMOLHS  
4200 Essen Lane  
Baton Rouge, LA 70809  
Attention: General Counsel

If to FMOLHS:  
FMOLHS  
4200 Essen Lane  
Baton Rouge, LA 70808  
Attention: President

With a copy to:  
FMOLHS  
4200 Essen Lane  
Baton Rouge, LA 70809  
Attention: General Counsel

or to such other address as a Party may from time to time specify by written notice to the other Party. Any such notice shall, for all purposes, be deemed to be given and received (i) if by hand or electronic delivery, when delivered, if by hand or electronic delivery, when delivered (ii) if given by nationally recognized and reputable overnight delivery service, the business day on which the notice is actually received by the Party, or (iii) if given by certified mail, return receipt requested, postage prepaid, three (3) Business Days after posted with the United States Postal Service.

(G) **Ethical and Religious Directives.** FMOLHS and OLOL will undertake all activities pursuant to this Agreement in compliance with ERDs.

(H) **Jurisdiction, Venue and Service of Process.** Any proceeding arising out of or relating to this Agreement or the CEA may be brought in the 19th Judicial District for the Parish of East Baton Rouge, Louisiana, or, if it has or can acquire jurisdiction, in the United States District Court for the Middle District of Louisiana, and each of the Parties irrevocably submits to the exclusive jurisdiction of each such court in any such proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the proceeding shall be heard and determined only in any such court and agrees not to bring any proceeding arising out of or relating to this Agreement the CEA in any other court. The Parties agree that either or both of them may file a copy of this Section with any court as written evidence of the knowing, voluntary and bargained agreement between the Parties irrevocably to waive any objections to venue or to convenience of forum. Process in any proceeding referred to in the first sentence of this section may be served on any party anywhere in the world.

(I) **Money Damages; Legal Fees and Costs.** The Parties expressly acknowledge and agree that the Dispute Process set forth in Section 6 is the exclusive means by which the Parties will resolve Disputes, and in the event of any Dispute that the Parties are unable to resolve to their mutual satisfaction pursuant to the Dispute Process, such Dispute may be addressed and the Parties may be adequately compensated through a claim for monetary damages. Accordingly, except as otherwise

specifically set forth in herein, no Party shall be entitled, at law or in equity, to enforce any provision of this Agreement by a decree of specific performance, temporary, preliminary, or permanent injunctive, or other equitable relief to resolve any Dispute arising under this Agreement, and the Parties expressly waive any rights they may otherwise have to pursue such equitable relief. In the event that any Party elects to incur legal expenses to pursue a claim for monetary damages under this Agreement, the prevailing Party will be entitled to recover such legal expenses, including, without limitation, reasonable attorneys' fees, costs and necessary disbursements, in addition to such other money damages to which such Party shall be entitled.

(J) **Entire Agreement and Modification.** This Agreement supersedes all prior agreements, whether written or oral, among the Parties with respect to its subject matter (including any memorandum of understanding between OLOL and LSU) and constitutes (along with the CEA) a complete and exclusive statement of the terms of the agreement between the Parties with respect to its subject matter. This Agreement may not be amended, supplemented, or otherwise modified except by a written agreement executed by LSU and OLOL.

(K) **Assignments, Successors and No Third-Party Rights.** No Party may assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the other Parties, provided that OLOL or FMOLHS may assign to a party that acquires substantially all of the assets of OLOL or FMOLHS or is under common control with or controlling either OLOL or FMOLHS. Nothing expressed or referred to in this Agreement will be construed to give any Person other than the Parties to this Agreement any legal or equitable right, remedy or claim under or with respect to this Agreement or any provision of this Agreement.

(L) **Severability.** If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

(M) **Construction.** The headings of Articles and Sections in this Agreement are provided for convenience only and will not affect its construction or interpretation. All references to "Articles," and "Sections" refer to the corresponding Articles and Sections of this Agreement.

(N) **Time of Essence.** With regard to all dates and time periods set forth or referred to in this Agreement, time is of the essence.

(O) **Governing Law.** This Agreement will be governed by and construed under the laws of the State of Louisiana without regard to conflicts-of-laws principles that would require the application of any other law.

(P) **Execution in Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages by facsimile transmission shall constitute effective execution and delivery of this Agreement as to the Parties and may be used in lieu of the original Agreement for

all purposes. Signatures of the Parties transmitted by facsimile shall be deemed to be their original signatures for all purposes.

(Q) **Access to Records.** To the extent that any services provided under this Agreement are deemed by the Secretary of the Department of Health and Human Services, the U.S. Comptroller General, or the Secretary's or Comptroller's delegate, to be subject to the provisions of Section 952 of Public Law 96-499, the Parties, until the expiration of ten (10) years subsequent to the furnishing of services under this Agreement, shall make available, upon written request to the Secretary, the Comptroller, or any of their duly authorized representatives, this Agreement, and the books, documents, and records of the Parties that are necessary to certify the nature and extent of the charges to each Party. If any Party carries out any of its duties under the Agreement through a subcontract with a value of \$10,000 or more over a twelve (12)-month period with a related organization (as that term is defined with regard to a provider in 42 C.F.R. § 413.17(1)), such subcontract shall contain a clause to the effect that until the expiration of ten (10) years after the furnishing of such services pursuant to such subcontract, the related organization upon written request shall make available to the Secretary, the Comptroller, or any of their duly authorized representatives, the subcontract, and books, documents, and records of such organization that are necessary to verify the nature and extent of such costs. If any Party is requested to disclose any books, documents, or records relevant to this Agreement for the purpose of an audit or investigation relating directly to the provision of services under this Agreement, such Party shall notify the other Party of the nature and scope of such request and shall make available to the other Party, upon written request, all such books, documents, or records. This Section is included pursuant to and is governed by the requirements of federal law. No attorney-client, accountant-client, or other legal privilege will be deemed to have been waived by the Parties or any of the Parties' representatives by virtue of this Agreement.

(R) **Name and Trademark.** Except as provided in this Agreement, no Party will use the other Party's name, symbol, or trademark in any marketing, advertising, or any other public communications without the prior written consent of the other Party regarding the use of its name, symbol, or trademark.

(S) **Further Acts and Assurances.** Each Party shall, at any time and from time to time at and after the execution of this Agreement, upon reasonable request of the other Party, take any and all steps reasonably necessary to consummate the Collaborative Agreements, and will do, execute, acknowledge, and deliver, or will cause to be done, executed, acknowledged, and delivered, all such further acts, deeds, assignments, transfers, conveyances, powers of attorney, and assurances as may be required to consummate the Collaborative Agreements.

(T) **OLOL Not Intended to be Public Body.** Nothing in this Agreement is intended, and it is not the intent of the Parties, to cause or result in OLOL being considered a public or quasi-public body, governmental authority or subdivision thereof, other public entity or otherwise subject to public inspection laws of the State, public audit or other disclosure procedures generally applicable to public bodies in the State.

*The rest of this page intentionally left blank.*

IN WITNESS WHERE, the Parties have caused this Agreement to be duly executed and delivered, as of the date first above written.

**LSU:**

**BOARD OF SUPERVISORS OF LOUISIANA  
STATE UNIVERSITY AND  
AGRICULTURAL AND MECHANICAL  
COLLEGE**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**OLOL:**

**OUR LADY OF THE LAKE HOSPITAL, INC.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**FMOLHS:**

**FRANCISCAN MISSIONARIES OF OUR  
LADY HEALTH SYSTEM, INC.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Schedule 5(E)**

Cardiovascular and Arrhythmia Center LLC (CVAC)  
Convenient Care, LLC d/b/a Lake After Hours  
Health Care Centers in Schools, Inc.  
Lake Urgent Care Ascension, L.L.C.  
Ollie Steele Burden Manor, Inc; also d/b/a St. Clare Manor

Our Lady of the Lake Assumption Community Hospital, Inc. d/b/a Assumption Community Hospital  
Our Lady of the Lake Foundation  
Our Lady of the Lake Physician Group, L.L.C.  
Perkins Plaza Ambulatory Surgery Center, LLC  
Pinnacle Care Holdings, LLC  
Spine Hospital of Louisiana  
Surgical Specialty Center of Baton Rouge, LLC  
FMOLHS Central Distribution Center, L.L.C.  
Franciscan Health Physicians, LLC  
Franciscan Missionaries of Our Lady Health System Clinical Network, LLC

**Exhibit**

## COOPERATIVE ENDEAVOR AGREEMENT

THIS COOPERATIVE ENDEAVOR AGREEMENT (“**Agreement**”) is entered into and effective as of \_\_\_\_\_, 2023 (“**Effective Date**”), by and between Our Lady of the Lake Hospital, Inc. d/b/a Our Lady of the Lake Health and its affiliates (“**OLOL**”) and Board of Supervisors of Louisiana State University and Agricultural and Mechanical College at Baton Rouge (“**LSU**”). Each of the above are also referred to herein individually as “**Party**” and collectively as “**Parties.**” Capitalized terms used in this Agreement that are not otherwise defined herein shall have the meanings ascribed to them in the CEA (as defined below).

### RECITALS

WHEREAS, OLOL and LSU are parties to that certain Master Affiliation Agreement, dated \_\_\_\_\_, 2023 (the “**MAA**”), pursuant to which OLOL and LSU have agreed to collaborate in order to achieve their goals of providing high quality medical education, research and clinical care;

WHEREAS, Louisiana’s health care reform effort has focused on ways to remodel the delivery of care through partnerships and cooperative efforts between the public and private sectors;

WHEREAS, as part of this joint vision of OLOL and LSU to set a new standard for health care delivery, research and education, by investing in a bold vision to achieve transformational change for the LSU and OLOL institutions and communities and beyond, the Parties desire to enter into this CEA in order to reflect their agreement with respect to: (i) the lease of the Student Health Center located at 16 Infirmary Lane, and the Sports Medicine Clinic located in the LSU Football Operations Training Facility (115 Skip Bertman Drive) and in Broussard Athletic Training Facility (North Stadium Drive) (collectively, the “**LSU Campus Clinics**”); and (ii) certain financial commitments of OLOL to LSU (collectively, the “**Arrangement**”);

WHEREAS, among other things, the Arrangement will afford OLOL access to additional clinic facilities, create innovative health care delivery systems, and facilitate greater clinical integration, all of which will better serve LSU’s Baton Rouge campus students, and the Baton Rouge community’s patient population;

WHEREAS, OLOL is willing and desires to provide the financial resources and support, operational expertise, and other necessary resources and to take steps to ensure that the LSU Campus Clinics, in collaboration with OLOL, continue to play a central role in providing health care services to uninsured and underinsured, including LSU Baton Rouge campus students;

WHEREAS, the Parties recognize the assumption of the management and operation of the LSU Campus Clinics and the physical transition to and management and operation of the LSU Campus Clinics by OLOL will include the commitment and the assumption of significant financial and operational investments by OLOL, including without limitation, working capital, transition costs, and funding or financing of certain improvements for the LSU Campus Clinics;



WHEREAS, the Parties intend the Arrangement and subsequent operation of the LSU Campus Clinics by OLOL will in no way increase the need for State General Funds expenditures above those previously contemplated between LSU and the State of Louisiana; and

NOW, THEREFORE, in consideration of the premises and mutual covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby covenant and agree as follows:

## **ARTICLE I OVERSIGHT OF ARRANGEMENT**

Section 1.1. Student Health Center Operating Committee. OLOL and LSU will establish a Student Health Center Operating Committee (the "Health Center Committee"). The Health Center Committee shall be comprised of eight (8) members with the following, or equivalent, positions, who shall serve on the Health Center Committee unless and until otherwise replaced by the Party appointing them:

- (a) Appointed by OLOL: President, Franciscan Health Physicians or his or her designee; Chief Operating Officer, Franciscan Health Physicians or his or her designee; Baton Rouge Regional Chief Financial Officer or his or her designee; and an additional OLOL appointee.
- (b) Appointed by LSU: LSU Student Health Center Executive Director or his or her designee; Student Health Center Medical Director or his or her designee; and EVP and Provost of LSU or his or her designee and EVP of Finance of LSU or his or her designee.

Section 1.2. Responsibilities of the Health Center Committee. Subject to the other terms and conditions of this Agreement, the Health Center Committee's authority shall include, but not be limited to the following:

- (a) oversee the transition of the Student Health Center to OLOL;
- (b) review and recommend for approval all budgets for the Student Health Center;
- (c) recommend the addition or discontinuation of the provision of any material clinical services at the Student Health Center;
- (d) review the strategic plan for the Student Health Center;
- (e) establish goals and outcomes for the Student Health Center; and
- (f) ensure continuity and appropriateness of programming for students.

Section 1.3. Health Center Committee Reporting. The Health Center Committee will report to: (a) the LSU EVP-Provost and EVP-CAO quarterly; (b) the LSU President and Board of

Supervisors on a schedule mutually determined by OLOL and LSU; and (c) such other groups as OLOL and LSU may mutually agree from time to time.

Section 1.4. Health Center Committee Meetings; Participation. The Health Center Committee shall meet quarterly, or as otherwise agreed by OLOL and LSU. Actions requiring the approval of the Health Center Committee shall be accomplished through a majority vote of the committee members. Each Party shall cause its designated representatives to regularly participate in Health Center Committee meetings and related activities and support the Health Center Committee in carrying out its purposes.

Section 1.5. Sports Medicine Clinic Operating Committee. OLOL and LSU will establish a Sports Medicine Clinic Operating Committee (the "Sports Medicine Committee"). The Sports Medicine Committee shall be comprised of six (6) members with the following, or equivalent, positions, who shall serve on the Sports Medicine Committee unless and until otherwise replaced by the Party appointing them:

- (a) Appointed by OLOL: OLOL or OLOLPG executive member; Medical Director of LSU Athletics; and an additional OLOL appointee.
- (b) Appointed by LSU: Executive Deputy Athletic Director; Director of Sports Medicine, LSU Athletics; and an additional LSU appointee.

Section 1.6. Responsibilities of the Sports Medicine Committee. Subject to the other terms and conditions of this Agreement, the Sports Medicine Committee's authority shall include, but not be limited to the following:

- (a) oversee the transition of the Sports Medicine Clinic to OLOL;
- (b) review all budgets for the Sports Medicine Clinic;
- (c) recommend the addition or discontinuation of the provision of any material clinical services at the Sports Medicine Clinic;
- (d) review the strategic plan for the Sports Medicine Clinic;
- (e) establish goals and outcomes for the Sports Medicine Clinic; and
- (f) ensure continuity and appropriateness of programming for student athletes.

Section 1.7. Sports Medicine Committee Reporting. The Sports Medicine Committee will report to: (a) the LSU President and Board of Supervisors on a schedule mutually determined by OLOL and LSU; and (b) such other groups as OLOL and LSU may mutually agree from time to time.

Section 1.8. Sports Medicine Committee Meetings; Participation. The Sports Medicine Committee shall meet quarterly, or as otherwise agreed by OLOL and LSU. Actions requiring

the approval of the Sports Medicine Committee shall be accomplished through a majority vote of the committee members. Each Party shall cause its designated representatives to regularly participate in Sports Medicine Committee meetings and related activities and support the Sports Medicine Committee in carrying out its purposes.

## **ARTICLE II LEASE AND OPERATION OF LSU CAMPUS CLINICS**

Section 2.1. Student Health Center. Commencing February 22, 2023, OLOL shall lease the Student Health Center from LSU that includes but is not limited to current clinic space and associated equipment for the provision of primary care, mental and behavioral health services, ancillary services, and office functions associated with clinic practices. OLOL will be the provider of record for all care furnished by the Student Health Center (except for services furnished by the GYN Clinic, the Office of Wellness and Health Promotion, and the Lighthouse Program as further provided below). All providers furnishing health care services in the Student Health Center (except for GYN services, Wellness and Health Promotion, and the Lighthouse Program) will be either employed by OLOL or affiliated with OLOL through a professional services agreement, as further provided below. OLOL will operate the Student Health Center in the same manner as OLOL's other health clinics, materially compliant with applicable law, rules and regulations such as HIPAA and FERPA.

(a) Continued Access to Clinical Services. OLOL and LSU shall ensure that services furnished in the Student Health Center as of January 31, 2023 will continue to be furnished following transition of the Student Health Center to the LSU OLOL co-branded Student Health Center, provided that OLOL will not be required to provide any service, take any action or fail to take any action that would result in a violation of or be inconsistent with the *Ethical and Religious Directives for Catholic Health Care Services*, or jeopardize the tax exempt status of OLOL or the tax exempt status of its bonds. OLOL will have the sole unilateral right to ensure that services furnished in the Student Health Center by OLOL (i) comply with the Ethical and Religious Directives for Catholic Health Care Services and (ii) will not jeopardize the tax exempt status of OLOL or the tax exempt status of its bonds. Timing of transition of the specific services furnished in the Student Health Center as of January 31, 2023 to OLOL will be jointly determined by OLOL and LSU. During the term of this Agreement, LSU shall furnish services or continue any services furnished in the Student Health Center that OLOL is unable or unwilling to provide.

(b) GYN Clinic, Office of Wellness and Health Promotion, and the Lighthouse Program Services. Notwithstanding any provisions herein to the contrary, the Parties acknowledge and agree that OLOL will not provide GYN services in the Student Health Center pursuant to this Agreement. All GYN services shall continue to be provided by LSU in clinic space maintained by LSU. In addition, LSU will continue to provide interpersonal violence prevention, support, and advocacy services under the Lighthouse Program, and health promotion and wellness services, including case management and nutrition counseling, under the Office of Wellness and Health Promotion in clinic space

maintained by LSU, until such time as the Parties mutually agree upon the transition of the Lighthouse Program services to OLOL. The *Ethical and Religious Directives for Catholic Health Care Services* will not apply to services provided in clinic space that is owned or leased by LSU and maintained by LSU for LSU clinic purposes.

(c) Research. All research activities concerning patients, programs or services of the Student Health Center will be authorized and governed by the OLOL Research Department, subject to applicable provisions contained in the Master Research Agreement between the Parties. In addition, all research activities hereunder shall be subject to the provisions related to ownership and management of intellectual property contained in Article VI below, and Article 10 of the MAA, to the extent applicable.

(d) Teaching. Medical residents, fellows and any students rotating in programs through affiliation with OLOL may furnish services at the Student Health Center, in accordance with the rotation guidance of the OLOL Academic Affairs Department.

(e) Providers/Staff. All health care providers and non-provider staff providing services at the Student Health Center prior to February 22, 2023, shall be and remain employees of LSU, and OLOL shall contract for the services of such employees pursuant to the terms of a professional services, personal services or similar agreement mutually agreed to by OLOL and LSU. Any health care providers or non-provider staff that are employed to provide services at the Student Health Center on February 22, 2023, or a later date during the term of this Agreement shall be employed or contracted by OLOL directly. The Executive Director of the Student Health Center will be employed by LSU. In the event of a vacancy in the Executive Director position, OLOL shall participate with LSU in any search process to fill the vacancy. OLOL and LSU shall be responsible for the payment of all salaries, wages, payroll taxes, employee benefits and all other taxes and charges applicable to their respective employees. All health care providers providing services at the Student Health Center, with the exception of those providing services in clinic maintained by LSU for GYN Services, the Office of Wellness and Health Promotion, and the Lighthouse Program, shall comply with all applicable OLOL policies, procedures and standard employment terms, including but not limited to, use of EPIC, vaccination, medical staff credentialing and privileging, trainings and competencies, to the extent any of the aforementioned OLOL policies, procedures and standard employment terms do not conflict with the provisions of the Louisiana Constitution and laws applicable to employees in the classified and unclassified service of the state of Louisiana.

(f) Medical Records. OLOL shall implement EPIC as the electronic health record at the Student Health Center. To appropriately transition care, OLOL will have read only access to the Student Health Center's electronic medical records created prior to February 22, 2023 and access to paper records, if any. At all times, subject to applicable state and federal privacy laws, including HIPAA and FERPA, LSU will be provided access to patient records. In the event of termination of this Agreement, such that LSU

resumes Student Health Center operations, OLOL shall provide a copy of the patient records to LSU, with any payment of transfer costs to be negotiated by the parties.

(g) Accounts Receivable. LSU shall retain all account receivables for services furnished at the Student Health Center prior to February 22, 2023 and be the only party to collect on all such accounts.

(h) Student Health Fee. In order to be eligible for services provided at the Student Health Center, students pay the Student Health Fee (“SHF”) as part of full-time tuition and fees. Part-time students and non-student spouses have the option to pay the SHF. Any student or eligible spouse wishing to use the Student Health Center must pay the SHF. The SHF covers the costs associated with a variety of care management, clinical, and administrative services, and supplies provided at the Student Health Center. The SHF will continue to be allocated among the following expenses: personnel, administrative fee, services, utilities, acquisitions, supplies, professional services, risk management, depreciation and other expenses, all as defined in the Student Health Center: Assumptions/Explanations for Pro Forma, revised 6/27/2022 (“Expenses”). The Parties acknowledge and agree that:

(i) For the spring semester beginning January 2023, LSU and OLOL will allocate the SHF to OLOL in an amount equal to eighty percent (80%) of the SHF obtained by LSU and will determine the proper amount of the Expenses to be allocated between the Parties through an agreed formulation. Following the end of the spring 2023 semester, OLOL shall provide LSU with written documentation showing the allocation of the applicable Expenses and corresponding payment amount. LSU shall pay OLOL’s allocated amount of the SHF, less applicable Expenses incurred by LSU, within thirty (30) days following LSU’s receipt of such written documentation;

(ii) For each semester thereafter, beginning with summer/fall 2023, within thirty (30) days following the start of such semester, the Parties will determine allocation of the SHF based upon the Expenses of the prior semester, and will determine the Expenses to be allocated between the Parties through an agreed formulation. The Parties shall further agree upon the proper timing for payments of OLOL’s portion of the SHF (e.g. monthly during the applicable semester) with the recognition that OLOL will likely incur a greater portion of the Expenses as various LSU employees and expenses are transitioned to OLOL. In such intervals as agreed to by the Parties (e.g. monthly), OLOL shall provide LSU with written documentation showing the allocation of the applicable Expenses and corresponding payment amount. LSU shall pay OLOL’s allocated amount of the SHF, less applicable Expenses incurred by LSU, within thirty (30) days following LSU’s receipt of such written documentation;

(iii) Any changes to the allocation of the SHF between the Parties will be mutually agreed upon by OLOL and LSU; and

(iv) The rights of OLOL to a payment from the SHF under this Section 2.1(h) shall be subordinate in all respects to the obligations of LSU under its Series 2022 Auxiliary Revenue Refunding Bonds, any other outstanding bonds of LSU and any future bond issuances by LSU.

(i) Licensure. OLOL and LSU will work together, in good faith, to maintain and transition to OLOL all required licenses and permits, including but not limited to CLIA licenses, necessary for the operation of the Student Health Center, prior to February 22, 2023. During the term of this Agreement, OLOL shall own and hold all licenses, certificates, and accreditations relating to the Student Health Center, to the extent permitted/allowed by the licensing or accrediting entity. Notwithstanding the foregoing, LSU will hold or maintain any license or permit required to provide services in the separate clinic space operated by LSU.

(j) Contracts. LSU and OLOL will negotiate and mutually agree on which third-party contracts related to the operation of the Student Health Center will be assumed by OLOL, with OLOL retaining the sole discretion to accept or refuse assignment of any such contracts. Any contracts not assumed by OLOL shall remain the responsibility of LSU.

(k) Marketing. LSU and OLOL will jointly review all marketing and patient-facing publications and those documents can be finalized only with the joint agreement of LSU and OLOL. In addition, LSU Athletics must review and approve all such items related to or depicting student athletes and LSU Sports Properties or PlayFly Sports Properties, LLC (“PlayFly”) must review and approve the use of all logos and names related to LSU Athletics.

(l) Billing and Collections. OLOL will be responsible for billing and collecting for all services provided at the Student Health Center. Services furnished at the Student Health Center will be billed in accordance with applicable contractual requirements, which require the payment of applicable co-payments and deductibles in accordance with OLOL Financial Assistance Policy and related policies, and all federal and state laws and regulatory provisions. OLOL will be reimbursed for the costs associated with services covered under the SHF pursuant to Section 2.1(g) above. Notwithstanding the foregoing, the Parties acknowledge and agree that LSU shall remain responsible for billing and collecting for all GYN services. In addition, unless otherwise agreed by the Parties, LSU shall be responsible for billing and collecting for all Lighthouse Program services until such time as the Lighthouse Program is transferred to OLOL.

(m) In-Kind Charity Care. In line with the mission of OLOL and current practices of servicing residents in the Baton Rouge metropolitan area, OLOL will provide equitable access to health care services to all LSU students by, in part, furnishing in-kind charity care to uninsured and underinsured LSU students. OLOL commits to establishing programs valued at approximately \$3 million annually during the term of this Agreement to serve uninsured and underinsured LSU students. Notwithstanding the foregoing, OLOL

and LSU hereby acknowledge and agree that such funds shall not be used to provide free or reduced rate care to LSU students or any other commercial insurance, Medicaid or Medicare patients – except to the extent such free or reduced rate care is provided in accordance with the Financial Assistance Policy for Student Health, as shall be mutually agreed to by the parties, and all federal and state laws and regulatory provisions. OLOL will evaluate spend for in-kind charity care on a quarterly basis. Further, OLOL acknowledges and agrees that the commitment by OLOL to provide in-kind charity care valued at \$3 million annually, and to invest \$10 million over the term of this Agreement for the development of Comprehensive Care Program within the Student Health Center, shall be above and beyond any expenses covered by the Student Health Fee funds allocated to OLOL under this Agreement.

(n) Development of Comprehensive Care Program. In response to OLOL's interest in furnishing high quality and efficient health care to LSU students and student athletes, OLOL commits to invest \$10 million over the term of this Agreement to develop an end-to-end healthcare experience within the Student Health Center, which will be operated similarly to the Our Lady of the Lake LSU Health Clinics, including, but not limited to maintaining the Student Health Center as an LSU-OLOL co-branded presence. These funds will be used to provide care management, clinical and administrative services that provide a coordinated health care experience for students, including, but not limited to, Epic implementation and maintenance, care management such as appointment reminders, and other navigation services, billing, access to OLOL specialty providers that utilize Epic for an integrated medical record, and equipment updates. The Parties expressly agree that this expenditure by OLOL requires no payment from OLOL to LSU.

(o) Auxiliary Unit. The Student Health Center operates as an auxiliary unit of the University that is funded by student fees, insurance reimbursements and other self-generated revenues. The University does not subsidize auxiliary units with other funding sources such as state general fund revenue or tuition and fee revenue included in the unrestricted operating budget. The Parties acknowledge and agree that during the term of this Agreement, all operating expenses associated with the Student Health Center shall be funded solely by the SHF, insurance reimbursements and other revenues generated by the Student Health Center or OLOL and the University shall have no obligation to fund such operating expenses from any other source. The Parties, having provided in this Agreement for the allocation of the operating expenses for the Student Health Center, acknowledge and agree that this Section 2.1 does not create any obligation for OLOL to fund the Division of Student Affairs or its operating expenses.

Section 2.2. Sports Medicine Clinic. Commencing July 1, 2022, OLOL accessed through a Facilities Use Agreement the Sports Medicine Clinic from LSU that includes but is not limited to clinic space and associated equipment for the provision of athlete care. OLOL serves as the provider of record for all care furnished by OLOL Sports Medicine Clinic. All providers furnishing health care services in the Sports Medicine Clinic will be either employed by OLOL or leased by OLOL, as further described below.

(a) Continued Access to Clinical Services. OLOL and LSU shall ensure that services furnished in the Sports Medicine Clinic as of June 30, 2022 will continue to be furnished following transition of the Sports Medicine Clinic to OLOL, provided that OLOL will not be required to provide any service, take any action or fail to take any action that would result in a violation of or be inconsistent with the *Ethical and Religious Directives for Catholic Health Care Services*, or jeopardize the tax exempt status of OLOL or the tax exempt status of its bonds. OLOL will have the sole unilateral right to ensure that services furnished in the Sports Medicine Clinic by OLOL (i) comply with the Ethical and Religious Directives for Catholic Health Care Services and (ii) will not jeopardize the tax exempt status of OLOL or the tax exempt status of its bonds. LSU shall have the right to furnish or continue any services furnished in the Sports Medicine Clinic that OLOL is unable or unwilling to provide. Notwithstanding the forgoing, OLOL and LSU acknowledge and agree that OLOL will not perform physical therapy service in the Sports Medicine Clinic, unless OLOL and LSU jointly agree that OLOL will provide such services. Further, nutritional services will be furnished by LSU Athletics until June 30, 2024, and thereafter the OLOL and LSU will jointly agree on either LSU or OLOL furnishing the service.

(b) Research. All research activities concerning patients, programs or services of the Student Health Center will be authorized and governed by the OLOL Research Department, subject to applicable provisions contained in the Master Research Agreement between the Parties. In addition, all research activities hereunder shall be subject to the provisions related to ownership and management of intellectual property contained in Article VI below, and Article 10 of the MAA, to the extent applicable.

(c) Teaching. Medical residents, fellows and any students rotating in programs through affiliation with OLOL may furnish services at the Sports Medicine Clinic, in accordance with the rotation guidance of the OLOL Academic Affairs Department

(d) Providers/Staff. Any health care providers or non-provider staff that are retained to provide services at the Sports Medicine Clinic during the term of this Agreement shall be employed or contracted by OLOL; provided that athletic trainers may be employed by LSU as mutually determined by the Director of Sports Medicine and the Medical Director of the Sports Medicine Clinic. OLOL and LSU shall be responsible for the payment of all salaries, wages, payroll taxes, employee benefits and all other taxes and charges applicable to their respective employees. All health care providers providing services at the Sports Medicine Clinic shall comply with all applicable OLOL policies, procedures and standard employment terms, including but not limited to, use of EPIC, vaccination, medical staff credentialing and privileging, trainings and competencies.

(e) Medical Records. OLOL shall implement EPIC as the electronic health record at the Sports Medicine Clinic. To appropriately transition care, OLOL will have read only access to the Sports Medicine Clinic's electronic medical records created prior to June 30, 2022 and access to paper records, if any. Upon the implementation of the Kitman Labs software, OLOL will have access to the software to review and enter patient



data. At all times, subject to applicable state and federal privacy laws, including HIPAA and FERPA, LSU will be provided access to patient records. In the event of termination of this Agreement, such that LSU resumes Sports Medicine Clinic operations, OLOL will provide a copy of the patient records to LSU, with any payment of transfer costs to be negotiated by the parties.

(f) OLOL Student-Athlete Health and Wellness Fund. OLOL and LSU acknowledge and agree that that certain Gift and Pledge Agreement dated as of June 30, 2022, and executed by OLOL, LSU, and Tiger Athletic Foundation (“TAF”), OLOL agreed to establish an OLOL Student-Athlete Health and Wellness Fund at TAF that shall be used for the purposes set forth in the Gift and Pledge Agreement. OLOL and LSU further acknowledge and agree that such funds shall not be used to provide free or reduced rate care to LSU athletes or any other commercial insurance, Medicaid or Medicare patients – except to the extent such free or reduced rate care is provided in accordance with the OLOL Financial Assistance Policy, any other similar policies, and all federal and state laws and regulatory provisions.

(g) Licensure. OLOL and LSU have worked together, in good faith, to obtain transition to OLOL all required licenses and permits necessary for the operation of the Sports Medicine Clinic, prior to July 1, 2022. During the term of this Agreement, OLOL shall own and hold all licenses, certificates, and accreditations relating to the Sports Medicine Clinic.

(h) Contracts. LSU and OLOL will negotiate and mutually agree on which third-party contracts related to the operation of the Sports Medicine Clinic will be assumed by OLOL, with OLOL retaining the sole discretion to accept or refuse assignment of any such contracts. Any contracts not assumed by OLOL shall remain the responsibility of LSU.

(i) Marketing. LSU and OLOL will jointly review all marketing and patient-facing publications and those documents can be finalized only with the joint agreement of LSU and OLOL. In addition, LSU Athletics must review and approve all such items related to or depicting student athletes and LSU Sports Properties or PlayFly must review and approve the use of all logos and names related to LSU Athletics.

(j) Billing and Collections. OLOL will be responsible for billing and collecting for all services provided at the Sports Medicine Clinic. Services furnished at the Sports Medicine Clinic will be billed in accordance with applicable contractual requirements, which require the payment of applicable co-payments and deductibles in accordance with the OLOL Financial Assistance Policy, any similar policies and all federal and state laws and regulatory provisions. Payments for all other services provided by OLOL shall be billed in accordance with similar policies, with LSU Athletics responsible for applicable co-payments and deductibles.

(k) Cost Reduction Measures. During the term of this Agreement, OLOL commits to creating efficiencies and developing mechanisms designed to reduce overall

costs of health and wellness care to LSU Athletics. The mechanism of cost reduction will be through: (i) management of health care services furnished to the LSU athletes within with Sports Medicine Clinic and the contracts associated with the medical providers therein; (ii) utilization of OLOL services for a fair market value rate documented in fee schedules; and (iii) reduced cost of care for those LSU athletes that meet the criteria of the OLOL Financial Assistance Program. Any such cost reduction measures shall remain in compliance with applicable federal and state laws and regulatory provisions and will not reduce or limit medically necessary services to patients. OLOL anticipates the savings will be a minimum of \$1 million annually for 10 years. (For the avoidance of doubt, this support requires no payment from OLOL to LSU.)

Section 2.3. Additional Campus Clinics and/or Services. To the extent LSU desires to offer an opportunity to open a new health care clinic or provide services reasonably related to the services covered under this Agreement on the LSU Baton Rouge A&M campus to a third-party other than OLOL, as long as LSU is not required to comply with public procurement laws, LSU must first deliver written notice to OLOL of LSU's desire to do so (the "Notice"). The Notice must specify in detail the new clinic and/or services intending to be offered and under what general terms. Within ten (10) business days following OLOL's receipt of the Notice, OLOL must notify LSU whether it would desire to operate such new clinic and/or provide the applicable services. OLOL and LSU agree to negotiate in good faith for ninety (90) days regarding a potential relationship with respect to the operation of the new clinic and/or provision of the services proposed in the Notice. If OLOL and LSU do not reach agreement within the ninety (90) day period, LSU may thereafter make the same offer to a third-party or third-parties to operate the new clinic and/or provide the applicable services.

### **ARTICLE III ADDITIONAL FINANCIAL INVESTMENT**

Section 3.1. LSU School of Medicine New Orleans Baton Rouge Branch Campus. Subject to compliance with applicable law and the provisions of this Agreement, OLOL shall invest a total of \$20 million in the programs and operations of the LSU School of Medicine New Orleans Baton Rouge Branch Campus through a combination of philanthropic and direct investments (which may or may not be made to LSU) to be used for, but not limited to, growth in new and existing residency and fellowship programs at OLOL, dually promoted programs to expand high school students' interests in healthcare, and programs that provide broad training opportunities in clinical and non-clinical health-related professions.

### **ARTICLE IV ACKNOWLEDGEMENTS AND CONDITIONS OF OBLIGATIONS**

Section 4.1. Compliance with Applicable Laws. The Parties hereby acknowledge and agree that the Arrangement and the corresponding rights and obligations described in this Agreement shall at all times be subject to compliance with applicable state and federal laws and regulations.

Section 4.2. No Referrals. OLOL and LSU acknowledge and agree that the financial and other commitments contained in this Agreement do not take into account and are not based on the volume or value of any business otherwise generated between the parties or their affiliates and does not obligate a party or any of their affiliates to purchase, use, recommend, or arrange for the use of any product of the other party or their affiliates. Neither OLOL, LSU, nor any of their respective affiliates, will track referrals for health care services made by another party, or its affiliates, to another party or its affiliates.

Section 4.3. Compensation to Health Care Providers. OLOL and LSU acknowledge and agree that for any funds which are used, directly or indirectly, to provide compensation to any health care provider(s), such payments shall be consistent with fair market value for services actually rendered, be commercially reasonable, are not intended to induce or reward referrals of items or services payable in all or part by a federal health care program, and are not set in a manner that takes into account the volume or value of any referrals or other business generated between the parties for which payment is made in whole or part by Medicare, Medicaid, or another federal healthcare program.

Section 4.4. Compliance with Health Care Laws. The Parties to this Agreement specifically intend to comply with all applicable laws, rules and regulations, including (i) the federal anti-kickback statute (42 U.S.C. 1320a-7(b) and the related safe harbor regulations; (ii) the Limitation on Certain Physician Referrals, also referred to as the “Stark Law” (42 U.S.C. 1395(n)); and (iii) the civil monetary penalty statute (42 U.S.C. 1320a-7(a)). Accordingly, no part of any consideration paid hereunder is a prohibited payment for the recommending or arranging for the referral of business or the ordering of items or services; nor are any payments intended to induce illegal referrals of business. In the event any part of this Agreement is determined to violate federal, state, or local laws, rules, or regulations, the Parties agree to negotiate in good faith revisions to the provision or provisions that are in violation. In the event the Parties are unable to agree to new or modified terms as required to bring the entire Agreement into compliance, any Party may terminate this Agreement on sixty (60) days written notice to the other Party.

Section 4.5. Monitoring of Compliance by LSU. LSU shall ensure that any funds provided by OLOL to LSU under this Agreement are used and distributed solely for the purposes described herein and in compliance with all applicable laws and contractual obligations. To the extent allowable under applicable law, LSU shall indemnify and hold harmless OLOL and its affiliates for any claims or violations related to, or arising from, the use or distribution of funds by LSU in violation of this Agreement.

Section 4.6. No Exclusion. OLOL and LSU each warrants that it, its affiliates, and their respective employees, agents and subcontractors (i) are not currently excluded, debarred or otherwise ineligible to participate in the Federal health care programs defined in 42 U.S.C. Section 1320a-7b(f) (the “Federal health care programs”); (ii) are not convicted of a criminal offense related to the provision of health care items or services; (iii) are not excluded by the Office of Inspector General nor Food and Drug Administration from providing services reimbursable under a federal healthcare program such as Medicare or Medicaid; or (iv) are not under investigation or

otherwise aware of any circumstances which may result in being excluded from participation in Federal health care programs.

## **ARTICLE V INSURANCE AND INDEMNIFICATION**

### Section 5.1. Insurance Requirements of LSU.

(a) Coverage to be Provided. LSU shall secure and keep in full force and effect and/or cause to be kept in effect, throughout the Term of this Agreement (and thereafter, if applicable) the following coverage at the sole cost and expense of LSU:

(v) Commercial General Liability Insurance or self-insurance through the State self-insurance program administered by the Office of Risk Management ("ORM"), including Contractual Liability, Broad Form Property Damage, Personal Injury Liability, Advertising Injury Liability, and public officials and employees' liability, written on an occurrence form, with combined bodily injury and property damage limits of liability of no less than \$5,000,000 per occurrence;

(vi) Automobile Liability Insurance, including owned, non-owned and hired car liability insurance for combined limits of liability of \$5,000,000 per occurrence; and

(vii) Worker's Compensation Insurance providing statutory benefits for LSU and its students and employees, and Employer's Liability coverage in an amount that is no less than \$1,000,000.

(b) Professional Malpractice Liability Insurance.

(i) Coverage of LSU Physicians and Students. LSU shall provide professional malpractice liability insurance for each medical student and each physician who is employed by, acting on behalf of LSU under a contract, or acting on behalf of LSU to provide professional services to patients in relation to this Agreement. Such malpractice insurance shall be provided in accordance with the State Medical Malpractice Act, LA R.S. 40:1237.1 et seq.

(ii) Tail Coverage. In the event that this Agreement is terminated or any of the LSU personnel cease to provide services under this Agreement, if such professional liability insurance was obtained on a "claims made" basis rather than an "occurrence" basis, LSU shall either (a) purchase "tail" coverage to continue the professional liability insurance coverage with a minimum extended reporting period of three (3) years, or (b) continue the insurance coverage required by this section in the same form and with the same coverage limits, and shall furnish OLOL with appropriate documentation of such coverage.

(c) OLOL as Additional Insured. OLOL, its subsidiaries and affiliates, and their respective officers, directors, shareholders, employees, and agents shall be included as Additional Insureds on the Commercial General Liability coverage required to be maintained by LSU under this Agreement.

(d) Insurer Requirements. All required insurance policies and bonds shall be maintained with (i) insurance companies licensed within the State of Louisiana and holding an AM Best rating of no less than A-, VII by AM Best, (ii) through a captive insurance company acceptable to the Department of Insurance for the State of Louisiana, or (iii) the self-insurance program administered by the Louisiana Office of Risk Management. Said policies shall contain a provision that the coverage will not be canceled or non-renewed, until at least thirty (30) days prior written notice has been provided to OLOL.

(e) Delivery of Certificates of Insurance. LSU shall deliver certificates in a customary form evidencing all terms of this Article of the Agreement, to OLOL, or its agent, simultaneously with the execution of these Agreements. Similar certificates shall be delivered evidencing the renewal or replacement of such insurance upon written request.

(f) Blanket Coverage. The Commercial General Liability insurance and any other insurance provided for in this Article may be maintained by means of a policy or policies of blanket insurance covering additional items or locations or insureds, provided, however that (a) the coverage afforded the indemnitors will not be reduced or diminished by reason of the use of such blanket policy(ies) of insurance; and (b) the requirements set forth in this Article of the Agreement are otherwise satisfied.

#### Section 5.2. Insurance Requirements of OLOL.

(a) Policies to be Provided. OLOL shall secure and keep in full force and effect and/or cause to be kept in effect, throughout the Term of this Agreement (and thereafter, if applicable) the following coverage at the sole cost and expense of OLOL:

(i) Commercial General Liability Insurance, including Contractual Liability (to specifically include coverage for the indemnification clauses of this Agreement relating to bodily injury, death or property damage), Broad Form Property Damage, Personal Injury Liability and Advertising Injury Liability, written on an occurrence form, with combined bodily injury and property damage limits of liability of no less than \$1,000,000 per occurrence, \$6,000,000 per location general aggregate.

(ii) Automobile Liability Insurance, including owned, non-owned and hired car liability insurance for combined limits of liability of \$1,000,000 per occurrence;

(iii) Worker's Compensation Insurance providing statutory benefits for OLOL and its employees, and Employer's Liability coverage in an amount that is no less than \$1,000,000;

(iv) Property Coverage covering damage to, or loss of use of equipment of LSU to the extent of damage or loss due to the negligence or fault of OLOL and those for whom OLOL is legally liable;

(v) Directors and Officers Liability Insurance; and

(vi) Umbrella and/or Excess Liability insurance on a claim basis with limits of not less than \$10,000,000 per claim in excess of the limits provided by OLOL's Employer's Liability, Commercial General Liability and Automobile Liability insurance. The coverage terms of the Umbrella/Excess insurance must be at least as broad as the underlying Employer's Liability, Commercial General Liability and Automobile Liability terms and conditions. OLOL shall continue to maintain such insurance for a period of two (2) years following termination of this Agreement.

(b) Professional Malpractice Liability Insurance.

(i) Coverage of OLOL Personnel. OLOL shall provide professional malpractice liability insurance for OLOL personnel providing professional health care services either by: (1) ensuring and maintaining throughout the Term of this Agreement, that OLOL and OLOL personnel providing professional health care services are covered as qualified state health care providers in the Louisiana Patient's Compensation Fund under the provisions of the Louisiana Medical Malpractice Act, LSA R.S. 40:1237.1 *et seq.*, or (2) obtaining and maintaining professional liability insurance covering OLOL and the OLOL personnel providing professional health care services for professional liability claims made during the Term of this Agreement and after termination of the Agreement with minimum limits of \$1,000,000 per claim or occurrence and \$3,000,000 per annual aggregate.

(ii) Tail Coverage. In the event that this Agreement is terminated, if such professional liability insurance was obtained on a "claims made" basis rather than an "occurrence" basis, OLOL shall either (a) purchase "tail" coverage to continue the professional liability insurance coverage with a minimum extended reporting period of three (3) years, or continue the insurance coverage required by this section in the same form and with the same coverage limits, and shall furnish LSU with appropriate documentation of such coverage, or (b) provide documentation of coverage from the prior existing policy.

(c) LSU as Additional Insured. LSU and its board members, officers, employees, and agents shall be included as Additional Insureds on the Commercial General Liability, Umbrella Liability and/or Excess Liability coverage required to be maintained by OLOL under this Agreement.

(d) **Insurer Requirements.** All required insurance policies and bonds shall be maintained with (i) insurance companies licensed within the State of Louisiana and holding an AM Best rating of no less than A-, VII, or (ii) through a captive insurance company providing coverage under the laws of the State of Louisiana. Said policies shall contain a provision that the coverage will not be canceled or non-renewed, until at least thirty (30) days prior written notice has been provided to LSU.

(e) **Delivery of Certificates of Insurance.** OLOL shall deliver certificates in the customary form, i.e. Accord 25, except Accord 28 for Property Insurance, evidencing all terms of this Section of the Agreement, to LSU, or its agent, simultaneously with the execution of these Agreements. Similar certificates shall be delivered evidencing the renewal or replacement of such insurance, at least ten (10) days prior to the effective date of such renewal or change of insurer.

(f) **Blanket Coverage.** The Commercial General Liability insurance and any other insurance provided for in this Article may be maintained by means of a policy or policies of blanket insurance covering additional items or locations or insureds, provided, however that (a) the coverage afforded the indemnitors will not be reduced or diminished by reason of the use of such blanket policy(ies) of insurance; and (b) the requirements set forth in this Article of the Agreement are otherwise satisfied.

### Section 5.3. Indemnification.

(a) **Survival.** All representations, warranties, covenants and obligations in this Agreement and any other certificate or document delivered pursuant to this Agreement shall survive the termination of this Agreement, subject to Section 5.3(c).

(b) **Indemnification.** Each Party will indemnify the other Party in accordance with Paragraphs (c) through (e) of this Section 5.3.

(c) **Time Limitations.**

(i) Except as otherwise provided in this Agreement, LSU will have liability (for indemnification or otherwise) for all costs, expenses, losses, damages, fines, penalties, forfeitures or liabilities (including, without limitation, interest which may be imposed by a court in connection therewith), court costs, litigation expenses, reasonable attorneys' and paralegals' fees and accounting fees incurred by OLOL as a result of (A) a breach of any representation or warranty by LSU, or (B) the actions or failure to act by LSU personnel; provided however, that LSU's obligation under this Section shall only apply if, other than with respect to a breach resulting from fraud, in which case a claim may be made at any time, on or before the third (3<sup>rd</sup>) anniversary of the termination of this Agreement, OLOL notifies LSU of a claim specifying the factual basis of the claim in reasonable detail to the extent then known by OLOL.

(ii) Except as otherwise provided in this Agreement, OLOL will have liability (for indemnification or otherwise) for all costs, expenses, losses, damages, fines, penalties, forfeitures or liabilities (including, without limitation, interest which may be imposed by a court in connection therewith), court costs, litigation expenses, reasonable attorneys' and paralegals' fees and accounting fees incurred by LSU as a result of (A) a breach of any representation or warranty by OLOL, or (B) the actions or failure to act by the employees or agents of OLOL; provided however, that OLOL's obligation under this Section shall only apply if, other than with respect to a breach resulting from fraud, in which case a claim may be made at any time, on or before the third (3<sup>rd</sup>) anniversary of the termination of this Agreement, LSU notifies OLOL of a claim specifying the factual basis of the claim in reasonable detail to the extent then known by LSU.

(d) Third-Party Claims.

(i) Promptly after receipt by a Person entitled to indemnity under this Agreement (an "Indemnified Person") of notice of the assertion of a Third-Party Claim against it, such Indemnified Person shall give notice to the Person obligated to indemnify under such Section (an "Indemnifying Person") of the assertion of such Third-Party Claim, provided that the failure to notify the Indemnifying Person will not relieve the Indemnifying Person of any liability that it may have to any Indemnified Person, except to the extent that the Indemnifying Person demonstrates that the defense of such Third-Party Claim is prejudiced by the Indemnified Person's failure to give such notice. (For purposes of this Agreement, "Person" means an individual, partnership, corporation, business trust, limited liability company, limited liability partnership, joint stock company, trust, unincorporated association, joint venture or other entity or a governmental body.)

(ii) If an Indemnified Person gives notice to the Indemnifying Person pursuant hereto of the assertion of a Third-Party Claim, the Indemnifying Person shall be entitled to participate in the defense of such Third-Party Claim and, to the extent that it wishes (unless (i) the Indemnifying Person is also a Person against whom the Third-Party Claim is made and the Indemnified Person determines in good faith that joint representation would be inappropriate or (ii) the Indemnifying Person fails to provide reasonable assurance to the Indemnified Person of its financial capacity to defend such Third-Party Claim and provide indemnification with respect to such Third-Party Claim), to assume the defense of such Third-Party Claim with counsel satisfactory to the Indemnified Person. After notice from the Indemnifying Person to the Indemnified Person of its election to assume the defense of such Third-Party Claim, the Indemnifying Person shall not, so long as it diligently conducts such defense, be liable to the Indemnified Person under this Article for any fees of other counsel or any other expenses with respect to the defense of such Third-Party Claim, in each case subsequently incurred by the Indemnified Person in connection with the defense of such Third-Party Claim, other than reasonable costs of investigation. If the Indemnifying Person assumes the defense of a Third-Party Claim, no compromise or settlement of such Third-



Party Claim may be effected by the Indemnifying Person without the Indemnified Person's consent unless (A) there is no finding or admission of any violation of a Legal Requirement or any violation of the rights of any Person; (B) the sole relief provided is monetary damages that are paid in full by the Indemnifying Person; and (C) the Indemnified Person shall have no liability with respect to any compromise or settlement of such Third-Party Claims effected without its consent.

(iii) Notwithstanding the foregoing, if an Indemnified Person determines in good faith that there is a reasonable probability that a Third-Party Claim may adversely affect it other than as a result of monetary damages for which it would be entitled to indemnification under this Agreement, the Indemnified Person may, by notice to the Indemnifying Person, assume the exclusive right to defend, compromise or settle such Third-Party Claim, but the Indemnifying Person will not be bound by any determination of any Third-Party Claim so defended for the purposes of this Agreement or any compromise or settlement effected without its consent (which may not be unreasonably withheld).

(iv) With respect to any Third-Party Claim subject to indemnification under this Article: (i) both the Indemnified Person and the Indemnifying Person, as the case may be, shall keep the other Person fully informed of the status of such Third-Party Claim and any related Proceedings at all stages thereof where such Person is not represented by its own counsel, and (ii) the Parties agree (each at its own expense) to render to each other such assistance as they may reasonably require of each other and to cooperate in good faith with each other in order to ensure the proper and adequate defense of any Third-Party Claim.

(v) With respect to any Third-Party Claim subject to indemnification under this Article, the Parties agree to cooperate in such a manner as to preserve in full (to the extent possible) the confidentiality of all Confidential Information and the attorney-client and work-product privileges. In connection therewith, each Party agrees that, to the extent allowed by law: (i) it will use its commercially reasonable efforts, in respect of any Third-Party Claim in which it has assumed or participated in the defense, to avoid production of Confidential Information (consistent with applicable law and rules of procedure), and (ii) all communications between any Party hereto and counsel responsible for or participating in the defense of any Third-Party Claim shall, to the extent possible, be made so as to preserve any applicable attorney-client or work-product privilege.

(e) Other Claims. A claim for indemnification for any matter not involving a Third-Party Claim may be asserted by notice to the party from whom indemnification is sought and shall be paid promptly after such notice.

## ARTICLE VI

## **OWNERSHIP AND MANAGEMENT OF INTELLECTUAL PROPERTY**

Section 6.1. Research Activity Terms. With respect to any research activities conducted by the Parties on the LSU campus, including any research projects, for which collaboration between OLOL and LSU may result in Inventions or other Intellectual Property, the provisions of this Article VI shall apply. (For purposes of this Article VI, “Inventions” shall mean all ideas, discoveries, improvements, know-how, and information developed as a result of research or other collaborative activities conducted jointly between OLOL and LSU; and “Intellectual Property” shall mean all patents, copyrights, trademarks, trade secrets, inventions, discoveries, software, and other works of authorship developed as a result of research or other collaborative activities conducted jointly between OLOL and LSU.) Notwithstanding the foregoing, the Parties may elect to modify the provisions of Article VI for specific research activities by a separate agreement, the provisions of which shall supersede, to the extent inconsistent, the terms of this Article VI. All research activities conducted by the Parties on the LSU campus shall comply with the applicable conflict of interest policies of OLOL and LSU.

Section 6.2. Government Rights. Certain Inventions may have been developed under a funding agreement with the United States and, if so, the United States may have certain rights relative thereto. The provisions of this Agreement relating to ownership and control of Intellectual Property and future licenses related thereto are explicitly made subject to the United States' rights under any agreement and any applicable law or regulation. If there is a conflict between any agreement, applicable law or regulation and this Agreement, the terms of the United States agreement, applicable law or regulation shall prevail.

Section 6.3. Development and Notice. As soon as reasonably possible in each case, and prior to any disclosure to third parties, all Inventions shall be disclosed in writing to the OLOL DIO and LSU DIO using an Invention disclosure form approved by both OLOL and LSU. The OLOL DIO and LSU DIO shall be kept fully informed in writing of the progress and results of all research and development work done with respect to such Inventions. Once such Invention is disclosed to the Parties, the Invention shall be maintained in confidence between the Parties, subject to the provisions of Section 6.9.

### Section 6.4. Ownership; Prosecution.

(a) Unless otherwise agreed to by the Parties in a separate written agreement with respect to a particular Invention or other Intellectual Property, any Invention or Intellectual Property which results from any research or other collaborative activity conducted jointly between the Parties shall be owned equally by the Parties.

(b) The Parties will jointly select and approve outside counsel prior to incurring any out-of-pocket expenses incurred in searching, preparing, filing, prosecuting, defending, and maintaining an Invention or Intellectual Property (“IP Expenses”). If the Parties cannot agree on outside counsel, OLOL shall select such outside counsel pursuant to its obligations under Section 6.4(d) hereof.

(c) The Parties will each use their best efforts to ensure that Joint Inventors, co-authors, and other persons involved in the development of the Intellectual Property fully cooperate in the preparation, filing, prosecution and maintenance of the Patent Rights and other Intellectual Property. (For purposes of this Article VI, "Joint Inventors" means inventors identified as having collectively conceived and reduced to practice an Invention, wherein the inventors comprise at least one inventor employed by OLOL and at least one inventor employed by LSU. Specifically, any invention or discovery: (i) resulting from research carried on, by, or under the direction of any employee of LSU, and having all or part of the cost thereof paid from funds controlled or administered by OLOL; or (ii) which has been developed in whole or in part by any employee of LSU through the utilization of OLOL resources or facilities, shall be presumed to be a joint Invention owned equally by OLOL and LSU. For purposes of this Article VI, "Patent Rights" means the Parties' respective rights in discoveries, know-how, information and inventions covered in patents and/or patent applications, whether domestic or foreign, which identify Joint Inventors as inventors and which relate to the Invention, and any patent application(s) claiming the benefit of priority thereof including all divisions and continuations of these applications, all patents issuing from such applications, divisions and continuations, and any reissues, reexaminations, and extensions of all such patents to the extent that Joint Inventors are named as inventors thereon.)

(d) Unless otherwise agreed to by the Parties with respect to a specific Invention or Intellectual Property, OLOL shall be responsible for preparing, filing, prosecuting, defending, and maintaining the Patent Rights or other IP rights made in the name of both Parties and will consult with and keep LSU fully informed of the status thereof. OLOL will copy LSU on all IP-related communications, including, but not limited to, patent applications, copyright applications, office actions, and responses. The Parties each have the right to review and comment upon the wording of specifications, claims, and responses to office actions prior to their submission to the appropriate governmental office. Patent Rights or other IP rights will not be abandoned without the written consent of both Parties. If OLOL anticipates extraordinary IP Expenses arising from the preparation, filing, prosecution, maintenance or defense of any patent application, patent, or other IP right contemplated by this Agreement, then OLOL will provide LSU with full details and together the Parties will determine a mutually acceptable course of action prior to incurring such expenditures.

(e) Either Party may, upon reasonable written notice to the other Party, discontinue paying its portion of the IP Expenses associated with any particular patent application, patent, or IP right within any national jurisdiction (the "Discontinuing Party"). The other Party may continue to pay the IP Expenses (the "Continuing Party") and in so doing will own all right, title and interest in and to that Intellectual Property and its associated patent application, patent, or applicable rights within such national jurisdiction. The Discontinuing Party shall have no further rights in and to that particular Invention, patent application, patent, or Intellectual Property within such national jurisdiction and shall execute any assignments necessary to transfer full title to the Continuing Party.

Section 6.5. Licensing. The Parties agree to cooperate to commercialize, utilize and exploit each Invention, Patent Rights, or Intellectual Property, and will keep each other informed of

all interest expressed by third parties. Notwithstanding the above, neither Party has any right to commercialize, utilize, exploit and/or license the Invention, Patent Rights, or Intellectual Property without the express written permission of the other Party, which will not be unreasonably withheld. All licenses with respect to the Invention, Patent Rights, or Intellectual Property will be made jointly in the name of and executed by both Parties and will be negotiated and administered by OLOL.

#### Section 6.6. Expenses, Payments, and Reports.

(a) Each Party agrees to share IP Expenses in proportion to its ownership interest in the IP. Each Party will be responsible for paying the percentage of IP Expenses equal to its respective ownership percentage interest in the IP. Both Parties recognize the other Party may incur certain legal expenses regarding the Invention, Patent Rights, or Intellectual Property with matters pertaining solely to the Party incurring such expense. In such circumstances, such expenses will not be considered IP Expenses. OLOL will maintain adequate records showing all IP Expenses incurred, which will be made available to LSU for inspection upon reasonable written notice.

(b) Within thirty (30) days of receiving bills for any IP Expenses, OLOL will provide LSU with an invoice for IP Expenses reporting the amount and purpose of incurring such expenses, and the amount of IP Expenses owed by LSU. Subject to the provisions of this Section 6.6, LSU shall reimburse OLOL within thirty (30) days of receiving an invoice for IP Expenses from OLOL.

(c) Subject to the provisions of Section 6.4(e) and Section 6.5 License Revenue shall be shared by the Parties. In accordance with Section 6.4(e), the Discontinuing Party shall receive no proceeds from License Revenue attributable to a discontinued patent, patent application, or other Intellectual Property right other than its reimbursement of contributed IP Expenses, if any. Any License Revenue will be first applied to any unreimbursed IP Expenses incurred by OLOL. In addition, after reimbursement of TIP Expenses, the Parties may mutually agree to hold all or a portion of any remaining License Revenue in anticipation of future unreimbursed IP Expenses. When the Parties agree to distribute License Revenue, each Party will receive a percentage of License Revenue equal to its respective ownership percentage interest in the IP. (For purposes of this Article VI, "License Revenue" means the transfer of value from third parties to the Parties in consideration of granted licenses or other rights to the Intellectual Property which may include, but is not limited to: actual royalties, fees, payments, equity securities and other sums.)

(d) Within thirty (30) days of receiving License Revenue from any licensee, OLOL will provide LSU with a written report accounting for the total amount of License Revenue received from any licensee, the amount of License Revenue to reimburse IP Expenses, the amount of License Revenue to be held in anticipation of future unreimbursed 11<sup>3</sup> Expenses, the amount of License Revenue retained by OLOL, and the amount of License Revenue due LSU. Simultaneously with the report's delivery, OLOL will pay LSU the amount due LSU. All payments to LSU will be in U.S. Dollars, by check payable to LSU or

its designated payee and sent to the address set forth in Section 7.6, or such other address as LSU may designate in writing.

(e) LSU will have the right to hire an independent, certified public accountant reasonably acceptable to OLOL to audit financial records relating to License Revenue and/or IP Expenses at its own expense. Such audits may be exercised during normal business hours upon at least thirty (30) days prior written notice to OLOL.

(f) Each Party will be solely responsible for calculating and distributing License Revenues as specified under its respective patent policy or royalty policy to its respective Inventors and other persons involved in the development of the Intellectual Property.

#### Section 6.7. Prior Ownership.

(a) Notwithstanding the foregoing, OLOL retains ownership of any Intellectual Property that it owns prior to the Effective Date of this Agreement, or that is developed independently by OLOL and using only OLOL resources and facilities. Specifically, the systems, methods, procedures and controls employed by OLOL in the performance of this Agreement are proprietary in nature and shall be and remain the property of OLOL, and shall not at any time be utilized, distributed, copied or otherwise employed by LSU except in the performance of LSU's duties hereunder during the Term of this Agreement.

(b) Notwithstanding the foregoing, LSU retains ownership of any Intellectual Property that it owns prior to the Effective Date of this Agreement, or that is developed independently by LSU and using only LSU resources and facilities.

#### Section 6.8. Infringement.

(a) If either Party becomes aware of potential infringement of any Intellectual Property rights, including the Patent Rights, then that Party shall notify the other Party as soon as possible so that the Parties can discuss and determine how best to resolve such infringement. If the Parties agree to commence an action for patent infringement or other suitable cause of action, then they agree that the reasonable expenses and disbursements paid in connection with such action shall be considered IP Expenses and all monies actually received as a result of the infringement action shall be treated as License Revenue. If the Parties cannot agree to commence such an action, then either Party shall have the right to prosecute such action, and that Party shall bear all the expense and be entitled to retain all monies received from such action.

(b) The Parties will each use their best efforts to ensure that Joint Inventors or other persons involved with the Intellectual Property cooperate and supply all assistance reasonably requested in connection with any legal action to address such infringement.

(c) If during such legal action, either Party decides to discontinue its participation in the action, then the continuing Party may pay all future expenses associated with such action and will retain all monies or consideration from such action after first

reimbursing any legal action related expenses incurred by the discontinuing Party at a rate equal to the percentage of total expenses contributed by the discontinuing Party.

#### Section 6.9. Confidential Information.

(a) Subject to the provisions of Section 7.5(h) other Legal Requirements related to Confidential Information and the publication rights as set forth in Section 6.9(b) and Section 6.9(c), OLOL, LSU, and Joint Inventors shall retain in confidence, and will not disclose to a third party without the written consent of the other Party: (i) any Invention and documents related thereto, (ii) any information in documents marked "confidential" forwarded to one Party by the other Party, (iii) any biological materials related to the Invention, and (iv) any patent application included in the Patent Rights. Each Party's obligation of confidence hereunder will be fulfilled by using at least the same degree of care with the other Party's Confidential Information it uses to protect its own Confidential Information. This obligation shall exist while this Agreement is in force and for a period of three (3) years thereafter.

(b) Notwithstanding the provisions of Section 6.9(a), OLOL and LSU will be free to: (i) publish information relating to the Invention and/or Patent Rights in scientific journals, (ii) use the Invention and/or Patent Rights in research, teaching and other educationally-related purposes, and (iii) maintain the Invention and make it available to the nonprofit research community solely for non-commercial research, teaching and other educationally-related purposes; provided, however, that any such transfer or use of the Invention will be administered by a suitable agreement barring commercial use of the Invention (i.e., material transfer agreement, confidentiality agreement, etc.). Additionally, OLOL and LSU agree to supply the other with a copy of any manuscript prior to its submission for publication to permit the other to evaluate it in order to determine if it contains patentable subject matter relating to the Invention and/or Patent Rights. Within thirty (30) days after receiving a manuscript intended for publication, the receiving Party shall notify the submitting Party whether a patent application will be filed in accordance with the terms and conditions herein. At the request of the receiving Party, the submitting Party agrees to delay publication for no less than thirty (30) days from notice from the receiving Party (the "Delay Period") in order to enable the preparation and filing of a patent application on any patentable subject matter described in the manuscript. If, at the end of the Delay Period, the Parties are unable to mutually agree to an acceptable publication date to allow a patent application to be filed, then the submitting Party shall be free to publish without the receiving Party's approval.

(c) Nothing herein will preclude OLOL or LSU from making confidential reports or disclosures as required by any organizations which provided funding that resulted in the creation of all or a part of the Invention and/or Patent Rights.

## **ARTICLE VII GENERAL PROVISIONS**

Section 7.1. Term and Termination. The term of this Agreement shall commence on the Effective Date and shall continue during the term of the MAA. This Agreement may be terminated (a) by mutual agreement of the Parties or (b) in accordance with the provisions set forth in the MAA. Unless otherwise agreed by the Parties in writing, this Agreement shall terminate automatically upon termination of the MAA.

Section 7.2. Dispute Resolution. OLOL and LSU hereby acknowledge and agree that any dispute between OLOL and LSU arising out of or directly related to the performance of this Agreement shall be resolved pursuant to the dispute resolution process set forth in Section 6 of the MAA.

Section 7.1. Interpretation. In this Agreement, unless a clear contrary intention appears:

- (a) the singular number includes the plural number and vice versa;
- (b) reference to any Person includes such Person's successors and assigns but, if applicable, only if such successors and assigns are not prohibited by this Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity or individually;
- (c) reference to any gender includes the other gender;
- (d) reference to any agreement, document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof;
- (e) reference to any Legal Requirement means such Legal Requirement as amended, modified, codified, replaced or reenacted, in whole or in part, and in effect from time to time, including rules and regulations promulgated thereunder, and reference to any section or other provision of any Legal Requirement means that provision of such Legal Requirement from time to time in effect and constituting the substantive amendment, modification, codification, replacement or reenactment of such section or other provision;
- (f) "hereunder," "hereof," "hereto," and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Article, Section or other provision hereof;
- (g) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term;
- (h) "or" is used in the inclusive sense of "and/or";
- (i) with respect to the determination of any period of time, "from" means "from and including" and "to" means "to but excluding";
- (j) references to "day," rather than the defined term "Business Day," shall mean a calendar day; and

(k) references to documents, instruments or agreements shall be deemed to refer as well to all addenda, exhibits, schedules or amendments thereto.

Section 7.2. Legal Representation of the Parties. This Agreement was negotiated by the signatories hereto with the benefit of legal representation, and any rule of construction or interpretation otherwise requiring this Agreement to be construed or interpreted against any signatory hereto shall not apply to any construction or interpretation hereof.

Section 7.3. Expenses. Except as otherwise provided in this Agreement, each Party to this Agreement will bear its respective fees and expenses incurred in connection with the preparation, negotiation, execution and performance of this Agreement, including all fees and expense of its representatives. If this Agreement is terminated, the obligation of each Party to pay its own fees and expenses will be subject to any rights of such Party arising from a breach of this Agreement by the other Party.

Section 7.4. Public Announcements. Any public announcement, press release or similar publicity with respect to this Agreement will be issued, if at all, at such time and in such manner as OLOL and LSU mutually determine. Except with the prior consent of the other Party or as permitted by this Agreement, or as required by law, neither Party shall disclose to any Person any information about this Agreement, including the status of such discussions or negotiations, the execution of any documents or any of the terms of this Agreement. [Is this OK with LSU?]

Section 7.5. Confidential Information.

(a) Restricted Use of Confidential Information. Subject to subsection (h) below, except as otherwise required by any Legal Requirement, each Receiving Party acknowledges the confidential and proprietary nature of the Confidential Information of the Disclosing Party and agrees that such Confidential Information to the extent allowed by law (i) shall be kept confidential by the Receiving Party; (ii) shall not be used for any reason or purpose other than performance under this Agreement; and (iii) without limiting the foregoing, shall not be disclosed by the Receiving Party to any Person, except in each case as otherwise expressly permitted by the terms of this Agreement or with the prior written consent of an authorized representative of LSU with respect to Confidential Information of LSU or the OLOL CEO with respect to Confidential Information of OLOL. Each of LSU and OLOL shall disclose the Confidential Information of the other party only to its representatives who require such material for the purpose of performing under this Agreement and are informed by LSU or OLOL, as the case may be, of the obligations of this Article with respect to such information. Each of LSU and OLOL shall (iv) enforce the terms of this Article as to its respective representatives; (v) take such action to the extent necessary to cause its representatives to comply with the terms and conditions of this Article; and (vi) be responsible and liable for any breach of the provisions of this Article by it or its representatives.

(b) Exceptions. Section 7.5(a) does not apply to that part of the Confidential Information of a Disclosing Party that a Receiving Party demonstrates (i) was, is or becomes generally available to the public other than as a result of a breach of this Article or the



Confidentiality Agreement by the Receiving Party or its representatives; (ii) was or is developed by the Receiving Party independently of and without reference to any Confidential Information of the Disclosing Party; or (iii) was, is or becomes available to the Receiving Party on a non-confidential basis from a third party not bound by a confidentiality agreement or any legal, fiduciary or other obligation restricting disclosure.

(c) Legal Proceedings. Subject to subsection (h) below, if a Receiving Party becomes compelled in any Proceeding or is requested by a Governmental Body having regulatory jurisdiction over the Parties and this Agreement to make any disclosure that is prohibited or otherwise constrained by this Article, that Receiving Party shall provide the Disclosing Party with prompt notice of such compulsion or request so that it may seek an appropriate protective order or other appropriate remedy or waive compliance with the provisions of this Article. In the absence of a protective order or other remedy, the Receiving Party may disclose that portion (and only that portion) of the Confidential Information of the Disclosing Party that, based upon advice of the Receiving Party's counsel, the Receiving Party is legally compelled to disclose or that has been requested by such Governmental Body, provided, however, that the Receiving Party shall use reasonable efforts to obtain reliable assurance that confidential treatment will be accorded by any Person to whom any Confidential Information is so disclosed. The provisions of this Section do not apply to any Proceedings among the Parties to this Agreement.

(d) Return or Destruction of Confidential Information. Except as required by any Legal Requirement, if this Agreement is terminated, each Receiving Party shall, to the extent allowed by law, (i) destroy all Confidential Information of the Disclosing Party prepared or generated by the Receiving Party without retaining a copy of any such material; (ii) promptly deliver to the Disclosing Party all other Confidential Information of the Disclosing Party, together with all copies thereof, in the possession, custody or control of the Receiving Party or, alternatively, with the written consent of the Disclosing Party, destroy all such Confidential Information; and (iii) certify all such destruction in writing to the Disclosing Party, provided, however, that the Receiving Party may retain a list that contains general descriptions of the information it has returned or destroyed to facilitate the resolution of any controversies after the Disclosing Party's Confidential Information is returned.

(e) Attorney-Client Privilege. The Disclosing Party is not waiving, and will not be deemed to have waived or diminished, any of its attorney work product protections, attorney-client privileges or similar protections and privileges as a result of disclosing its Confidential Information (including Confidential Information related to pending or threatened litigation) to the Receiving Party, regardless of whether the Disclosing Party has asserted, or is or may be entitled to assert, such privileges and protections. The Parties (i) share a common legal and commercial interest in all of the Disclosing Party's Confidential Information that is subject to such privileges and protections; (ii) are or may become joint defendants in Proceedings to which the Disclosing Party's Confidential Information covered by such protections and privileges relates; and (iii) intend that such privileges and protections remain intact should either party become subject to any actual or threatened Proceeding to which the Disclosing Party's Confidential Information covered by such

protections and privileges relates. No Receiving Party shall admit, claim or contend, in Proceedings involving either Party or otherwise, that any Disclosing Party waived any of its attorney work-product protections, attorney-client privileges or similar protections and privileges with respect to any information, documents or other material not disclosed to a Receiving Party due to the Disclosing Party disclosing its Confidential Information (including Confidential Information related to pending or threatened litigation) to the Receiving Party.

(f) Trade Secret Protection. Any trade secrets of a Disclosing Party shall also be entitled to all of the protections and benefits under applicable trade secret law and any other applicable law. If any information that a Disclosing Party deems to be a trade secret is found by a court of competent jurisdiction not to be a trade secret for purposes of this Article, such information shall still be considered Confidential Information of that Disclosing Party for purposes of this Article to the extent included within the definition. In the case of trade secrets, each of LSU and OLOL hereby waives any requirement that the other Party submit proof of the economic value of any trade secret or post a bond or other security.

(g) HIPAA Override. Notwithstanding anything to the contrary in this Agreement, any Confidential Information which constitutes "protected health information" as defined in HIPAA shall be maintained by the Parties in accordance with the provisions of HIPAA and the rules and regulations promulgated thereunder, and such provisions, rules and regulations shall take precedence over any other provisions of this Agreement governing Confidential Information to the extent there is a conflict between the terms of this Agreement and such provisions, rules and regulations of HIPAA and each Party will act in accordance therewith.

(h) Public Records Request. The financial and other records created by, for or otherwise belonging to OLOL shall remain in the possession, custody and control of OLOL regardless of whether, or the method by which, LSU reviews and/or audits such records in connection with the rights and obligations of this Agreement. LSU and OLOL consider records of OLOL to be proprietary to OLOL and, to the extent that OLOL makes any such records or documents available to LSU, such records shall be clearly marked as confidential and/or proprietary to indicate OLOL's position that such records or documents are not public records. To the extent a public records request is received by LSU pursuant to La. R.S. 44:1, et seq. (the "Public Records Act") which may include documents marked as confidential and/or proprietary to OLOL, LSU will use its best efforts to give notice to OLOL that LSU has received such a public records request prior to producing any documents considered to be proprietary to OLOL, and if such notice cannot be provided to OLOL before LSU is required to produce such documents, LSU shall provide notice to OLOL as soon thereafter as possible. In the event that OLOL objects to the production and believes that the records are not subject to production pursuant to the Public Records Act, OLOL will immediately so notify LSU in writing and take such action as OLOL deems necessary to protect the disclosure of such records. OLOL will defend, indemnify and hold harmless LSU and its employees, officers, attorneys and agents from and against any costs, expenses, liabilities, attorneys fees, losses, damages, fines and/or penalties resulting from

or relating to LSU' s failure to produce such documents in response to a public records request.

Section 7.6. Notices. Except as otherwise provided in this Agreement, any notice, payment, demand, request or communication required or permitted to be given by any provision of this Agreement shall be in writing and shall be duly given by the applicable Party if personally delivered to the applicable Party, or if sent certified or registered mail, at its address set forth below:

If to LSU:  
Louisiana State University  
3810 West Lakeshore Drive, Room 124 \_\_\_\_\_  
Baton Rouge, LA 70808  
Attention: President

With a copy to:  
Louisiana State University  
3810 West Lakeshore Drive, Room 124\_  
Baton Rouge, LA 70808  
Attention: General Counsel

If to OLOL:  
5000 Hennessey Boulevard  
Suite \_\_\_\_\_  
Baton Rouge, LA 70808  
Attention: Chief Executive Officer

With a copy to:  
FMOLHS  
4200 Essen Lane  
Baton Rouge, LA 70809  
Attention: General Counsel

or to such other address as such Party may from time to time specify by written notice to the other Party.

Any such notice shall, for all purposes, be deemed to be given and received: (i) if by hand, when delivered; (ii) if given by nationally recognized and reputable overnight delivery service, the business day on which the notice is actually received by the Party; or (iii) if given by certified mail, return receipt requested, postage prepaid, three (3) Business Days after posted with the United States Postal Service.

Section 7.7. Jurisdiction; Service of Process. Any proceeding arising out of or relating to this Agreement may be brought in the 19<sup>th</sup> Judicial District for the Parish of East Baton Rouge, Louisiana, or, if it has or can acquire jurisdiction, in the United States District Court for the Middle District of Louisiana, and each of the Parties irrevocably submits to the exclusive jurisdiction of each such court in any such proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the proceeding shall be heard and determined only in any such court and agrees not to bring any proceeding arising out of or relating to this Agreement in any other court. The Parties agree that either or both of them may file a copy of this Section with any court as written evidence of the knowing, voluntary and bargained agreement between the Parties irrevocably to waive any

objections to venue or to convenience of forum. Process in any proceeding referred to in the first sentence of this section may be served on any party anywhere in the world.

Section 7.8. Enforcement of Agreement; Legal Fees and Costs. The Parties expressly acknowledge and agree that the Dispute Process set forth in Section 6**Error! Reference source not found.** of the MAA is the exclusive means by which the Parties will resolve dispute or claim arising out of or related to this Agreement, and in the event of any dispute that the Parties are unable to resolve to their mutual satisfaction pursuant to the Dispute Process, such dispute may be addressed and the Parties may be adequately compensated through a claim for monetary damages. Accordingly, except as otherwise specifically set forth in herein, no Party shall be entitled, at law or in equity, to enforce any provision of this Agreement by a decree of specific performance, temporary, preliminary, or permanent injunctive, or other equitable relief to resolve any dispute arising under this Agreement, and the Parties expressly waive any rights they may otherwise have to pursue such equitable relief. In the event that any Party elects to incur legal expenses to pursue a claim for monetary damages under this Agreement, the prevailing Party will be entitled to recover such legal expenses, including, without limitation, reasonable attorneys' fees, costs and necessary disbursements, in addition to such other money damages to which such Party shall be entitled.

Section 7.9. Entire Agreement and Modification. This Agreement supersedes all prior agreements, whether written or oral, among the Parties with respect to its subject matter (including any memorandum of understanding between OLOL and LSU) and constitutes (along with the other documents delivered pursuant to this Agreement) a complete and exclusive statement of the terms of the agreement between the Parties with respect to its subject matter. This Agreement may not be amended, supplemented, or otherwise modified except by a written agreement executed by LSU and OLOL.

Section 7.10. Assignments, Successors and No Third-Party Rights. No Party may assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the other Party provided that OLOL may assign to a party that acquires substantially all of the assets of OLOL or is under common control with or controls OLOL. Nothing expressed or referred to in this Agreement will be construed to give any Person other than the Parties to this Agreement any legal or equitable right, remedy or claim under or with respect to this Agreement or any provision of this Agreement.

Section 7.11. Severability. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

Section 7.12. Construction. The headings of Articles and Sections in this Agreement are provided for convenience only and will not affect its construction or interpretation. All references to "Articles," and "Sections" refer to the corresponding Articles and Sections of this Agreement.

Section 7.13. Time of Essence. With regard to all dates and time periods set forth or referred to in this Agreement, time is of the essence.

Section 7.14. Governing Law. This Agreement will be governed by and construed under the laws of the State of Louisiana without regard to conflicts-of-laws principles that would require the application of any other law.

Section 7.15. Execution of Agreement. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages by facsimile transmission shall constitute effective execution and delivery of this Agreement as to the Parties and may be used in lieu of the original Agreement for all purposes. Signatures of the Parties transmitted by facsimile shall be deemed to be their original signatures for all purposes.

Section 7.16. Compliance with Health Care Laws. This Agreement is intended to comply with all Health Care Laws and nothing herein is intended to require, nor shall the Agreement be construed or interpreted as requiring, directly or indirectly, explicitly or implicitly, any Party to take any action that would violate any Health Care Law. (For purposes of this Agreement, "Health Care Laws" means all federal, state or local laws, statutes, codes, ordinances, regulation manuals or principles of common law relating to healthcare regulatory matters, including without limitation (i) 42 U.S.C. §§ 1320a-7, 7a and 7b, which are commonly referred to as the "Federal Anti-Kickback Statute"; (ii) 42 U.S.C. § 1395nn, which is commonly referred to as the "Stark Law"; (iii) 31 U.S.C. §§ 3729-3733, which is commonly referred to as the "Federal False Claims Act"; (iv) Titles XVIII and XIX of the Social Security Act, implementing regulations and program manuals; and (v) 42 U.S.C. §§ 1320d-1320d-8 and 42 C.F.R. §§ 160, 162 and 164, which is commonly referred to as HIPAA; (vi) 42 U.S.C. §§ 1395dd, et. seq., which is commonly referred to as the "Emergency Medical Treatment and Active Labor Act" (EMTALA).)

Section 7.17. Access to Records. To the extent that the services provided under this Agreement are deemed by the Secretary of the Department of Health and Human Services, the U.S. Comptroller General, or the Secretary's or Comptroller's delegate, to be subject to the provisions of Section 952 of Public Law 96-499, the Parties, until the expiration of four (4) years subsequent to the furnishing of services under this Agreement, shall make available, upon written request to the Secretary, the Comptroller, or any of their duly authorized representatives this Agreement, and the books, documents and records of the Parties that are necessary to certify the nature and extent of the charges to each Party. If any Party carries out any of its duties under the Agreement through a subcontract, with a value of \$10,000 or more over a twelve (12)-month period, with a related organization (as that term is defined with regard to a provider in 42 C.F.R. § 413.17(1)), such subcontract shall contain a clause to the effect that until the expiration of four (4) years after the furnishing of such services pursuant to such subcontract, the related organization upon written request shall make available, to the Secretary, the Comptroller, or any of their duly authorized representatives the subcontract, and books, documents, and records of such organization that are necessary to verify the nature and extent of such costs. If any Party is requested to disclose any books, documents, or records relevant to this Agreement for the purpose of an audit or investigation relating directly to the provision of services under this Agreement, such Party shall notify the other Party of the nature and scope of such request and shall make available to the other Party, upon written request, all such books, documents, or records. This Section is included pursuant to and is governed by the requirements of federal law. No attorney-client,

accountant-client, or other legal privilege will be deemed to have been waived by the Parties or any of the Parties' representatives by virtue of this Agreement.

Section 7.18. Name and Trademark. Except as provided in this Agreement, no Party will use any other Party's name, symbol, or trademark in any marketing, advertising, or any other public communications without the prior written consent of such Party regarding the use of its name, symbol, or trademark.

Section 7.19. OLOL Not Intended to be Public Body. Nothing in this Agreement is intended, and it is not the intent of the Parties to cause or result in OLOL being considered a public or quasi-public body, governmental authority or subdivision thereof, other public entity or otherwise subject to public inspection laws of the State of Louisiana, public audit or other disclosure procedures generally applicable to public bodies in the State of Louisiana.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

**BOARD OF SUPERVISORS OF  
LOUISIANA STATE UNIVERSITY AND  
AGRICULTURAL AND MECHANICAL  
COLLEGE**

By: \_\_\_\_\_

Name: \_\_\_\_\_

**OUR LADY OF THE LAKE HOSPITAL,  
INC.**

By: \_\_\_\_\_

Name: \_\_\_\_\_







**LSU**



**OUR LADY  
OF THE LAKE**

**CHAMPIONSHIP** HEALTHCARE PARTNER



# Gift Overview: Academics - \$85 Million

\$170 Million Total Investment

## **Student Health: \$40,000,000**

- In-kind care for uninsured and underinsured students, valued at \$3 million annually for 10 years
- Investment of \$10 million to develop an end-to-end healthcare experience within the LSU Student Health Center, which will be operated similarly to the Our Lady of the Lake LSU Health Clinics

## **LSU School of Medicine New Orleans Baton Rouge Branch Campus: \$20,000,000**

- Philanthropic and direct investments for, but not limited to, growth in new and existing residency and fellowship programs at Our Lady of the Lake, dually promoted programs to expand high school students' interests in healthcare, and programs that provide broad training opportunities in clinical and non-clinical health-related professions

## **Our Lady of the Lake Health Interdisciplinary Science Building: \$15,000,000**

- \$15 million through the LSU Foundation to support construction of the Our Lady of the Lake Health Interdisciplinary Science Building (LSU's top capital priority) and related naming rights

## **Our Lady of the Lake Research Fund: \$10,000,000**

- Institution-wide research fund, held within the LSU Foundation, reaching \$10 million over six years and used at the discretion of the LSU President, with a top priority of specific innovation to address health disparities

# Gift Overview: Athletics - \$85 Million

\$170 Million Total Investment

## **LSU Sports Medicine Partner (\$60 million)**

- \$6 million annually over a 10-year period to create a discretionary fund, held within the Tiger Athletic Foundation, to be used exclusively for student-athlete health and wellness

## **Our Lady of the Lake - Direct Medical Support (\$10 million)**

- Mechanisms to reduce overall costs of health and wellness care to LSU Athletics, with anticipated savings of a minimum of \$1 million annually for 10 years

## **LSU Sports Properties Partnership (\$10 million)**

- Partnership with LSU's Multimedia Rights Holder at a value of \$1 million for a minimum of 10 years

## **Our Lady of the Lake Programmatic Support Fund (\$5 million)**

- \$500,000 annually for 10 years to create Our Lady of the Lake Programmatic Support Fund for LSU Athletics, held within the Tiger Athletic Foundation and used for items such as, but not limited to, special events to address emerging community needs and brand recognition opportunities to leverage unique occasions

# Sports Medicine & Direct Medical Support

- Our Lady of the Lake administered physicals for all LSU student-athletes (500+) in summer 2022, including for EKG, ECHO, labs, ortho exams with X-rays, family practice, mental health, and nutrition screenings
- LSU Athletics has had 1,794 total on-campus doctors' appointments since the inception of the partnership:
  - 711 orthopedic
  - 1,083 general medicine/family practice visits for medical services including, but not limited to: flu, COVID-19, women's health, mental health, allergies, dermatology, stitches, and gastrointestinal issues
- LSU and Our Lady of the Lake have established four main physical offices/clinic set-ups on campus for ease of service.

# Student Health Center Partnership: Continued Services

- All services available in the Student Health Center prior to the implementation of the partnership will continue.
- All health care providers and staff providing services at the Student Health Center prior to the partnership transition will remain employees of LSU. New employees hired after the partnership transition will be hired by OLOL.
- Our Lady of the Lake will not provide gynecological services in the Student Health Center; all GYN services will continue to be provided by LSU in clinic space maintained by LSU.
- LSU will continue to provide interpersonal violence prevention, support, and advocacy services via the Lighthouse Program in clinic space maintained by LSU, until such time as the parties mutually agree upon the transition of the Lighthouse Program services to Our Lady of the Lake.

# Student Health Center Partnership: Expanded Services

- New and enhanced service offerings through the partnership include:
  - Expanded pharmacy services, including delivery to both on-campus residence halls and off-campus housing
  - Expanded access to telehealth, with after-hours and weekend availability
  - Access to Lakeline Direct, a free 24/7 nurse advice line
  - Increased financial assistance for uninsured and underinsured students through Our Lady of the Lake's medical Financial Assistance Policy.
  - Setting students up for a lifetime of healthy living and care by positioning their health records to "follow" them off campus to other Our Lady of the Lake providers and specialists, extending beyond graduation
- Our shared goal is to enhance access to services and treatment options to ensure that every LSU student can receive premier, holistic healthcare services whether on campus or in the community. We envision the entire LSU community at peak performance, and that goal starts with student health.

# Our Lady of the Lake Health Interdisciplinary Science Building

- Our Lady of the Lake pledged a \$15 million commitment to the LSU Interdisciplinary Science Building, LSU's top capital priority, as part of its \$170 million investment in LSU.
- Our Lady of the Lake fulfilled its pledge commitment in September 2022.
- The Board of Supervisors and the LSU Naming Committee confirmed the Our Lady of the Lake Health Interdisciplinary Science Building naming in fall 2022.

# Research Fund

- Our Lady of the Lake pledged \$10 million (contributed over 6 years) to establish the Our Lady of the Lake Research Fund.
- The inaugural \$1.7 million pledge payment was received in June 2022.
- The fund will provide institution-wide research funding, open to all campuses and entities within the LSU System, with a top priority of specific innovation to address health disparities.
- LSU will issue a competitive Request for Application to foster collaborative research in Louisiana; cancer-related studies and studies related to social determinants of health will be prioritized.
- LSU President can also utilize this fund to recruit and secure additional biomedical and cancer-related faculty to the LSU System.





## Board of Supervisors

# Request from Pennington Biomedical Research Center to Amend the Existing Development Services Agreement with Pennington Biomedical Research Foundation

Date: February 10, 2023

## 1. Bylaw Citation

Pursuant to Article VII, Section 1(J)

J. Non-Academic Affiliation Agreements

Any affiliation agreement with a private non-profit foundation formed to support the programs, facilities, and research and educational opportunities offered by one or more campuses of the University, or the University as a whole.

## 2. Summary of Matter

The proposed Amendment of the Development Services Agreement would establish a mechanism to allow Pennington Biomedical to provide direct compensation to the Foundation in exchange for services provided in the implementation of the Greaux Healthy Initiative specifically related to the initiative's sustainability plan.

### Background

Pennington Biomedical Research Center received state funding in FY2022-23 to create the Greaux Healthy Initiative, a program that will leverage current resources to foster and create partnerships with a wide range of stakeholders across the state in order to scale-up evidence-based prevention and treatment initiatives discovered at Pennington Biomedical to combat childhood obesity. Part of the initiative's initial funding must be used to establish the long-term sustainability of the program to make a measurable impact on the obesity epidemic and improve the health of future generations living in the state.

The proposed amendment of the existing Development Services Agreement would facilitate direct compensation payments from the Center to the Foundation to allow the Foundation to fund staff and other support expenses to ensure that the Greaux Healthy Initiative grows to be sustainable through grants, philanthropic support, and community outreach. The infrastructure that we seek to establish in years one and two as part of the Greaux Healthy Initiative will help to ensure its sustainability for the future as state funding phases out. Sustainability of the program is not only a goal of Pennington Biomedical, but also a mandate from the state.

The Foundation has demonstrated that it is fully committed in its support of the Center and the Greaux Healthy Initiative, and as they have functioned since its inception as the philanthropic arm of the Center, we are confident their fundraising and partnership building expertise makes this proposed agreement in the best interest of the goals of the Center.

The proposed amendment outlines Pennington Biomedical's responsibility to provide direct compensation to the Foundation in support of the Greaux Healthy Initiative's sustainability efforts to be undertaken by the foundation. For FY23 and FY24, Pennington Biomedical would provide approximately \$ 575,000 in additional direct compensation.

Pennington Biomedical Research Center retains the right to reduce or cease the support provided to the Foundation at any point should it determine that such action is in its best interests. Reduction or cessation of support shall not terminate the Affiliation Agreement.

**3. Review of Business Plan**

Not Applicable

**4. Fiscal Impact**

The Proposed Amendment to the Development Services Agreement is expected to result in significant progress toward the implementation of the sustainability plan for the Greaux Healthy Initiative and an increase in development activities in support of the overall development enterprise of Pennington Biomedical.

**5. Description of Competitive Process**

Not Applicable.

**6. Review of Legal Documents**

None.

**7. Parties of Interest**

Pennington Biomedical Research Center and Pennington Biomedical Research Foundation

**8. Related Transactions**

Not Applicable

**9. Conflicts of Interest**

None known.

**10. Attachments**

1. Affiliation Agreement with the Pennington Biomedical Research Foundation

**RESOLUTION**

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors authorized the President to execute the Amendment to the Development Services Agreement with the Pennington Biomedical Research Foundation, as presented.

**BE IT FURTHER RESOLVED**, the President, in consultation with the Office of General Counsel, may make refinements to the Development Services Agreement Amendment with the Pennington Biomedical Research Foundation as needed that are in the best interests of LSU and Pennington Biomedical Research Center prior to execution.



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## Board of Supervisors

### PROPERTY & FACILITIES COMMITTEE

BOARD OF SUPERVISORS MEETING | FEBRUARY 10, 2023



**Board of Supervisors**

**Request from LSU A&M to Authorize the President to Execute an Intent to Purchase Agreement with Respect to the Louisiana Emerging Technology Center Building**

**Date: February 10, 2023**

**1. Bylaw Citation**

Pursuant to Article VII, Section 1

- B. The transfer of title or ownership to any immovable property to or from the Board, whether by sale, assignment, donation, or other mechanism.
- G. Any contract or series of related contracts for the construction, renovation or other capital improvement of buildings or other immovable property of the Board where . . . (1) the construction cost is project to be greater than \$1 million; (2) the building or other structure being constructed will exceed \$10,000 gross square feet of space . . .

**2. Summary of Matter**

Louisiana State University and Agricultural and Mechanical College ("*LSU*") requests the authority to enter into an Intent to Purchase Agreement (the "*Purchase Agreement*") with the LSU Research Foundation, as well as any future agreements, certificates and/or instruments relating to the Agreement and the hereinafter defined LETC Building and Program Improvements. LSU has determined that the highest and best use of the Louisiana Emerging Technology Center Building (the "*LETC Building*") is to house LSU's Military and Security Sciences Programs (the "*Programs*"). Currently, the LETC Building is owned by the LSU Research Foundation (the "*Foundation*") and is located on LSU's campus at the northwest corner of South Stadium Drive and East Parker Boulevard pursuant to a ground lease under the Cooperative Endeavor Agreement dated effective August 21, 2003 (the "*CEA*"), between LSU and the Foundation. The CEA term expires June 30, 2025, unless earlier terminated. The CEA term may be extended for additional 5-year terms; however, any such extension is contingent upon the development and successful execution of the "Operational Plan" described in the CEA, but in no event may the CEA term be extended beyond August 21, 2053. The goal of the Operational Plan is for the Foundation to become financially self-sustainable and minimize financial and in-kind support from LSU.

Act No. 117 of the 2022 Regular Session of the Louisiana Legislature (the "*2022 Capital Outlay Act*") contains appropriations in the total amount \$23,000,000, consisting of (i) \$1,000,000 in Priority 1 payable from State General Fund (Direct) Non-Recurring Revenues and (ii) \$22,000,000 in Priority 5 payable from General Obligation Bonds, for the purpose of Military and Security Sciences Renovations, Planning and Construction (East Baton Rouge).

Pursuant to the Purchase Agreement, among other things, (i) LSU would pay to the Foundation the \$1,000,000 (from the Priority 1 appropriation) (the "*Right to Purchase Payment*") for the right to terminate the Ground Lease and purchase the LETC Building and (ii) the Foundation will use the Right to Purchase Payment to engage an architect and, in cooperation and consultation with LSU, design the renovations to the LETC Building necessary to house the Program (the "*Program Improvements*"). Once (i) the \$22,000,000 appropriation is moved by the Louisiana Legislature from Priority 5 to Priority 1 in a future capital outlay bill in a future legislative session and (ii) other necessary language is added to such future capital outlay bill or other legislation to allow LSU to contract directly with the Foundation to make the Program Improvements as contemplated by the Agreement, LSU will so contract with the Foundation and, once the Program Improvements are completed, LSU will purchase the LETC Building.

The purchase price will be negotiated at the time the President approves the Foundation to move forward with construction, which is the point at which LSU will irrevocably commit to purchasing the LETC Building, with the Program Improvements, as well as the Foundation's remaining leasehold interest. The purchase price is expected to be the amount of debt incurred by the Foundation associated with the LETC Building, including the debt incurred for the construction of the Program Improvements. The Foundation will not receive a windfall or surplus cash as a result of the transaction. It will not exceed the amount provided by the legislature in the capital outlay appropriation. The construction contractor, and thus the cost of construction, will be obtained through a competitive process conducted by the Foundation, consistent with requirements of the Division of Administration for similar non-profit projects funded through capital outlay. Through the Purchase Agreement, LSU will have significant control and/or oversight of the design, planning, and construction of the Program Improvements.

Most of the current leases of space in the LETC Building are between the Foundation and LSU, so there will be little, if any, disruption of 3<sup>rd</sup> party tenants. LSU and the Foundation will cooperate with 3<sup>rd</sup> party tenants, if any, to facilitate relocations.

### **3. Review of Business Plan**

The LETC Building is currently owned by the LSU Research Foundation, on LSU-owned land that is leased to the Foundation, with approximately 14 years left on the lease. LSU will pay the Foundation \$1 million to acquire the right to purchase the LETC building. The Foundation will use those funds and other funds currently available to it to design the improvements. Once the design is completed and approved by LSU, and the legislature moves the necessary funding from Priority 5 to Priority 1 in the capital outlay bill, LSU and the Foundation will execute appropriate documents authorizing the Foundation to begin construction of the Program Improvements, and authorizing LSU to complete the purchase of the LETC Building and remaining leasehold interest from the Foundation once the Program Improvements are complete and have been approved by LSU. Depending on the funding decisions made by the legislature, LSU and the Foundation may elect to cause the Program Improvements to be constructed in multiple phases, with LSU acquiring ownership of the completed Program Improvements as each phase is completed.

### **4. Fiscal Impact**

The LETC Building will be renovated and acquired for an amount not to exceed \$23,000,000, which amount is expected to be fully appropriated by the Louisiana Legislature.

## 5. Description of Competitive Process

LSU, in cooperation with the Division of Administration, will use its normal processes for Foundation-led construction projects to competitively bid the construction of the Program Improvements. This will include compliance with and support for LSU's Supplier Diversity Initiative.

## 6. Review of Legal Documents

LSU's outside legal counsel, Tracy A. Morganti, Breazeale, Sachse & Wilson, L.L.P., has prepared the Purchase Agreement with review by LSU's General Counsel and Assistant Vice President, Real Estate, Public Partnerships and Compliance.

## 7. Parties of Interest

Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, the Division of Administration and the LSU Research Foundation.

## 8. Related Transactions

The Division of Administration, LSU and the Foundation are cooperating to enable LSU to renovate, acquire and use the LETC Building as the headquarters of the Program. The LETC Building is owned by the Foundation and located on LSU's property pursuant to the CEA. LSU and the Foundation will cooperate with 3<sup>rd</sup> party tenants, if any, to facilitate relocations.

## 9. Conflicts of Interest

None.

## 10. Attachments

- I. Draft of Intent to Purchase Agreement
- II. CEA

## RESOLUTION

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College hereby authorizes the President of Louisiana State University or his designee to execute and deliver an Intent to Purchase Agreement (the "*Purchase Agreement*") with the LSU Research Foundation (the "*Foundation*") in substantially the form attached hereto as Exhibit I, with such changes as he deems, on the advice of legal counsel, to be in the best interest of LSU;

**BE IT FURTHER RESOLVED**, that the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College hereby authorizes the President of Louisiana State University or his designee to execute and deliver any and all future agreements, certificates or instruments necessary or desirable, on the advice of legal counsel, to carry out the transactions

contemplated by the Purchase Agreement and to do all things necessary to effectuate and implement this Resolution;

**BE IT FURTHER RESOLVED**, that the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College does hereby find an acceptable university purpose, pursuant to the terms of the Uniform Affiliation Agreement between the Board and the Foundation, to execute and deliver the Purchase Agreement, with the final terms and conditions of the Purchase Agreement subject to the approval of the President of LSU or his designee.



# **COOPERATIVE ENDEAVOR AGREEMENT**

**by and between**

**BOARD OF SUPERVISORS OF LOUISIANA STATE UNIVERSITY  
AND AGRICULTURAL AND MECHANICAL COLLEGE**

**and**

**LSU RESEARCH FOUNDATION**

**Originally Effective August 21, 2003**

**AMENDED AND RESTATED AS OF JANUARY 10, 2020**

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## COOPERATIVE ENDEAVOR AGREEMENT

THIS COOPERATIVE ENDEAVOR AGREEMENT (as amended, modified or supplemented from time to time, the "*Agreement*") is made and entered into as of \_\_\_\_\_, 2020 (the "*Delivery Date*"), but shall be effective the Effective Date (defined herein), by and between the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, a public constitutional corporation of the State of Louisiana ("*LSU*"), represented herein by Thomas Galligan, its duly authorized Interim President, and the LSU Research Foundation, a Louisiana nonprofit corporation (the "*Foundation*"), represented herein by Lee Griffin, its duly authorized Chair of the Board of Directors. Each of LSU and the Foundation are referred to, individually, as a "*Party*" and, collectively, as the "*Parties*").

### RECITALS

WHEREAS, the Foundation is organized exclusively for charitable, educational and scientific purposes within the meaning of §501(c)(3) of the Internal Revenue Code of 1986, as amended, and is affiliated with LSU in accordance with La. R.S. 17:3390 with a principal purpose of supporting the programs, facilities and research and educational opportunities offered by Louisiana State University and Agricultural and Mechanical College (the "*University*"), including, without limitation, enhancing economic growth by encouraging, supporting, facilitating, fostering, marketing and/or managing (i) research emanating from the University, (ii) start-up research, life sciences and digital medical businesses emanating from the University, (iii) private life sciences and digital media companies and (iv) facilities housing and or supporting the businesses and companies identified in items (i), (ii) and (iii);

WHEREAS, La. Const. Art VII, §14(C) provides that, "[f]or a public purpose, the state and its political subdivisions or political corporations may engage in cooperative endeavors with each other, with the United States or its agencies, or with any public or private association, corporation, or individual;"

WHEREAS, furthermore, pursuant to La. R.S. 17:3361, *et seq.* (the "*University Leasing Act*"), LSU is authorized to lease to a nonprofit corporation, such as the Foundation, any portion of the grounds or campus of any college or university or other immovable property under its supervisions and management, under the conditions set forth therein;

WHEREAS, the University Leasing Act expressly authorizes a lease to provide for demolition, construction and renovations of buildings, other structures and improvements by a nonprofit corporation, such as the Foundation, on that portion of the grounds or campus of the University which is the subject of the lease;

WHEREAS, the University Leasing Act expressly authorizes, under certain circumstances, a university to lease back all or any portion of the buildings, other structures and improvements constructed by a nonprofit corporation on the leased property as more fully described therein;

WHEREAS, pursuant to the University Leasing Act, LSU and the Foundation (successor to Louisiana State University System Research and Technology Foundation) previously entered into that certain Amended and Restated Agreement and Lease of Property for Construction of the

Louisiana Emerging Technology Center and the Louisiana Digital Media Facility dated as of May 11, 2011, which amended and restated that certain Agreement and Lease of Property for Construction of the Louisiana Emerging Technologies Center dated effective August 21, 2003 (the "*Original Lease*"), which provided for the lease of a parcel of property on the University's main campus, as more particularly identified in the Original Lease (the "*Original Leased Land*"), and the construction of (i) an approximately 60,000 square foot wet-lab incubator building known as the Louisiana Emerging Technologies Center ("*LETC*") which is owned and operated by the Foundation in accordance with the Original Lease and was funded by the Louisiana Legislature through the Department of Economic Development to house new and emerging companies dependent on university research and/or university technologies and (ii) an approximately 100,855 square foot digital media building known as the Louisiana Digital Media Facility (together with the LETC, the "*Facilities*") to house the University's Center for Computation and Technology ("*CCT*") and the Anchor Tenant (defined herein);

WHEREAS, the State of Louisiana (the "*State*"), the Louisiana Department of Economic Development (the "*LED*"), the City of Baton Rouge/Parish of East Baton Rouge (the "*City-Parish*") and LSU entered into that certain Cooperative Endeavor Agreement, effective July 1, 2008 (the "*2008 CEA*"), for the stated purpose of promoting the development of the digital interactive media industry in the State and encouraging technology transfer and research and development in the field of digital interactive media by providing for relevant curricula, workforce and facilities in support thereof, including assistance by the State to the LDMF (for the benefit of the Anchor Tenant) of an average of \$465,000 annually, which 2008 CEA terminated as of June 30, 2018;

WHEREAS, construction of each of the LETC and the LDMF was fully completed and, subsequently, the Foundation donated the LDMF to LSU on September 17, 2013 (the "*Donation*");

WHEREAS, the Facilities serve as a critical catalyst in support of LSU's missions of research, technology transfer, and economic development;

WHEREAS, the Anchor Tenant occupies a portion of the LDMF (the "*Anchor Tenant Space*") as more particularly identified in that certain Lease Agreement dated effective as of February 1, 2013, between the Anchor Tenant and the Foundation, as amended by that certain First Amendment to Lease Agreement dated effective as of January 1, 2019, between LSU (as assignee of the Foundation) and the Anchor Tenant, and acknowledged by the Foundation (collectively, the "*Original Anchor Tenant Lease*");

WHEREAS, the Foundation operated and managed the LDMF (i) prior to the Donation, since the Anchor Tenant initially occupied the Anchor Tenant Space on February 1, 2013, pursuant to the Original Anchor Tenant Lease and (ii) subsequent to the Donation, pursuant to that certain Cooperative Endeavor Agreement dated as of September 17, 2013, as amended by the First Amendment to Cooperative Endeavor Agreement dated as of June 24, 2016 (collectively, the "*2013 CEA*"), each between LSU and the Foundation;

WHEREAS, in light of the foregoing, including the termination of support payments from the State under the 2008 CEA, the Parties believe it is in each of their best interests and the best interests of the Anchor Tenant and other tenants of the Facilities and the State and its citizens to combine, modernize, streamline and amend the obligations of LSU and the Foundation under the Original Lease and the 2013 CEA and to include certain additional obligations relating to LSU's

Innovation Park (located on LSU's South Campus) into this single, comprehensive Agreement pursuant to La. Const. Art VII, §14(C), the University Leasing Act, and other constitutional and statutory authority and, upon the Delivery Date, this Agreement shall amend and restate the Original Lease and the 2013 CEA in their entirety;

WHEREAS, pursuant to this Agreement, among other things, LSU will (i) continue to lease to the Foundation the portion of the Original Leased Land on which the LETC is located, as more particularly described in **Exhibit A** hereto (the "*Land*" and, together with the LETC, the "*LETC Property*" and, together with the LDMF, the "*Property*"), however the portion of the Original Leased Land on which the LDMF is located will no longer be leased by LSU to the Foundation, (ii) the Foundation will continue to have all responsibility to operate, manage and maintain the LETC Property, subject to the provisions of this Agreement, (iii) the Anchor Tenant Space and certain other space in the LDMF not occupied by the CCT or other LSU programs more particularly identified in **Exhibit B** hereto (collectively, the "*LDMF Foundation Leased Space*") will be leased by LSU to the Foundation (with a simultaneous assignment of the Original Anchor Tenant Lease by LSU to the Foundation and the execution and delivery of a Second Amendment to Lease Agreement dated of even date herewith (the "*Second Amendment to Anchor Tenant Lease*" and, together with the Original Anchor Tenant Lease and as amended, modified or supplemented from time to time, the "*Anchor Tenant Lease*") by and between the Foundation and the Anchor Tenant and acknowledged by LSU, (iv) the Foundation will sublease the Anchor Tenant Space to the Anchor Tenant pursuant to the Anchor Tenant Lease and the other LDMF Foundation Leased Space to other tenants pursuant to various sublease agreements, (v) the Foundation will have all responsibility for the leasing, management, operation, maintenance and repair of the LDMF Foundation Leased Space and provision of tenant services therein and for the management, operation, maintenance and repair of the space in the LDMF occupied by LSU (the "*LDMF LSU Space*"), subject to the provisions of this Agreement, (vi) the Foundation will perform or cause to be performed improvements to shell space on the first and third floors of the LETC for future tenants as more particularly described in **Exhibit C** hereto (the "*LETC Shell Space Improvements*"), (vii) the Foundation will continue to work collaboratively with LSU and the tenants and potential tenants of the Facilities to use and occupy the Facilities to encourage new and emerging companies dependent upon university research and/or university technologies, to encourage technology transfer and research and development in the field of digital interactive media by providing for relevant curricula, workforce and facilities in support thereof, to attract faculty capable of obtaining research grant funding and to attract students in the disciplines of science, technology, engineering and math ("*STEM*"), to promote the engagement between LSU students and private sector business for research, assistantships, internships and talent acquisition/placement and to facilitate economic development in the State and (viii) the Foundation will work collaboratively with LSU and the tenants and future tenants of LSU's Innovation Park regarding scientific investigation and startup business assistance through technology and business innovation to bring new technologies and products to market, to promote the engagement between LSU students and private sector business for research, assistantships, internships and talent acquisition/placement and to facilitate economic development in the State; and

WHEREAS, LSU has determined that (i) the obligations of LSU under this Agreement comport with its governmental purpose, (ii) the expenditures and transfers by LSU hereunder are not gratuitous in light of the reciprocal obligations of the Foundation hereunder and (iii) LSU will receive value under this Agreement at least equivalent in value to the expenditure or transfer of public assets by LSU hereunder.

NOW THEREFORE, in consideration of the mutual covenants herein contained and the public purposes and benefits to be obtained hereby, the Parties agree as follows:

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## ARTICLE I

### AMENDMENT AND RESTATEMENT; COOPERATIVE ENDEAVOR AGREEMENT DECLARATIONS

**Section 1.01. Amendment and Restatement.** The Parties acknowledge and agree that this Agreement amends and restates in their entirety the Original Lease and the 2013 CEA. The Parties also acknowledge and agree that any future amendments, agreements, or related documents as contemplated by this Agreement or that are otherwise executed in compliance with this Agreement will remain in effect for the term of this Agreement.

**Section 1.02. Declarations for Cooperative Endeavor Agreement.** The obligations of LSU under this Agreement comport with its governmental purpose, (ii) the expenditures and transfers by LSU hereunder are not gratuitous in light of the reciprocal obligations of the Foundation hereunder and (iii) LSU will receive value under this Agreement at least equivalent in value to the expenditure or transfer of public assets by LSU hereunder.

**Section 1.03. LSU Representative and Point of Contact.** For purposes of this Agreement, the LSU Representative and point of contact is the Person(s) identified in the definition of "LSU Representative" in Article II hereof.

**Section 1.04. Foundation Representative and Point of Contact.** For purposes of this Agreement, the Foundation Representative and point of contact is the Person(s) identified in the definition of "Foundation Representative" in Article II hereof.

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## ARTICLE II

### DEFINITIONS

**Section 2.01. Definitions.** In addition to such other defined terms as may be set forth in this Agreement, the following terms shall have the following meanings:

"*Agent*" means any agent of the Foundation which performs obligations on behalf of the Foundation which obligations are required to be performed pursuant to this Agreement.

"*Agreement*" means this Cooperative Endeavor Agreement, as amended, modified or supplemented from time to time.

"*Anchor Tenant*" means a company which is preeminent in the digital media industry, capable of providing significant experienced advice and assistance to LSU's digital media programs and support to the development of the digital medical industry in the State. As of the Delivery Date, the Anchor Tenant is Electronic Arts Inc.

"*Anchor Tenant Lease*" shall have the meaning assigned thereto in the Recitals to this Agreement.

"*Anchor Tenant Space*" shall have the meaning assigned thereto in the Recitals to this Agreement.

"*Applicable Laws*" means any and all laws, statutes, codes, acts, ordinances, resolutions, orders, judgments, case precedents, decrees, writs, injunctions, rules, regulations, restrictions, permits, plans, authorizations, concessions, investigations, reports, guidelines and requirements or accreditation standards of any Governmental Authority having jurisdiction over LSU, the Foundation or the Property or affecting LSU, the Foundation or the Property, including, without limitation, all applicable Environmental Laws, the Americans with Disabilities Act of 1990 and the Occupational Safety and Health Standards of the State and the United States, each as amended; provided, however, that this definition shall not be interpreted as waiving protections granted to any party against future laws impairing the obligations of contracts between the Parties and/or third parties.

"*Associate Vice President*" means the Associate Vice President for Facility and Property Oversight of the University (or any successor officer or office) or his or her designee appointed in writing.

"*Budget*" shall have the meaning set forth in Section 7.04 hereof.

"*Budget Process*" shall mean the process for establishing the annual Budget for the operation, management, maintenance and repair of the Facilities set forth in Section 7.04 hereof.

"*Campus*" means the campus of the University, located in Baton Rouge, Louisiana, including, without limitation, the main Campus and the South Campus.

"*Collaborative Services*" means the services provided by the Foundation pursuant to Article VI hereof.

"*Delivery Date*" means the date of execution and delivery of this Amended and Restated Agreement by the Parties, January 10, 2020.

"*Diverse Suppliers*" shall have the meaning assigned thereto in Article XVIII hereof.

"*Effective Date*" means the effective date of the Original Lease and this Agreement, June 21, 2003.

"*Emergency Repair Funds*" shall mean funds contributed by LSU to the Foundation pursuant to Section 7.03(b) hereof for the purpose of making Emergency Repairs.

"*Emergency Repairs*" shall have the meaning assigned thereto in Section 7.03(b) hereof.

"*Environmental Laws*" means all federal, State and local laws and ordinances and common law principles relating to the protection of the environment or the keeping, use, abatement, remediation, disposal, human health or natural resources or the generation, transportation, treatment, storage, disposal, recycling, keeping, use, or disposition of Hazardous Materials, substances, or wastes, presently in effect or adopted after the Effective Date, including, without limitation, all amendments to Environmental Laws and all rules and regulations under any Environmental Laws.

"*Executive Vice President*" means the Executive Vice President for Finance and Administration and CFO of LSU and shall include any permanent or interim officer or any successor office.

"*Facilities*" shall have the meaning assigned thereto in the Recitals to this Agreement.

"*Facilities Account*" means the account established by the Foundation pursuant to Section 8.01 hereof.

"*Facilities Revenues*" shall have the meaning assigned thereto in Section 8.01 hereof.

"*Facilities Services*" shall have the meaning assigned thereto in Section 7.03 hereof.

"*Fiscal Year*" means (i) when used in reference to LSU, the twelve month period beginning on July 1 of any year and ending on June 30 the following year and (ii) when used in reference to the Foundation, the twelve month period beginning on January 1 and ending on December 31.

"*Force Majeure*" means any (a) act of God, lightning, hurricane, tornado, and other adverse and inclement weather, fire, explosion, flood, act of a public enemy, war, insurrection, riot or civil disturbance; (b) labor dispute, strike, work slowdown or work stoppage; or (c) any other similar cause or similar event beyond the reasonable control of the Foundation or LSU, as applicable.

"*Foundation*" means the LSU Research Foundation, a Louisiana nonprofit corporation, and its successors and assigns.

"*Foundation Representative*" means one or more of the persons designated and authorized in writing from time to time by the Foundation to represent the Foundation in exercising the

Foundation's rights and performing the Foundation's obligations under this Agreement; initially the Foundation Representative(s) shall be the Chair of the Foundation Board of Directors.

"*Governmental Authority*" means any and all jurisdictions, entities, courts, boards, agencies, commissions, offices, divisions, subdivisions, departments, bodies or authorities of any nature whatsoever of any governmental unit (federal, state, county, parish, district, municipality, city or otherwise) whether now or hereafter in existence.

"*Ground Lease*" means the lease of the Land by LSU to the Foundation pursuant to Section 3.01 of this Agreement.

"*Ground Rent*" means the amount of \$5,000.00 (\$100.00 per year for fifty (50) years) previously paid by the Foundation to LSU in one lump sum pursuant to the Original Lease.

"*Hazardous Materials*" means pollutants, contaminants, flammables, explosives, radioactive materials, hazardous wastes, substances, chemicals, or materials, toxic wastes, substances, chemicals or materials, or other similar substances, petroleum products, or derivatives, or any substance subject to regulation by or under Environmental Laws, including asbestos, asbestos-containing materials, materials presumed by law to contain asbestos, polychlorinated biphenyls ("*PCBs*"), petroleum, petroleum byproducts (including but not limited to, crude oil, diesel, oil, fuel oil, gasoline, lubrication oil, oil refuse, oil mixed with other waste, oil sludge, and all other liquid hydrocarbons, regardless of specific gravity), natural or synthetic gas products, infectious wastes, radioactive materials, and/or any hazardous or toxic substance, chemical or material, or any other environmentally regulated substance or material, waste, pollutant or contaminant, defined as such or regulated by any Environmental Laws.

"*Improvements Account*" shall have the meaning assigned thereto in Section 9.02(a) hereof.

"*Land*" shall have the meaning assigned thereto in the Recitals of this Facilities Lease and shall be as more particularly described in **Exhibit A** hereto.

"*LDMF*" shall have the meaning assigned thereto in the Recitals to this Agreement.

"*LDMF Foundation Leased Space*" shall have the meaning assigned thereto in the Recitals to this Agreement and shall be as more particularly described in **Exhibit B** hereto.

"*LDMF Foundation Leased Space Rent*" means the amount of \$1.00 paid by the Foundation to LSU on the date hereof.

"*LDMF LSU Space*" shall have the meaning assigned thereto in the Recitals to this Agreement and shall be as more particularly described in **Exhibit B** hereto.

"*Leasing Services*" shall have the meaning assigned thereto in Section 7.01(a) hereof.

"*Legislature*" shall have the meaning assigned thereto in Section 12.01(b) hereof.

"*ETC*" shall have the meaning assigned thereto in the Recitals to this Agreement.

"*LETC Property*" means, collectively, the Land and the LETC.

"*LETC Shell Space Improvements*" means the improvements to the first and third floors of the LETC as more particularly described in **Exhibit C** hereto.

"*Lien*" means any lien, encumbrance, or charge levied on account of any mechanic's, laborer's, or materialman's lien, or any security agreement, conditional bill of sale, title retention agreement, chattel mortgage or otherwise.

"*LSU*" means the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, a public constitutional corporation of the State, and its successors or assigns.

"*LSU Representative*" means one or more of the persons designated and authorized in writing from time to time by LSU to represent LSU in exercising LSU's rights and performing LSU's obligations under this Agreement; initially the LSU Representative(s) shall be the Associate Vice President.

"*Maintenance Reserve Account*" means the Maintenance Reserve Account established, funded and maintained by the Foundation pursuant to Section 8.02 hereof.

"*Maintenance Reserve Amount*" means \$5,000.00 or such other amount as shall be mutually agreed upon by the Foundation and LSU during the Budget Process.

"*Monthly Use Support Payment*" means a maximum of \$50,000.00 or lesser amount per month as shall be mutually agreed upon by the Foundation and LSU during the Budget Process.

"*Net Condemnation Proceeds*" means the proceeds received by the Foundation or LSU, as applicable, in the event of a Taking of all or a portion of the Property from the condemning Governmental Authority, less all reasonable and necessary costs and expenses issued in the connection with the settlement of the claims arising out of the Taking and the Award granted by the condemning Governmental Authority, including reasonable fees and expenses of counsel.

"*Net Insurance Proceeds*" means the proceeds received by the Foundation or LSU, as applicable, in the event of a casualty, damage or destruction to all or a portion of the Property under and pursuant to the insurance policies maintained by or on behalf of the Foundation with respect to the Property, less all reasonable and necessary costs and expenses insured in connection with the settlement of any insurance claim relative to such proceeds, and the deductible, including reasonable fees and expenses of counsel.

"*Operating Agreement*" means the agreement that LSU and the Foundation will collaboratively develop and execute prior to December 31, 2020 which details the rights, responsibilities, and other necessary provisions underlying the ongoing financial and operational relationship between LSU and the Foundation, including the required disposition of the Foundation's net revenues to LSU.

"*Operating Expenses*" means the current expenses of operation, maintenance and current repair of the Facilities, as calculated in accordance with generally accepted accounting principles,

and includes, without limiting the generality of the foregoing, insurance premiums, reasonable accounting and legal fees and other expenses, payments with respect to worker's compensation claims not otherwise covered by insurance, administrative expenses, the cost of materials and supplies used for current operations, and other taxes and charges for the accumulation of appropriate reserves for current expenses not annually recurrent, but which are such as may reasonably be expected to be incurred in accordance with sound accounting practice.

"*Original Anchor Tenant Lease*" shall have the meaning assigned thereto in the Recitals to this Agreement.

"*Original Lease*" shall have the meaning assigned thereto in the Recitals to this Agreement.

"*Original Leased Land*" shall have the meaning assigned thereto in the Recitals to this Agreement.

"*Party(ies)*" means, individually, the Foundation or LSU, as applicable, and, collectively, the Foundation and LSU.

"*Person*" means an individual, a trust, an estate or a Governmental Authority, or a partnership, joint venture, corporation, limited liability company, firm or any other legal entity.

"*President*" means the President of LSU and shall include any permanent or interim officer or any successor office.

"*Property*" shall mean, collectively, the LETC, the LDMF and the Land.

"*Restoration*" shall have the meaning assigned thereto in Section 7.09(a) hereof.

"*Restoration Fund*" shall have the meaning assigned thereto in Section 7.09(a) hereof.

"*Second Amendment to Anchor Tenant Lease*" shall have the meaning assigned thereto in the Recitals to this Agreement.

"*Services*" means, collectively, the Collaborative Services, the Leasing Services, the Tenant Services, the Facilities Services and all other obligations of the Foundation under this Agreement relating to the Facilities and the Innovation Park, other than the obligations contained in Article VIII hereof relating to the LETC Shell Space Improvements.

"*Shared Conference Space*" means the space in the LDMF Foundation Leased Space identified as Shared Conference Space in **Exhibit B** hereto.

"*STEM*" shall have the meaning assigned thereto in the Recitals to this Agreement.

"*Taking*" means the actual or constructive condemnation, expropriation or the actual or constructive acquisition by condemnation, expropriation, eminent domain or similar proceeding

by or at the direction of any Governmental Authority or other Person with the power of eminent domain.

"*Tenant Improvements*" means all improvements permanently affixed to the LETC or the LDMF Leased Space and made by or for a Tenant at any time during the Term.

"*Tenant*" means any tenant of the LETC or LDMF Foundation Leased Space approved in writing by the LSU Representative, including, without limitation, the Anchor Tenant.

"*Tenant Lease*" means any agreement for the use of space in the LETC or the LDMF Foundation Leased Space by a Tenant, including, without limitation, the Anchor Tenant Lease.

"*Tenant Services*" shall have the meaning set forth in Section 7.01(b) hereof.

"*Transfer*" shall have the meaning assigned thereto in Article XIII of this Agreement.

"*Uniform Affiliation Agreement*" means the Uniform Affiliation Agreement dated July 1, 2009, between LSU and the Foundation or any amendment, modification or supplement thereto or replacement thereof.

"*University*" means Louisiana State University and Agricultural and Mechanical College, the flagship institution of the State under the management and supervision of the Board.

"*University Leasing Act*" shall have the meaning assigned thereto in the Recitals to this Agreement.

"*Work*" shall have the meaning assigned thereto in Section 9.01 of this Agreement.

"*2013 CEA*" shall have the meaning assigned thereto in the Recitals to this Agreement.

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### ARTICLE III

#### GROUND LEASE

**Section 3.01 Lease of Land.** LSU covenants that, for and in consideration of the Ground Rent and other good and valuable consideration, including, without limitation, the obligation of the Foundation to perform or cause to be performed the Services and the LETC Shell Space Improvements, and of the performance and observance by the Foundation of the covenants, obligations, conditions and stipulations herein expressed on the part of the Foundation to be performed and observed, the receipt and sufficiency of which is hereby acknowledged, LSU does hereby continue to lease unto the Foundation, and the Foundation does hereby continue to lease from LSU, the Land described in **Exhibit A** hereto for the remainder of the duration of the Term under the terms and conditions hereinafter set forth, together with the right of uninterrupted nonexclusive utilities, access, ingress, egress, parking (in accordance with LSU's parking policies as such may exist from time to time), and passage during the Term to and from all streets, roads, and parking areas now or hereafter adjoining the Land, including vehicular and pedestrian ingress and egress. The Foundation, by execution of this Agreement, accepts the leasehold estate in the Land herein demised. The Land is accepted by the Foundation in its present condition without warranty, and no repairs, replacements, additions, alterations, improvements, reconstruction or remodeling of any kind or nature shall be due by LSU, on or with respect to the Land.

The Foundation agrees that it shall not, and it shall not permit any other person to, materially and adversely interfere with LSU's use of the Campus with respect to the Foundation's use of the Land.

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## ARTICLE IV

### LEASE OF LDMF LEASED SPACE

**Section 4.01. Lease of LDMF Leased Space.** LSU covenants that, for and in consideration of the LDMF Foundation Leased Space Rent and other good and valuable consideration, including, without limitation, the obligation of the Foundation to perform or cause to be performed the Services and the LETC Shell Space Improvements, and of the performance and observance by the Foundation of the covenants, obligations, conditions and stipulations herein expressed on the part of the Foundation to be performed and observed, the receipt and sufficiency of which is hereby acknowledged, LSU does hereby lease unto the Foundation, and the Foundation does hereby lease from LSU, the LDMF Foundation Leased Space described in **Exhibit B** hereto for the remainder of the duration of the Term under the terms and conditions hereinafter set forth, together with the right of access, ingress, egress, parking (in accordance with LSU's parking policies as such policies may exist from time to time), and passage during the Term to and from all streets, roads, and parking areas now or hereafter adjoining the LDMF, including vehicular and pedestrian ingress and egress. The Foundation, by execution of this Agreement, accepts the leasehold estate in the LDMF Foundation Leased Space herein demised. The LDMF Foundation Leased Space is accepted by the Foundation in its present condition without warranty, and no repairs, replacements, additions, alterations, improvements, reconstruction or remodeling of any kind or nature shall be due by LSU, on or with respect to the LDMF Leased Space.

The Foundation agrees that it shall not, and it shall not permit any other person to, materially and adversely interfere with LSU's use of the Campus with respect to the Foundation's use of the LDMF Foundation Leased Space.

**Section 4.02. Rights of Access.** LSU shall grant to the Foundation, each Agent and each Tenant, as applicable, (i) a temporary right of passage and use over such other areas, including "lay down" and "staging" areas as may be reasonably required to build LETC Shell Space Improvements and Tenant Improvements; and (ii) a nonexclusive right of access over, across, and upon that portion of the Campus as is reasonably necessary to provide access to the LETC and the LDMC Foundation Leased Space to each Tenant and its guests. Each such right of access and right of passage and use described in clause (i) of the immediately preceding sentence shall terminate upon completion of the related Tenant Improvements.

**Section 4.03. Future Availability of LDMF LSU Space.** The Parties acknowledge that LSU may in the future determine that all or a portion of the LDMF which, as of the date of this Agreement, constitutes LDMF LSU Space would be better suited to serve Tenants. In such event, upon thirty days written notice to by the LSU Representative to the Foundation, such space shall be deemed to constitute LDMF Foundation Leased Space and shall be subject to the obligations of the Foundation with respect to LDMF Foundation Leased Space hereunder, including, without limitation, the provision of Services. The Parties shall substitute a new **Exhibit B** to this Agreement which properly reflects the new configuration of LDMF Foundation Leased Space by written acknowledgment by each of the Foundation Representative and the LSU Representative.

## ARTICLE V

### PURPOSE OF AGREEMENTS; USE OF LAND AND FACILITIES

**Section 5.01. Purpose of Original Ground Lease.** The Parties entered into the Original Ground Lease for the purpose of constructing, using and occupying the Facilities in accordance with the terms thereof. The Parties acknowledge and agree that the construction of the Facilities has been completed as contemplated by the Original Ground Lease.

**Section 5.02. Purpose of 2013 CEA.** The Parties entered into the 2013 CEA for the purpose of providing for the operation and management of the Facilities in accordance with the terms thereof.

**Section 5.03. Purpose of this Agreement.** The Parties entered into this Agreement for the purpose of combining, modernizing, amending and restating the Original Ground Lease and the 2013 CEA, and pursuant to this Agreement, among other things, (i) LSU will continue to lease to the Foundation the Land, (ii) the Foundation will continue to have all responsibility to operate, manage, maintain and repair the Facilities, subject to the provisions of this Agreement, (iii) the Anchor Tenant Space and the LDMF Foundation Leased Space will be leased by LSU to the Foundation (with a simultaneous assignment of the Original Anchor Tenant Lease by LSU to the Foundation and the execution and delivery of the Second Amendment to Anchor Tenant Lease, (iv) the Foundation will sublease the Anchor Tenant Space to the Anchor Tenant pursuant to the Anchor Tenant Lease and the other LDMF Foundation Leased Space to other tenants pursuant to various sublease agreements, (v) the Foundation will have all responsibility for the leasing, management, operation, maintenance and repair of the LDMF Foundation Leased Space and provision of tenant services therein and for the management, operation, maintenance and repair of the LDMF LSU Space, subject to the provisions of this Agreement, (vi) the Foundation will perform or cause to be performed the LETC Shell Space Improvements, (vii) the Foundation will continue to work collaboratively with LSU and the tenants and potential tenants of the Facilities to use and occupy the Facilities to encourage new and emerging companies dependent upon university research and/or university technologies, to encourage technology transfer and research and development in the field of digital interactive media by providing for relevant curricula, workforce and facilities in support thereof, to attract faculty capable of obtaining research grant funding and to attract students in the disciplines of STEM, to promote the engagement between LSU students and private sector business for research, assistantships, internships and talent acquisition/placement and to facilitate economic development in the State, (viii) the Foundation will work collaboratively with LSU and the tenants and future tenants of LSU's Innovation Park to further develop the Innovation Park through scientific investigation and startup business assistance through technology and business innovation to bring new technologies and products to market, to promote the engagement between LSU students and private sector business for research, assistantships, internships and talent acquisition/placement and to facilitate economic development in the State, and (ix) the Foundation will establish the Maintenance Reserve Account to fund major repairs of the Facilities. Except as otherwise provided herein or consented to in writing by the LSU Representative, the Land and the Facilities shall be used for no other purpose.

**Section 5.04. Compliance with Statutory Requirements.** The University Leasing Act prescribes rules and regulations for leases of any portion of the campus by a college or university. By execution of this Agreement, LSU represents that it has complied with applicable statutory requirements of such Title 17 including, without limitation, (a) the formulation and adoption of such rules, regulations and requirements as it deems necessary or desirable relative to the erection, construction and maintenance of the Facilities, which rules, regulations and requirements are incorporated in this Agreement as though fully set forth herein, as required by La. R.S. 17:3362A and (b) the waiver, by written consent, of its right to require removal of the LETC (i) in the event the Foundation fails, neglects or refused to comply with such rules, regulations or requirements as set forth in La. R.S. 17:3362B, except as otherwise set forth in this Agreement and (ii) upon failure of the Foundation to conform to rules or regulations relative to the conduct and social activities of people in the Facilities or on the Land as permitted by La. R.S. 17:3364, except as otherwise set forth in this Agreement; provided, however, that LSU reserves the right to enforce any and all other available remedies in the event of such failure, neglect or refusal.

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## ARTICLE VI

### COLLABORATIVE EFFORTS

**Section 6.01. LETC and LDME.** The Parties agree to continue, for the duration of the Term, to work collaboratively with the Tenants and potential tenants of the Facilities to use and occupy the Facilities to encourage new and emerging companies dependent upon LSU – generated research and/or technologies, to encourage technology transfer and research and development in the field of digital interactive media by providing for relevant curricula, workforce and facilities in support thereof, to attract faculty capable of obtaining research grant funding and to attract students in the disciplines of STEM, to promote the engagement between LSU students and private sector business for research, assistantships, internships and talent acquisition/placement and to facilitate economic development in the State.

**Section 6.02. Innovation Park.** The Parties shall collaborate, for the duration of the term, with the tenants and future tenants of LSU's Innovation Park to further develop the Innovation Park through scientific investigation and startup business assistance via technology and business innovation to bring new technologies and products to market, to promote the engagement between LSU students and private sector business for research, assistantships, internships and talent acquisition/placement and to facilitate economic development in the State.

**Section 6.03. Collaborative Services.** The Collaborative Services to be provided by the Foundation hereunder shall include, without limitation, collaboration with LSU with regard to the following:

- (a) Development and execution of an Operating Agreement by December 31, 2020.
- (b) Organization of the tenant/occupant communities at the Facilities and the Innovation Park into an active social unit engaged around planned, produced, indigenous and spontaneous events of varying scale.
- (c) Integration of the tenant/occupant communities at the Facilities and the Innovation Park with the greater LSU, Baton Rouge and State innovation communities increasing the public profiles of the Facilities and the Innovation Park and enhancing their desirability as business locations.
- (d) Curation of relevant stakeholder interests and community calendar information in an accessible digital format.
- (e) With respect to the LETC and the Innovation Park, implementation, to the extent feasible and to the extent desired by LSU, of the recommendations set forth in the Baton Rouge Entrepreneurship Ecosystem Assessment dated March 2019 prepared by Emergent Method.
- (f) With respect to the Innovation Park,

(i) review and evaluate the current business plan and ascertain objectives thereof;

(ii) research and analyze the most efficient and effective ways of operation and maintenance;

(iii) ascertain the interests and wishes of prospective tenants as to services, amenities and pricing;

(iv) prepare various proposals for updating and refining the business plan;

(v) review and evaluate the current master plan and ascertain requirements and objectives, including the (A) desired design statement and image, (B) access, traffic circulation and parking issues, (C) feasibility analysis for different development densities based on market conditions and development costs and (D) based on the foregoing, establish development program parameters;

(vi) compile and review all existing information and source data (such as topographic, boundary and as-built surveys, soil reports and geotechnical studies, zoning and entitlement conditions and restrictions, environmental reports and assessments and easements and title work) or, in the absence thereof, obtain and prepare such information and source data;

(vii) prepare a planning phase budget;

(viii) prepare a comprehensive schedule setting forth time frames for various planning activities, including master planning, testing, conceptual cost modeling and/or permitting activities and approvals required for additional development;

(ix) evaluate proposals for updating and refining the master plan, which evaluation shall include the preparation of conceptual cost models and pro formas for both the horizontal and vertical elements of proposed master plan revisions to assess feasibility) and coordinate the preparation of any updates to the master plan resulting therefrom; and

(x) prepare various proposals for design of infrastructure and buildings.

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## ARTICLE VII

### FOUNDATION SERVICES

#### **Section 7.01. Leasing of LETC and LDMF Foundation Leased Space; Tenant Services.**

(a) The Foundation shall use, or cause an Agent to use, commercially reasonable efforts to lease the LETC and LDMF Foundation Leased Space to Tenants (the "*Leasing Services*"); provided, however, that each Tenant and the terms and provisions of each Lease shall be subject to the prior written approval of the LSU Representative. Leasing Services shall include, without limitation, the following:

(i) develop a set of leasing guidelines for use in connection with the leasing of space in the Facilities;

(ii) maintain current information through periodic surveys and research as to the pricing, products and practices of competitors of the Facilities;

(iii) establish plans, policies and strategies for attracting prospective Tenants;

(iv) maintain an ongoing program of promotion and advertising of the Facilities;

(v) aggressively pursue prospective Tenants; and

(vi) negotiating leases with prospective Tenants and renewals of leases with existing Tenants on such terms and conditions as are consistent with the leasing guidelines established pursuant to Section 7.01(a)(i).

(b) The Foundation shall, or shall cause an Agent to, furnish to the Tenants or other occupants of the Facilities such services as are customarily furnished to Tenants or otherwise rendered by landlords in connection with the rental of space in office and research facilities similar to the Facilities or as otherwise required to be furnished under any Tenant Lease (collectively, the "*Tenant Services*").

(c) Pursuant to the provisions of La. R.S. 17:3365, no leasing, subleasing or other occupancy or use rights shall be granted in connection with leases granted by LSU under the University Leasing Act without the consent and approval of LSU. Subject to the provisions of Section 7.01(a), LSU's approval at a regularly scheduled meeting of LSU of the form of this Agreement and the execution and delivery of hereof shall constitute the consent and approval required by La. R.S. 17:3365 of the leasing, subleasing and occupancy and other use rights currently granted or to be granted by the Foundation to the Tenants in accordance with this Agreement.

**Section 7.02. Assignment of Anchor Tenant Lease.** LSU shall assign its right, title and interest in and to the Anchor Tenant Lease to the Foundation and the Foundation and the Anchor Tenant shall execute and deliver the Second Amendment to Anchor Tenant Lease (acknowledged by LSU) on the Delivery Date.

**Section 7.03. Facilities Management Services.**

(a) The Foundation shall, or shall cause an Agent to, operate, manage, maintain and repair the Facilities (the "*Facilities Services*"). The Facilities Services shall include, without limitation, the following:

(i) obtain and keep in effect all approvals required by any Governmental Authority and perform such acts as shall be necessary to maintain compliance with Applicable Law as pertain to the Facilities;

(ii) collect rental payments as they come due and pursue aggressively and diligently the collection of overdue rental payments;

(iii) maintain complete financial records, schedules, systems and files as may be appropriate to safeguard, monitor and administer the Facilities;

(iv) provide business and master planning services, including, without limitation:

(A) perform periodic review and evaluation of the current business plan and objectives thereof;

(B) perform research and analysis regarding the most efficient and effective ways of managing, operating and maintaining and repairing the Facilities;

(C) ascertain the interests and wishes of prospective Tenants as to services, amenities and pricing; and

(D) prepare and submit to LSU for review and approval various proposals/recommendations for updating and refining the business plan and facilities for the Facilities;

(v) provide janitorial services, including, without limitation, emptying trash cans, vacuuming the carpet, and cleaning the kitchen, break rooms, restrooms and common areas on a daily basis (Saturdays, Sundays and holidays excepted), removing trash from the parking lot on a weekly basis, polishing all hard floors and tiled areas twice a month, and steam cleaning the carpet annually;

(vi) maintain in good repair, ordinary wear and tear excepted, (A) the roof, foundation, elevators, exterior walls, and exterior windows, (B) the electrical, heating, air conditioning, ventilation, lighting, plumbing and fire alarm systems,

utility lines, and sewer pipes forming a part of or serving the Facilities, and (C) the parking lot, entrances, exits, stairways, common areas, and exterior landscaping;

(vii) respond to Tenant maintenance requests, such as replacing light bulbs, cleaning windows, and making minor repairs, including repairs to the interior and/or demising walls, interior windows, and interior doors;

(viii) respond to Tenant issues as may otherwise be required by the individual Tenant Leases;

(ix) coordinate and schedule the use of the Shared Conference Space;

(x) maintain the insurance coverages required by Section 8.02 hereof and

(xi) perform all other services which may be required in connection with the Facilities, including, without limitation, major interior and exterior repairs.

(b) No unbudgeted expenditure in excess of \$2,500 per item shall be made for any purpose without prior written approval of the LSU Representative as set forth in Section 7.04 hereof. However, emergency repairs involving manifest danger to life or property or immediately necessary for the preservation or the safety of the Facilities or for the safety of the Tenants or required to avoid the suspension of any necessary service to the Facilities or required by any Governmental Authority ("*Emergency Repairs*") may be made by the Foundation without prior approval and regardless of the cost limitations imposed by this Section 7.03(b). However, the Foundation shall give immediate telephone or written notice to the LSU Representative of any such emergency repairs for which prior approval shall not be required; provided, however, in the event funds on deposit in the Facilities Account and the Maintenance Reserve Account are insufficient to pay for the required emergency repairs, the Foundation may provide a written request to the Executive Vice President and the LSU Representative for a contribution of Emergency Repair Funds necessary to pay or reimburse the Foundation for such Emergency Repairs (at the Foundation's cost without markup) and, with the prior written consent of the Executive Vice President, LSU shall pay such Emergency Repair Funds to the Foundation, which shall immediately apply such funds to the Emergency Repairs at issue. LSU shall, to the extent it is able, make a claim under the insurance coverage maintained pursuant to Section 10.01 hereof to reimburse itself for any such expenditures for Emergency Repairs.

(c) Should a Tenant request an alteration, physical addition, modification or improvement within the LDMF Foundation Leased Space, the Foundation shall authorize the requested alteration, physical addition, modification or improvement to be made by or on behalf of the Tenant, or make the requested alteration, physical addition, modification or improvement for the Tenant, only after (i) notifying the LSU Representative as to the identities of the source of funding for such work and the Person forming such work and (ii) obtaining the prior written consent of the LSU Representative.

(d) If, in the opinion of the Foundation, it is necessary to incur expense to provide Services hereunder as a result of the negligence or other fault of a Tenant or its



employees or invitees, the Foundation shall use commercially reasonable efforts to recover the amount of such expense from such Tenant.

**Section 7.04. Annual Operating Budget.** At least sixty (60) days prior to the beginning of each calendar year, the Foundation shall prepare and submit to the LSU Representative for approval an operating budget delineating the revenues the Foundation expects to derive from the Facilities and the expenses that the Foundation anticipates it will incur to perform its obligations under this Agreement for such year. In the event the LSU Representative, in his sole and unfettered discretion, disapproves of any proposed budget submitted by the Foundation, the LSU Representative shall give the Foundation written notice thereof, in which event the Foundation shall make all revisions thereto which the LSU Representative shall direct and resubmit the proposed budget to the LSU Representative for approval. In the absence of such written notice of disapproval within twenty (25) days after delivery of the proposed budget to the LSU Representative, the proposed budget shall be deemed to have been approved by the LSU Representative as of the first day of the first month of the applicable calendar year until the date, if any, that the LSU Representative delivers to the Foundation written notice of disapproval of the budget. Each approved budget (a "*Budget*") shall constitute the control instrument under which the Foundation shall operate for the calendar year covered thereby. Approval of the budget shall be deemed to be approval by the LSU Representative of all items specified therein. The Foundation shall not incur, or permit to be incurred, expenses in any approved Budget (excluding utility expenses, general real estate taxes, insurance premiums, financing costs and emergency expenses) in excess of the amount set forth in the Budget for any single expense classification (e.g., cleaning expenses, H.V.A.C. expenses, etc.).

Except as set forth herein and in section 7.03(b), there shall be no variance, which variance shall be the greater of ten (10%) percent or \$2,500.00, from any approved Budget, without the prior written consent of the LSU Representative. Within five (5) business days of receiving written notice of any expense requiring LSU approval as described in Section 7.03(b) or this Section 7.04, the LSU Representative shall provide the Foundation either (i) written approval of the expense or (ii) indicate in writing that it does not approve of the expense. Any such approval for a recurring expense of which the LSU Representative has been notified is so recurring need be obtained only at the time of the initial expenditure.

The Foundation reserves the right to modify and/or update, with the prior written consent of the LSU Representative, the Budget periodically throughout the year. During each annual Budget Process during the Term, the LSU Representative may amend the threshold amount of any individual expense for the provision of Services that requires approval by the LSU Representative as set forth in Section 7.03(b) or this Section 7.04.

**Section 7.05. Operational Plan, Performance Metrics, and Reporting.** The Foundation shall, on or before May 1, 2020, submit to the LSU Representative for approval the Foundation's Operational Plan including all sources of funding and short- and long-term and projected expenses in fulfillment of its mission, including goals with associated quantitative and qualitative performance metrics. The Operational Plan should also detail projected income and expenses of the Foundation from its operations that ultimately enable the Foundation to become financially self-sustainable and minimizes financial and in-kind support from LSU during the term of this Agreement.

**Section 7.06. Periodic Accounting and Audits.**

(a) The Foundation shall, within thirty (30) days of the end of the first three fiscal quarters of each Foundation Fiscal Year provide to the LSU Representative and Executive Vice President an accounting for such reporting period of all revenues received and expenses incurred by the Foundation in connection with performing its obligations hereunder for such reporting period and a comparison, on a year-to-date basis, of the budgeted amount with the actual expenditures.

(b) The Foundation shall, within fifteen (15) days of the end of each calendar month, provide to the LSU Representative an accounting of the debits and credits to the Facilities Account, the Maintenance Reserve Account and, if any, the Restoration Fund during such calendar month.

(c) The Foundation shall, at its own expense, employ an independent external auditor to audit the books, bank accounts, records and other accounts of the Foundation pertaining to its obligations under this Agreement at the end of each Foundation Fiscal Year during the Term to the extent necessary to verify compliance with this Agreement. The completed audit report shall be provided to the LSU Representative and Executive Vice President within ninety (90) days of the end of each Foundation Fiscal Year during the Term. LSU covenants with the Foundation to keep the results of any such audits confidential except as required by rules and regulations of LSU and by Applicable Law.

**Section 7.07. Title to Improvements to LDMF.** Any non-consumable movable or immovable property purchased by the Foundation for permanent use in or incorporation into the LDMF shall become, through an act of donation by the Foundation to LSU, the property of LSU. The Foundation agrees to execute any formal documentation necessary to memorialize such donation.

**Section 7.08. Criminal History Checks.** Any vendors, specialists, agents, consultants and contractors engaged by the Foundation or the Agent in connection with the Facilities shall provide to the LSU Representative a letter certifying that criminal history checks have been conducted on all personnel providing a service on the Campus in connection with the Facilities, which letter shall be (i) provided within fifteen (15) days of engagement (ii) updated as new personnel are added, (iii) updated annually for all personnel, (iv) kept on file at the office of such vendors, specialists, agents and consultants and (v) made available to LSU or the University upon request thereby. Any Person who has been convicted of a criminal violation or offense described in La. R.S. 40:981.3 or in L.A.C. Title 28, Chapter 9 shall not be employed in any capacity on the Campus by the Foundation or the Agent.

**Section 7.09. Damage and Destruction.**

(a) ***Damage in Whole or in Part.*** In the event either Facility is damaged or destroyed in whole or in part, the Foundation shall, to the extent Net Insurance Proceeds are available, repair, replace, rebuild, restore, and/or re-equip the affected Facility promptly to substantially the same condition thereof as existed prior to the event causing such destruction or damage with such changes, alterations, and modifications (including the substitution and addition of other property) as the LSU Representative shall approve in writing (if any) as will not impair the value or the character of the affected Facility

(the "*Restoration*"). All Net Insurance Proceeds for damage to LETC shall be paid to the Foundation and deposited and held in an account to be established by the Foundation for such purpose (the "*Restoration Fund*") to be applied to the Restoration. After completion of and payment for the Restoration, all remaining Net Insurance Proceeds shall be transferred by the Foundation to the Facilities Account. All Net Insurance Proceeds for damage to LDMF shall be paid to the University. The Foundation shall be reimbursed by the University for the Restoration.

(b) ***Restoration Performed in Accordance with Applicable Law.*** Any and all Restoration by the Foundation hereunder shall be performed in accordance with all Applicable Law and the provisions of Section 9.03 hereof (provided that references in such Section 9.03 to the "Work" and the "LETC Shell Space Improvements" shall be deemed to refer to the Restoration). If not theretofore delivered, the Foundation shall deliver to the LSU Representative, within one hundred twenty (120) days of the completion of such Restoration, a complete set of record "as built" exterior plans thereof, together with a statement in writing from a registered architect or licensed professional engineer that such plans are complete and correct.

#### **Section 7.10. Condemnation.**

(a) ***Event of Taking of All or Substantially All Property.*** In the event all or substantially all of the Property shall be subject to a Taking, or if so much of the Property or any component thereof shall be so Taken so that the remainder of the Property shall not reasonably be capable of being used for its intended purpose, as reasonably determined by the Foundation and LSU, shall promptly notify the Trustee and the LSU Representative, and the Net Condemnation Proceeds shall be applied and paid first to the payment of all of the Foundation's outstanding expenses incurred in performing the Services and any balance shall be paid to LSU.

(b) ***Taking of Less than All Property.*** In the event less than all or substantially all of the Property or any component thereof shall be subject to a Taking, LSU and the Foundation shall cause the Net Condemnation Proceeds received by them from any Award to be deposited and held in the Restoration Fund to be applied, as fully as practicable, with the prior written consent of LSU to the Restoration of the Property. The balance of Any Net Condemnation Proceeds remaining after completion and payment for the Restoration shall be transferred by the Foundation to the Facilities Account.

(c) ***Restoration Performed in Accordance with Applicable Law.*** Any and all Restoration by the Foundation hereunder shall be performed in accordance with all Applicable Law and the provisions of Section 9.03 hereof (provided that references in such Section 9.03 to the "Work" and the "LETC Shell Space Improvements" shall be deemed to refer to the Restoration). If not theretofore delivered, the Foundation shall deliver to the LSU Representative, within one hundred twenty (120) days of the completion of such Restoration, a complete set of record "as built" exterior plans thereof, together with a statement in writing from a registered architect or licensed professional engineer that such plans are complete and correct.

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## ARTICLE VIII

### FUNDS AND ACCOUNTS; CONTRIBUTIONS BY LSU

**Section 8.01. Facilities Account.** The Foundation shall establish a separate checking account for the administration of the Facilities (the "*Facilities Account*"). All revenues derived by the Foundation from the operation and management of the Facilities, including, without limitation, all rentals and other revenue derived from Tenant Leases or otherwise from the use of the Facilities and all funds paid to the Foundation by LSU pursuant to this Agreement (except as otherwise explicitly provided herein), including, without limitation, the Monthly Use Support Payment and any Emergency Repair Funds (collectively, the "*Facilities Revenues*"), shall be deposited to the Facilities Account. Subject to the provisions of Section 8.03 hereof, the Foundation shall use the funds on deposit in the Facilities Account only for the purpose of performing the Services and to fund the Maintenance Reserve Fund pursuant to Section 8.02 hereof. Upon the termination of this Agreement, all funds remaining on deposit in the Facilities Account after payment of all amounts payable therefrom shall be the property of, and shall be remitted to, LSU.

**Section 8.02. Maintenance Reserve Account.** The Foundation shall establish and maintain during the Term a separate account for the Maintenance Reserve Account. The Foundation shall, on or before the last day of each calendar month during the Term and subject to the availability of funds, transfer the Maintenance Reserve Amount from the Facilities Account to the Maintenance Reserve Account. The funds on deposit in the Maintenance Reserve Account shall be invested at the direction of the LSU Representative. The Foundation shall, with the prior written consent of the LSU Representative, use the funds on deposit in the Maintenance Reserve Fund to fund the cost of major repairs to the Facilities. Upon the termination of this Agreement, all funds remaining on deposit in the Maintenance Reserve Account after payment of all amounts payable therefrom shall be the property of, and shall be remitted to, LSU.

#### **Section 8.03. Order of Expenditures to Provide Services.**

(a) Each month during the Term, the Foundation shall apply the funds on deposit in the Facilities Account in accordance with the Budget in the following order to provide the Services hereunder:

(i) first, for the provision of all Services to be provided by the Foundation hereunder other than those Facilities Services set forth in Sections 7.03(a)(vi) and (x) hereof;

(ii) second, for the provision of those Facilities Services set forth in Sections 7.03(a)(vi) and (x) hereof and for the payment of Operating Expenses of the Foundation;; and

(iii) lastly, to fund the Maintenance Reserve Fund as required in Section 8.02 hereof.

(c) Under no circumstances shall the Foundation be obligated to provide for the payment for the performance of the Services from funds other than those funds on deposit in the Facilities Account, the Maintenance Reserve Account (with the prior written consent of the LSU Representative) and, if any, the Restoration Fund.

**Section 8.04. LSU's Payment and Other Obligations.**

(a) **Monthly Use Support Payment.** The Foundation shall, not less than ten (10) days prior to the first day of each calendar month during the Term, provide to LSU an invoice for the Monthly Use Support Payment, which amount LSU shall pay to the Foundation by the first day of each ensuing calendar month.

(b) **Utilities.** LSU shall provide, at its expense, all utilities required for the operation of the Facilities, as applicable, including, without limitation, gas, water, electricity, sewerage, wi-fi and telephone, which utilities shall be individually metered and the costs of which shall be accounted for by LSU as "in-kind services" provided by LSU to the Foundation in the annual accounting reconciliation prepared in accordance with the provisions of the Uniform Affiliation Agreement and the requirements of La. R.S. 17:3390.

(c) **Other In-Kind Services.** At the written request by the Foundation to the LSU Representative, LSU may, in the LSU Representative's sole and unfettered discretion, but shall in no way be obligated to, provide other "in-kind services" in connection with the repair and maintenance of the Facilities in the event funds on deposit in the Facilities Fund are insufficient for such purposes, the costs of which services shall be accounted for by LSU as "in-kind services" provided by LSU to the Foundation in the annual accounting reconciliation prepared in accordance with the provisions of the Uniform Affiliation Agreement and the requirements of La. R.S. 17:3390.

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## ARTICLE IX

### LETC SHELL SPACE IMPROVEMENTS

**Section 9.01. Obligation to Perform LETC Shell Space Improvements.** The Foundation shall perform, or cause to be performed, the LETC Shell Space Improvements in accordance with the provisions of this Agreement (the "*Work*"). The LETC Shell Space Improvements shall be at the sole expense of the Foundation.

**Section 9.02. Performance of the LETC Shell Space Improvements.** The Foundation shall perform the Work in a good and workmanlike manner, in accordance with the following provisions:

(a) ***Plans and Specifications/Change Orders.*** Plans and specifications for the Work shall be delivered to the LSU Representative for review. The LSU Representative shall approve or disapprove in writing such plans and specifications within fourteen (14) days of receipt thereof. Any request for change orders to the plans and specifications or to the construction contract should be made to the LSU Representative (unless the LSU Representative and the Foundation agree in writing that certain classes or types of change orders may proceed without the LSU Representative's approval). The LSU Representative shall approve or disapprove such request within seven (7) days of having received the request for the change order. No change order to the construction contract or to the plans and specifications which increases the total contract amount by Fifty Thousand Dollars (\$50,000.00) or more shall be implemented without the prior written consent of the LSU Representative.

(b) ***Commencement and Completion of the Work.*** Unless delayed by Force Majeure, the Foundation agrees to commence the Work upon receipt from LSU (through the LSU Representative) of (i) written approval of the plans and specifications and (ii) a notice to proceed to use commercially reasonable efforts to complete the Work in a timely manner.

(c) ***Construction Contract(s).*** The Work shall be performed on behalf of the Foundation pursuant to one or more written contracts between the Foundation and one or more contractors. The LSU Representative shall approve or disapprove any such contracts within ten (10) days of receipt of a copy thereof from the Foundation. Where appropriate, the contract(s) and bond(s) shall be recorded properly with the Clerk of Court of East Baton Rouge Parish prior to commencement of the Work. The Foundation shall include a liquidated damage clause acceptable to the LSU Representative in its construction contract(s). LSU and the Foundation hereby acknowledge and, to the extent practically and legally possible, any contract between the Foundation and any contractor or contractors and all subcontracts entered into by the general contractor shall acknowledge expressly, the following:

(i) The Work will be performed solely and exclusively for the Foundation.

(ii) The Foundation is a separate legal entity from LSU. The Foundation is not acting as an agent for LSU, and the Foundation has no authority to obligate LSU to any extent whatsoever.

(iii) Neither LSU nor the State shall be liable, directly or indirectly, for the payment under the contract of any sums whatsoever or for the performance of any other obligation whatsoever arising out of the Work.

(iv) The Foundation owns the property upon which the Work will be performed and the LETC Shell Space Improvements will be owned by the Foundation. The Work shall not give rise to any rights against any property of LSU.

(d) **Performance Bond.** The Foundation shall require that the contractor(s) provide a performance and labor and materials payment bond with a corporate surety authorized to do business in the State. Said bond shall be for the greater of the full amount of the contract price or the amount of the guaranteed maximum price of the Work. Both the Foundation and LSU shall be obligees or beneficiaries under the bond.

(e) **Rights Concerning the Property During Performance of the Work and Thereafter.** The Foundation and its contractor(s) shall have the right to occupy and use the LETC Property, with reasonable ingress to and egress therefrom, during the performance of the Work, and, as applicable, during the term of this Agreement, and with the prior written consent of the LSU Representative, shall fence that area of the Land necessary to perform the Work in a safe and secure manner. Except for unknown and unforeseen and/or unforeseeable defects, the Foundation assumes all responsibility for the condition of the LETC Property and any portion of the Campus surrounding the LETC Property used by it during the term of this Agreement. The Foundation and its contractor(s) shall maintain the LETC Property and any improvement or construction thereon in a reasonably prudent manner during the term of this Agreement. The LSU Representative and any other LSU employees designated by him shall at all times have access to the LETC Property and shall exercise all rights as owner, even those not specifically acknowledged herein. The Foundation will take prudent care of the LETC Property and return same to LSU at the termination or expiration of this Agreement, with the improvements thereon, in as good a condition as when received, ordinary wear and tear excepted. The Foundation accepts the Land for the purposes herein outlined without any warranty of title or recourse whatsoever against LSU.

(f) **Access over Adjoining Property during Performance of the Work.** LSU hereby grants to the Foundation a servitude of access over and across such other portions of the Campus as is necessary in order for the Foundation to fulfill its obligations under this Article IX, provided, however, that the Foundation will not unreasonably interfere with LSU's use of such other property.

(g) **LSU Rules and Regulations; Access during Performance of the Work.** The Foundation agrees that it will comply with all LSU regulations and policies with regard to all contractors and personnel entering the Property for purposes of performing the Work (including, without limitation, the criminal history checks required by Section 7.08 hereof, and with all Applicable Law regulating its operations on the Property, and that it will secure, at its own expense, all necessary permits and licenses from all regulatory agencies



or bodies, which rules and regulations will be addressed at the pre-construction conference. The Foundation shall make these same requirements of its contractor(s) for the Work. The Work shall be subject to inspection by the LSU Representative, and the LSU Representative shall have access at all times to the Work.

(h) **Approvals.** LSU may not unreasonably deny or delay any approval required pursuant to this Article IX.

(i) **Signage.** Before erecting or placing any sign upon the LETC Property, the Foundation shall submit the design specifications of such sign to the LSU Representative for approval, which approval shall not be withheld if such signage is consistent with LSU's current signage policy or such signage was included in the plans and specifications.

(j) **Acceptance of the Work.** The Foundation and LSU agree to work together to complete all warranty and punch list items within the first year following acceptance of the Work. The Foundation will not accept the Work without the written approval of the LSU Representative. LSU reserves the right to refuse to approve the acceptance of the Work unless monies equal to the value of the punch list deficiencies are held by the Foundation in an escrow account for payment to the contractor(s) for completion of the punch list items. Final payment shall not be made to the contractor(s) until LSU agrees in writing that the punch list items have been completed.

(k) **Clerk of the Works.** If, in LSU's sole discretion, LSU shall determine that a Clerk of the Works is necessary to oversee the Work, the Foundation, at LSU's expense, shall hire a Clerk of the Works for full time supervision of the Work.

(l) **Utilities.** LSU shall provide, at its expense, all utilities necessary for the performance by the Foundation of the LETC Shell Space Improvements, including, without limitation, water, heat, gas, electricity, sewerage.

(m) **No Liens: Release of Recorded Lien.** The Foundation shall not suffer or permit any Liens to be enforced against the LETC Property or LSU by reason of a failure to pay for any work, labor, services or materials supplied or claimed to have been supplied to the Foundation or to anyone through the Foundation. If any such Liens shall be recorded against the LETC Property, the Foundation shall cause the same to be released of record, or in the alternative, if the Foundation in good faith desires to contest the same, the Foundation shall be privileged to do so, but in such case, the Foundation hereby agrees to indemnify and save LSU harmless from all liability for damages occasioned thereby and shall, in the event of a judgment of foreclosure on said lien, cause the same to be discharged and released prior to the execution of such judgment.

(n) **Information.** The Foundation shall provide to LSU, within fifteen (15) days of the end of each calendar month, copies of all documentation generated by the Foundation, or generated by third parties and in the possession of the Foundation, in connection with the LETC Shell Space Improvements, including without limitation, all draw requests and supporting documentation, statements reflecting debits and credits to the Improvements Account, change orders and any other information reasonably requested by LSU.

(o) **Insurance.** During the performance of the Work, the Foundation shall maintain or require its contractor(s) to maintain, the following:

(i) **Builder's Risk Insurance.** Contractor(s) shall provide an "All Risk" builder's risk insurance policy, including but not limited to fire and extended coverage, vandalism and malicious mischief insurance, for not less than one hundred (100%) percent of the full replacement value of the Work to protect against any damage or loss during the Work. This policy shall be taken out prior to commencement of the Work and be discontinued upon final approval by LSU of the Work. Coverage shall run in favor of the contractor(s), the subcontractor(s), the Foundation and LSU, as their interests may appear. The coverage shall include the architect's fee for work required and reconstruction following a loss during the Work. Written evidence of such insurance shall be provided to LSU prior to commencement of the Work.

(ii) **Other Insurance.** The Foundation shall require its contractor(s), before commencing the Work, to procure the coverages required pursuant to Section 10.02(b) hereof. Written evidence of such insurance shall be provided to LSU prior to commencement of the Work.

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## ARTICLE X

### INSURANCE

**Section 10.01. Insurance to be Maintained by LSU.** LSU shall maintain the property insurance for the LDMF as part of a master property program throughout the Term. Such coverage includes all risk property insurance, including named windstorm, earthquake, flood and Business Interruption. Such insurance shall be on a replacement cost basis. In addition to the master property program: terrorism coverage, boiler and machinery and fine arts (if applicable) coverage will be provided in an amount adequate to cover the risk. As part of the master property program, LSU will appoint the appropriate claims personnel to handle losses. Other losses shall be handled by the carrier of record. Building personal property (contents) not in LSU's care, custody, and control will not be insured by LSU.

#### **Section 10.02. Other Insurance Provisions.**

(a) The University requires the Foundation to procure the below minimum insurance. The insurance must be maintained for the Term. The minimum insurance requirements described herein do not in any way limit the Foundation's financial responsibilities as outlined in the Indemnification requirements. Therefore, the Foundation may opt to have broader coverage and limits to satisfy its financial obligations.

(i) Workers' Compensation insurance shall be in compliance with the laws of the State of Louisiana. Employer's Liability shall be included with a minimum limit of \$1,000,000 per accident/per disease/per employee. If the Foundation is exempt from workers' compensation or fails to provide appropriate coverage, then the Foundation is or agrees to be solely responsible and hold harmless the University for the injuries of any officers, agents, volunteers, or employees during the course of the agreement.

(ii) Commercial General Liability insurance shall be maintained on an "occurrence" basis, including property damage, bodily injury, products & completed operations, and personal & advertising injury with limits not less than \$1,000,000 per occurrence and \$2,000,000 aggregate on Insurance Services Office Form CG 00 01, ISO 2007 edition or equivalent.

(iii) If the Foundation owns or operates automobiles, then Automobile Liability Insurance shall be maintained with a minimum combined single limit per accident of \$1,000,000 on ISO form number CA 00 01 or equivalent. This insurance shall include third-party bodily injury and property damage liability for owned, hired and non-owned vehicles.

(iv) If the Foundation collects and stores personal protected information then Cyber liability insurance shall be maintained that provides third party coverage for privacy breach, including coverage for notification and assistance as required by Louisiana law with a minimum limit of \$1,000,000.

(v) Umbrella or Excess insurance may be used to meet the minimum limit requirements for liability insurance.

(b) LSU shall be listed as an Additional Insured on the Commercial General Liability (must use an endorsement at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms with edition date 2004 if later revisions used). See section 10.2 (b) (vi) on how the LSU should be listed as an Additional Insured.

(c) All insurances shall include a waiver of subrogation/recovery in favor of the University.

(d) For any claims related to the Foundation's operations or activities, the Foundation's insurance coverage shall be primary insurance as respects to the University. Any applicable insurance or self-insurance maintained by the University shall be excess of the Foundation's insurance and shall not contribute with it.

(e) Any deductibles or self-insured retentions above \$25,000 must be approved by the University or reduced. The University may require the Foundation to provide proof of ability to pay losses related investigations, claim administration, and defense expenses within the retention.

(f) Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A- VII, unless otherwise approved by the University.

(g) For verification of coverage, the University shall be listed as Additional Insured and Certificate Holder as follows:

Board of Supervisors of Louisiana State University  
and Agricultural & Mechanical College  
330 Thomas Boyd Hall  
Baton Rouge, LA 70803

Certificates of Insurance shall be furnished to the University evidencing the insurance required herein including amendatory endorsements. The University's failure to obtain the required documents or acceptance of a non-compliant certificate shall not waive the Foundation's obligation to have in place the required insurances or to provide the certificate. The University reserves the right to require certified copies of all the insurance policies, including endorsements.

(h) Unless otherwise required by the University, all contractors of the Foundation performing services on University campuses shall be subject to all of the insurance requirements stated herein. Foundation shall be responsible for verifying insurance coverages and limits and maintaining Certificates of Insurance for each contractor. The University reserves the right to receive from the Foundation copies of contractor's certificates.

(i) LSU reserves the right to consider alternate coverage or limits and to modify these requirements, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

## ARTICLE XI

### INDEMNITY

**Section 11.01. Indemnity Obligations of the Foundation.** The Foundation shall and will indemnify, defend, and save harmless LSU and its board members, authorized agents, officers and employees from and against any and all liability, claims, demands, damages, expenses, fees, fines, penalties, suits, proceedings, actions and causes of action of any and every kind and nature growing out of or in any way connected with the construction, use, occupancy, management, operation or control of the Property and any servitudes, rights of attachment and air rights by the Foundation, its officers, employees, agents, contractors, guests, members, or patrons. This obligation to indemnify shall include fees of legal counsel and third-party investigation costs and all other reasonable costs, expenses, and liabilities incurred as a result thereof; however, the Foundation and LSU may use the same counsel if such counsel is approved by LSU, which approval shall not be unreasonably withheld, delayed or conditioned. It is expressly understood and agreed that the Foundation is and shall be deemed to be an independent contractor and operator responsible to all parties for its respective acts or omissions and that LSU shall in no way be responsible for the acts or omissions of the Foundation. The Foundation's obligation to indemnify LSU in accordance with the terms of this Section 11.01 shall be limited to the extent of (i) its proportionate share of fault and (ii) to Net Insurance Proceeds available for such purpose.

**Section 11.02. Indemnity Obligations of LSU.** To the extent permitted by Applicable Law, LSU shall and will indemnify, defend, and save harmless the Foundation and its board members, authorized agents, officers and employees from and against any and all liability, claims, demands, damages, expenses, fees, fines, penalties, suits, proceedings, actions, and causes of action of any and every kind and nature growing out of or in any way connected with the construction, use, occupancy, management, operation or control of the Property and any servitudes, rights of attachment and air rights by LSU, its officers, employees, agents, contractors, guests, members or patrons. This obligation to indemnify shall include fees of legal counsel and third-party investigation costs and all other reasonable costs, expenses, and liabilities incurred as a result thereof; however, the Foundation and LSU may use the same counsel if such counsel is approved by LSU, which approval shall not be unreasonably withheld, delayed or conditioned. It is expressly understood and agreed that the Foundation is and shall be deemed to be an independent contractor and operator responsible to all parties for its respective acts or omissions and that LSU shall in no way be responsible for the acts or omissions of the Foundation. LSU's obligation to indemnify the Foundation in accordance with the terms of this Section 11.02 shall be limited to the extent of (i) its proportionate share of fault and (ii) Net Insurance Proceeds available for such purpose.

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## ARTICLE XII

### TERMINATION

#### **Section 12.01. Termination by LSU.**

(a) ***Termination for Cause.*** Any other provision to the contrary contained herein notwithstanding, LSU may terminate this Agreement for cause based upon the failure of the Foundation to comply with the terms and/or conditions hereof; provided that LSU shall give the Foundation written notice specifying the Foundation's failure. If within forty-five (45) days after receipt of such notice, the Foundation shall not have either corrected such failure or, in case of failure which cannot be corrected in thirty (30) days, begun in good faith to correct said failure and thereafter proceeded diligently to complete such correction, then LSU may, at its sole option, place the Foundation in default and the Agreement shall terminate on the date specified in the notice.

(b) ***Event of Nonappropriation.*** The continuation of this Agreement is contingent upon the appropriation of funds by the Louisiana Legislature (the "*Legislature*") to LSU to fulfill the requirements of this Agreement. If the Legislature fails to appropriate sufficient monies to LSU to provide for the continuation of the contract, or if such appropriation is reduced by the veto of the Governor or by any means provided in the appropriations act to prevent the total appropriation for the year from exceeding revenues for that year, or for any other lawful purpose, and the effect of such reduction is to provide insufficient monies to LSU for the continuation of this Agreement, this Agreement shall terminate on the date of the beginning of the first LSU Fiscal Year for which funds are not appropriated unless terminated earlier as otherwise provided in this Agreement.

LSU, at its sole discretion, shall determine for each LSU Fiscal Year whether its legislative appropriation for such Fiscal Year includes sufficient moneys to enable LSU to fulfill the requirements of this Agreement. If Board determines that the Legislature did not include sufficient moneys which would enable the LSU Board to fulfill the requirements of this Agreement for that LSU Fiscal Year, such determination by LSU shall constitute an event of nonappropriation for purposes of this Agreement and LSU shall, at the earliest possible date, adopt a resolution at a regularly scheduled or special LSU meeting stating that there has been an event of nonappropriation hereunder. LSU agrees to notify the Foundation within ten (10) business days in the event that LSU has adopted a resolution stating that there has been an event of nonappropriation hereunder.

**Section 12.02. Termination by the Foundation.** The Foundation may exercise any rights available to it under Applicable Law to terminate this Agreement for cause upon the failure of LSU to comply with the terms and conditions of this Agreement, provided that the Foundation shall give LSU written notice specifying LSU's failure and a reasonable opportunity for LSU to cure the defect.

## ARTICLE XIII

### NON-ASSIGNABILITY; TRANSFERS

The Foundation shall not (and shall not have the right to) assign, pledge, mortgage, grant a security interest in, encumber or otherwise transfer or dispose of this Agreement or any interest herein or in the Property or any right or privilege appurtenant hereto, or lease, ground lease or sublease the Property or any portion thereof, or permit or suffer any of the same to occur (each, a "*Transfer*"), unless, in each case, the prior written consent of the LSU Representative is first obtained, which consent shall not be unreasonably delayed, conditioned or withheld. Any transfer or assignment of its interest which is made without such written consent of the LSU Representative shall be void *ab initio*.

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## **ARTICLE XIV**

### **AUDIT AND AUDITORS**

In addition to the audit requirement outlined in Section 7.06 of this Agreement, LSU may, at its option and at its own expense, and during customary business hours, conduct internal audits of the books, bank accounts, records and other accounts of the Foundation pertaining to its obligations under this Agreement to the extent necessary to verify compliance with this Agreement. Audits may be made on either a continuous or a periodic basis or both, and may be conducted by employees of LSU, or by independent auditors retained by LSU or by the Louisiana Legislative Auditor or by the Office of the Governor, Division of Administration, but any and all such audits shall be conducted without materially or unreasonably or unnecessarily interrupting or interfering with the normal conduct of business affairs by the Foundation. LSU covenants with the Foundation to keep the results of any such audits confidential except as required by rules and regulations of LSU and by Applicable Law.

In addition, the Uniform Affiliation Agreement between LSU and the Foundation will include a provision that the LSU Office of Internal Audit will, at LSU's expense, serve as the internal audit function for the Foundation, and will have full access to the books, bank accounts, records and other accounts of the Foundation in fulfillment of that function.

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## **ARTICLE XV**

### **RECORD RETENTION**

The books, accounts and records of the Foundation which pertain to this Agreement shall be maintained at the principal office of the Foundation. The Foundation agrees to retain all books, records, and other documents relevant to this Agreement and the funds expended hereunder for at least three years after final payment, or as required by applicable federal law if federal funds are used to fund this Agreement.

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## **ARTICLE XVI**

### **TERM**

This Agreement began on the Effective Date and shall terminate on June 30, 2025, unless terminated earlier in accordance with the terms hereof. The termination date may be extended for successive five (5) year terms by written amendment to this Agreement, which must be signed by each of the Parties after obtaining any necessary approvals; provided, however, in no event shall the term of this Agreement extend beyond August 21, 2053, inclusive of all extensions. Extension of the Agreement beyond June 30, 2025 is contingent on the development and successful execution of the Operational Plan described in Section 7.05 herein.

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## ARTICLE XVII

### DISCRIMINATION CLAUSE

**Section 17.01 Requirements.** The Foundation shall, and shall cause the Agent and any of its other contractors or subcontractors to agree to, abide by: (a) the requirements of the following as applicable: Title VI of the Civil Rights Act of 1964 and Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, Federal Executive Order 11246 as amended, the Rehabilitation Act of 1973, as amended, the Vietnam Era Veteran's Readjustment Assistance Act of 1974, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, the Fair Housing Act of 1968 as amended; (b) the requirements of the Americans with Disabilities Act of 1990; and (c) any executive order issued by the governor of the State.

**Section 17.02. Additional Requirements.** The Foundation shall additionally require and cause the Agent and each contractor and subcontractor to agree: (i) not to discriminate in its employment practices; and (ii) to render services under this contract without regard to race, color, religion, sex, national origin, veteran status, political affiliation, or disabilities.

**Section 17.03. Cause for Termination.** Any act of discrimination committed by the Foundation or the Agent or failure to comply with these statutory obligations when applicable shall be grounds for termination of this Agreement.

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## ARTICLE XVIII

### DIVERSE SUPPLIERS

The Foundation understands that LSU is committed to promoting the growth and development of minority- and women-owned and small and historically underutilized businesses (collectively, "*Diverse Suppliers*") by providing opportunities to participate in LSU agreements. In support of this commitment, (a) the Foundation shall use good faith and commercially reasonable efforts to provide opportunities to Diverse Suppliers that are either certified by the State or another certifying entity in a diverse category as a subcontractor or supplier according to LSU policies and procedures and (b) the Foundation shall provide to LSU a list of Diverse Suppliers during each Foundation Fiscal Year, which list shall identify as to each Diverse Supplier contained thereon (i) the legal name thereof, (ii) the principal office or address, (iii) ownership and (iv) the services or good that it may provide or supply and the value of the goods or services procured therefrom. To the extent that any Applicable Law would require that this Article XVIII be modified or voided, the Parties agree that such provision may be amended or severed from this Agreement without affecting any of the other terms hereof.

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## **ARTICLE XIX**

### **INDEPENDENT CONTRACTORS**

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the Parties. The Foundation shall at all times remain an "independent contractor" with respect to the Services to be performed under this Agreement.

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**ARTICLE XXI**

**TAX LIABILITY**

The Foundation hereby agrees that the responsibility for payment of taxes due, if any, in connection with the funds received by it under this Agreement shall be the obligation of the Foundation.

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## ARTICLE XXII

### MISCELLANEOUS

**Section 22.01. Severability.** If any clause or provision of this Agreement is deemed to be illegal, invalid or unenforceable under present or future Applicable Law effective during the term of this Agreement, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby.

**Section 22.02. Governing Law; Venue.** This Agreement shall be construed in accordance with and governed by the laws of the State of Louisiana. The 19th Judicial District Court in and for the Parish of East Baton Rouge, State of Louisiana, shall be the exclusive court of jurisdiction and venue for any litigation, special proceeding or other proceeding by and among the Parties in connection with, or by reason of, this Agreement.

**Section 22.03. Notices.** Any notice required or permitted to be given under or in connection with this Agreement shall be in writing and shall be delivered by: (1) hand; (2) U.S. Postal Service, postage prepaid, certified mail, return receipt requested; (3) by private, commercial carrier; or (4) sent by telecopy or other form of rapid electronic transmission when the receipt is confirmed in writing by the addressee. Notices must be addressed to the addressee at the addresses shown below or to such other person or address as a Party may give notice to the other Parties:

If to LSU:     President of LSU  
                  Louisiana State University  
                  3810 West Lakeshore Drive  
                  Baton Rouge, Louisiana 70803  
                  Facsimile:     (225) 578-4749

With copies to (which copies shall not constitute notice):

                  General Counsel  
                  LSU  
                  3810 West Lakeshore Drive, Suite 124  
                  Baton Rouge, Louisiana 70808  
                  Facsimile:     (225) 578-5524

and

                  Executive Vice President for Finance and Administration and CFO  
                  Louisiana State University  
                  330 Thomas Boyd Hall  
                  Baton Rouge, Louisiana 70803  
                  Facsimile: (225) 578-5403

and

Associate Vice President for Facility and Property Oversight  
Louisiana State University  
212A Facilities Services Building  
Engineering Lane  
Baton Rouge, Louisiana 70803  
Facsimile: (225) 578-5597

If to Foundation: LSU Research Foundation  
Building 340, East Parker Boulevard  
Baton Rouge, Louisiana 70803  
Facsimile: (225) 615-8910  
Attn: Chief Executive Officer

With a copy to (which copy shall not constitute notice):

Kantrow, Spaht, Weaver & Blitzer, APLC  
445 North Boulevard  
Baton Rouge, Louisiana 70802  
Facsimile: (225) 343-0630  
Attn: W. Scott Keaty

**Section 22.04. Entire Agreement.** This Ground Lease, together with the exhibits attached hereto, contains the entire agreement between the parties hereto with respect to the matters set forth herein and contains all of the terms and conditions agreed upon with respect to such matters, and no other agreements, oral or otherwise, regarding the subject matter of this Ground Lease shall be deemed to exist or to bind the Parties; it being the intent of the parties that neither shall be bound by any term, condition, or representations not herein written.

**Section 22.05. Amendments.** No amendment, modification, or alteration of the terms of this Agreement shall be binding unless the same is in writing, dated on or subsequent to the date hereof and duly executed by the Parties and all required approvals have been obtained.

**Section 22.06. Construction.** LSU and the Foundation and/or their respective counsel have participated jointly in the negotiation and drafting of this Agreement. In the event that an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by LSU and the Foundation, and no presumption or burden of proof shall arise favoring or disfavoring either Party by virtue of the authorship of any of the provisions of this Agreement. In entering this Agreement, the Parties represent that they have relied upon the advice of their attorneys, who are attorneys of their own choice, and that the terms of this Agreement have been completely read and explained to them by their attorneys, and that those terms are fully understood and voluntarily accepted by them.

**Section 22.07. Counterpart Execution.** This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which shall together constitute one and the same instrument. For purposes hereof, facsimile and electronically scanned .pdf copies hereof and facsimile and electronically scanned pdf signatures hereof shall be authorized and deemed effective.



**Section 22.08. Interpretation.** Unless the context of this Agreement clearly requires otherwise, (a) pronouns, wherever used herein, and of whatever gender, shall include natural persons and corporations and associations of every kind and character; (b) the singular shall include the plural wherever and as often as may be appropriate; (c) the word "includes" or "including" shall mean "including without limitation"; (d) the word "or" shall have the inclusive meaning represented by the phrase "and/or"; (e) the words "hereof" "herein," "hereunder," and similar terms in this Agreement shall refer to this Agreement as a whole and not to any particular section or article in which such words appear. The section, article and other headings in this Agreement are for reference purposes, and shall not control or affect the construction of this Agreement or the interpretation hereof in any respect. Article, section, subsection and exhibit references are to this Agreement unless otherwise specified. All exhibits attached to this Agreement constitute a part of this Agreement and are incorporated herein. All references to a specific time of day in this Agreement shall be based upon Central Time.

**Section 22.09. Further Assurances.** From time to time hereafter, each Party shall execute and deliver such additional instruments, certificates or documents, and take all such actions as the other Party may reasonably request, for the purpose of fulfilling its obligations hereunder.

**Section 22.10. No Personal Liability.** No covenant or agreement contained in this Agreement shall be deemed to be the covenant or agreement of any official, trustee, board member, officer, agent or employee of any Party hereto in his individual capacity, and those persons executing this Agreement on behalf of a Party to this Agreement shall not be liable personally with respect to this Agreement or be subject to any personal liability or accountability by reason of the execution and delivery of this Agreement except to the extent required by Applicable Law.

**Section 22.11. Delay or Omission.** No delay or omission in the exercise of any right or remedy accruing to a Party upon any breach by the other Party under this Agreement shall impair such right or remedy or be construed as a waiver of any breach theretofore or thereafter occurring. The waiver of any condition or the breach of any term, covenant, or condition herein or therein contained shall not be deemed to be a waiver of any other condition or of any subsequent breach of the same or any other term, covenant or condition herein or therein contained.

**Section 22.12. Compliance with Applicable Law.** Each Party shall comply, and shall cause all Persons using the Property (including the Agent, the Tenants and any contractors, subcontractors, vendors and suppliers) to comply, with Applicable Law, including, without limitation, all applicable Environmental Laws, in the performance of its obligations under this Agreement.

**Section 22.13. Memorandum of Lease.** Neither LSU nor the Foundation shall file this Agreement for recordation in East Baton Rouge Parish, Louisiana, or in any public place without the written consent of the other. In lieu thereof LSU and the Foundation agree to execute in recordable form a memorandum of this Agreement in the form of **Exhibit E** attached hereto. Such memorandum shall be filed for record in East Baton Rouge Parish, Louisiana.

**Section 22.14. Applicable Law.** The obligations of each party to this Agreement shall be performed in accordance with all Applicable Law.

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[Signature Page to Cooperative Endeavor Agreement]

IN WITNESS WHEREOF, the undersigned duly authorized representative has signed this Agreement on behalf of LSU on the 22<sup>ND</sup> day of JANUARY, 2020, to be effective on the Effective Date, in the presence of the undersigned competent witnesses, who hereunto signed their names with me, Notary, after due reading of the whole.

**WITNESSES**

**BOARD OF SUPERVISORS OF  
LOUISIANA STATE UNIVERSITY AND  
AGRICULTURAL AND MECHANICAL  
COLLEGE**

Ashley Arceneaux  
Printed Name:

Debbie Richards  
Printed Name:

By: [Signature]  
Name: Thomas C. Galligan, Jr.  
Title: Interim President,  
Louisiana State University

[Signature]  
Notary Public  
JAMES E. MARCHAND  
Printed Name  
LSBA Roll No. 09157  
My Commission is for life.

[Signature Page to Cooperative Endeavor Agreement]

IN WITNESS WHEREOF, the undersigned duly authorized representative has signed this Agreement on behalf of the Foundation on the 19 day of January, 2020, to be effective on the Effective Date, in the presence of the undersigned competent witnesses, who hereunto signed their names with me, Notary, after due reading of the whole.

**WITNESSES**

**LSU RESEARCH FOUNDATION**

Danita King  
Printed Name:

[Signature]  
By: \_\_\_\_\_  
Name: Lee Griffin  
Title: Chair, Board of Directors

Danita King  
Printed Name:

Desiree Esnault

Desiree Esnault

[Signature]  
Notary Public

\_\_\_\_\_  
Printed Name  
LSBA Roll No. \_\_\_\_\_  
My Commission is for life.



**DONNA K. TORRES**  
Notary Public  
Notary ID No. 10602  
East Baton Parish, Louisiana  
My Commission is for Life

**EXHIBIT A**

**DESCRIPTION OF THE LAND**

[metes and bounds description to come – survey in progress  
and will include the footprint of the LETC building plus a 5 foot perimeter]

**EXHIBIT B**

**DESCRIPTION OF LDMF FOUNDATION LEASED SPACE  
AND LDMF LSU SPACE**

**EXHIBIT C**

**DESCRIPTION OF LETC SHELL SPACE IMPROVEMENTS**

**EXHIBIT D**  
**COPY OF ANCHOR TENANT LEASE**



**EXHIBIT E**  
**MEMORANDUM OF LEASE**

## MEMORANDUM OF LEASE

STATE OF LOUISIANA

\*

\*

PARISH OF EAST BATON ROUGE

\* KNOW ALL MEN BY THESE PRESENTS:

This Memorandum of Lease (this "Memorandum") is entered into by and between the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, as lessor ("LSU"), and LSU Research Foundation ("Foundation"), as lessee.

### RECITALS

A. LSU and Foundation have entered into a Cooperative Endeavor Agreement dated effective August 21, 2003, but executed and delivered on \_\_\_\_\_, 2020 (the "CEA"), whereby LSU leases to Foundation, and Foundation leases from LSU, the real property more particularly described on Exhibit A attached hereto and incorporated herein (collectively, the "Property"). The Cooperative Endeavor Agreement amends and restates (i) that certain Amended and Restated Agreement and Lease of Property for Construction of the Louisiana Emerging Technologies Center and the Louisiana Digital Media Facilities entered into as of May 11, 2011, but effective August 21, 2003, and (ii) that certain Cooperative Endeavor Agreement dated as of September 13, 2013, each by and between LSU and the Foundation.

B. LSU and Foundation desire to enter into this Memorandum, which is to be recorded in order that third parties may have notice of the parties' rights under the CEA.

### LEASE TERMS

Specific reference is hereby made to the following terms and provisions of the CEA:

1. This Agreement began on the Effective Date and shall terminate on June 30, 2025, unless terminated earlier in accordance with the terms hereof. The termination date may be extended for successive five (5) year terms by written amendment to this Agreement, which must be signed by each of the Parties after obtaining any necessary approvals; provided, however, in no event shall the term of this Agreement extend beyond August 21, 2053, inclusive of all extensions. Provided, however, the CEA may be earlier terminated (a) for cause by either party based upon the failure of the other party to comply with the terms and/or conditions of the CEA or (b) by LSU in the event of failure by the Louisiana Legislature to appropriate the funds to LSU necessary to provide for the continuation of the CEA (the "Expiration Date").

2. Additional information concerning the provisions of the CEA can be obtained from the parties at the following addresses:

LSU: Louisiana State University  
330 Thomas Boyd Hall  
Baton Rouge, Louisiana 70803  
Attn: Executive Vice President for Finance and Administration and CFO

Foundation: LSU Research Foundation  
Building 340, East Parker Boulevard  
Baton Rouge, Louisiana 70803  
Attn: Chief Executive Officer

This Memorandum is executed for the purpose of recordation in the public records of East Baton Rouge Parish, Louisiana in order to give notice of certain terms and provisions of the CEA and is not intended and shall not be construed to define, limit or modify the CEA. All of the terms, conditions, provisions and covenants of the CEA are incorporated into this Memorandum by reference as though fully set forth herein, and both the CEA and this Memorandum shall be deemed to constitute a single instrument or document.

[remainder of this page intentionally left blank]

[signature page to Memorandum of Lease]

IN WITNESS WHEREOF, the LSU has caused this Memorandum of Lease to be executed and delivered before me, the undersigned Notary Public, duly commissioned and qualified in and for East Baton Rouge Parish, Louisiana, and in the presence of the undersigned competent witnesses, who hereunto set their names with LSU and me, Notary, after due reading of the whole, on the day, month and year set forth below his signature, to be effective \_\_\_\_\_, 2020.

WITNESSES:

**BOARD OF SUPERVISORS OF  
LOUISIANA STATE UNIVERSITY  
AND AGRICULTURAL AND  
MECHANICAL COLLEGE**

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

By: \_\_\_\_\_  
Name: Thomas C. Galligan, Jr.  
Title: Interim President  
Louisiana State University

Date: \_\_\_\_\_

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC  
Printed Name: \_\_\_\_\_  
La. bar Roll Number: \_\_\_\_\_  
My commission is for life.

[signature page to Memorandum of Lease]

IN WITNESS WHEREOF, the Foundation has caused this Memorandum of Lease to be executed and delivered before me, the undersigned Notary Public, duly commissioned and qualified in and for East Baton Rouge Parish, Louisiana, and in the presence of the undersigned competent witnesses, who hereunto set their names with the Foundation and me, Notary, after due reading of the whole, on the day, month and year set forth below his signature, to be effective \_\_\_\_\_, 2020.

WITNESSES:

**LSU RESEARCH FOUNDATION,**  
a Louisiana nonprofit corporation

\_\_\_\_\_  
Printed Name:

By: \_\_\_\_\_  
Name: Lee Griffin  
Title: Chair, Board of Directors

Date: \_\_\_\_\_

\_\_\_\_\_  
Printed Name:

\_\_\_\_\_  
NOTARY PUBLIC

Printed Name: \_\_\_\_\_

La. Bar Roll Number: \_\_\_\_\_

My commission is for life.



**INTENT TO PURCHASE AGREEMENT  
(Louisiana Emerging Technology Center Building)**

**by and between**

**BOARD OF SUPERVISORS OF LOUISIANA STATE UNIVERSITY  
AND AGRICULTURAL AND MECHANICAL COLLEGE**

**and**

**LSU RESEARCH FOUNDATION**

**dated effective \_\_\_\_\_, 2023**

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**INTENT TO PURCHASE AGREEMENT  
(Louisiana Emerging Technology Center Building)**

**THIS INTENT TO PURCHASE AGREEMENT (Louisiana Emerging Technology Center Building)** (as amended, modified or supplemented from time to time, the "*Agreement*") is made and entered into as of \_\_\_\_\_, 2023 (the "*Delivery Date*"), but shall be effective the Effective Date (defined herein), by and between the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, a public constitutional corporation of the State of Louisiana ("*LSU*"), represented herein by its duly authorized President, and the LSU Research Foundation, a Louisiana nonprofit corporation (the "*Foundation*"), represented herein by its duly authorized [**\*\*TITLE\*\***]. Each of LSU and the Foundation are referred to, individually, as a "*Party*" and, collectively, as the "*Parties*").

**RECITALS**

**WHEREAS**, the Foundation is organized exclusively for charitable, educational and scientific purposes within the meaning of §501(c)(3) of the Internal Revenue Code of 1986, as amended, and is affiliated with LSU in accordance with La. R.S. 17:3390 with a principal purpose of supporting the programs, facilities and research and educational opportunities offered by Louisiana State University and Agricultural and Mechanical College (the "*University*"), including, without limitation, enhancing economic growth by encouraging, supporting, facilitating, fostering, marketing and/or managing (i) research emanating from the University, (ii) start-up research, life sciences and digital medical businesses emanating from the University, (iii) private life sciences and digital media companies and (iv) facilities housing and or supporting the businesses and companies identified in items (i), (ii) and (iii);

**WHEREAS**, pursuant to La. R.S. 17:3361, *et seq.* (the "*University Leasing Act*"), LSU is authorized to lease to a nonprofit corporation, such as the Foundation, any portion of the grounds or campus of any college or university or other immovable property under its supervisions and management, under the conditions set forth therein;

**WHEREAS**, the University Leasing Act expressly authorizes a lease to provide for demolition, construction and renovations of buildings, other structures and improvements by a nonprofit corporation, such as the Foundation, on that portion of the grounds or campus of the University which is the subject of the lease;

**WHEREAS**, the University Leasing Act expressly authorizes, under certain circumstances, a university to lease back all or any portion of the buildings, other structures and improvements constructed by a nonprofit corporation on the leased property as more fully described therein;

**WHEREAS**, pursuant to the University Leasing Act, LSU and the Foundation (successor to Louisiana State University System Research and Technology Foundation) previously entered into that certain Amended and Restated Agreement and Lease of Property for Construction of the Louisiana Emerging Technology Center and the Louisiana Digital Media Facility dated as of May 11, 2011, which amended and restated that certain Agreement and Lease of Property for Construction of the Louisiana Emerging Technologies Center dated effective August 21, 2003 (the "*Ground Lease*"), which provided for the lease of a parcel of property on the University's main campus, as more particularly identified in the Original Lease (the "*Leased Land*"), and the construction of (i) an approximately 60,000 square foot wet-lab incubator building known as the Louisiana Emerging Technologies Center ("*LETC*" or the "*Facilities*") which is owned and

operated by the Foundation in accordance with the Ground Lease and was funded by the Louisiana Legislature through the Department of Economic Development to house new and emerging companies dependent on university research and/or university technologies and (ii) an approximately 100,855 square foot digital media building known as the Louisiana Digital Media Facility ("*LDMF*");

**WHEREAS**, construction of each of the LETC and the LDMF was fully completed and, subsequently, the Foundation donated the LDMF to LSU on September 17, 2013 (the "*Donation*");

**WHEREAS**, on January 10, 2020, LSU and the Foundation entered into a Cooperative Endeavor Agreement with an original effective date of August 21, 2003 (the "*CEA*"), which CEA amended and restated the Ground Lease;

WHEREAS, pursuant to the CEA, among other things, (i) LSU leases to the Foundation the land on which the LETC is located and terminates the ground lease for the land on which the LDMF is located, (ii) the Foundation has all responsibility to operate, manage and maintain the LETC Property, subject to the provisions of the CEA, (iii) LSU leases to the Foundation the space in the LDMF not occupied by LSU, and the Foundation sublease such space to other tenants pursuant to various sublease agreements, (iv) the Foundation has all responsibility for the leasing, management, operation, maintenance and repair of the space in the LDMF not leased by LSU and provision of tenant services therein and for the management, operation, maintenance and repair of the space in the LDMF occupied by LSU, subject to the provisions of the CEA, (v) the Foundation performed improvements to shell space on the first and third floors of the LETC for future tenants, and (vi) the Foundation works collaboratively with LSU and the tenants and potential tenants of the LETC and LDMF to use and occupy the LETC and LDMF to encourage new and emerging companies dependent upon university research and/or university technologies, to encourage technology transfer and research and development in the field of digital interactive media by providing for relevant curricula, workforce and facilities in support thereof, to attract faculty capable of obtaining research grant funding and to attract students in the disciplines of science, technology, engineering and math ("*STEM*"), to promote the engagement between LSU students and private sector business for research, assistantships, internships and talent acquisition/placement and to facilitate economic development in the State and (viii) the Foundation will work collaboratively with LSU and the tenants and future tenants of LSU's Innovation Park regarding scientific investigation and startup business assistance through technology and business innovation to bring new technologies and products to market, to promote the engagement between LSU students and private sector business for research, assistantships, internships and talent acquisition/placement and to facilitate economic development in the State;

**WHEREAS**, LSU has determined that the highest and best use of the Facilities and the portion of the Leased Land on which the LETC is located is for LSU's Military and Security Sciences Programs (the "*Programs*");

**WHEREAS**, LSU has determined that it would be in LSU's best interest to (i) enter into an agreement with the Foundation to obligate the Foundation, at LSU's expense, to make certain capital improvements to the Facilities in one or more phases (the "*Facilities Improvements*"), (ii) acquire, upon completion thereof, the Facilities from the Foundation; (iii) terminate the CEA and (iv) use the Facilities for the Programs (collectively, the "*Future Transactions*");

**WHEREAS**, Act No 117 of the 2022 Regular Session (the "*2022 Capital Outlay Act*") of the Louisiana Legislature (the "*Legislature*") contains capital appropriations for the Programs for

renovations, planning and construction consisting of (i) \$22 million in Priority 5 payable from general obligation bonds of the State of Louisiana (the "*Priority 5 Appropriation*") and (ii) \$1 million payable from State General Fund (Direct) Nonrecurring Revenues (the "*General Fund Appropriation*");

**WHEREAS**, once the Louisiana Legislature moves the Priority 5 Appropriation to Priority 1 in one or more future capital outlay acts, LSU and the Foundation intend to enter into a comprehensive and definitive agreement setting forth the obligations of the Parties in connection with the Future Transactions (the "*Future Agreement*");

**WHEREAS**, prior to the time the Parties enter into the Future Agreement, LSU desires that the Foundation proceed with the planning and architectural design of the Facilities Improvements in cooperation with LSU, including, without limitation, the engagement of an architect acceptable to LSU ("*Planning and Design*"); and

**WHEREAS**, this Agreement is intended to set forth (i) the Foundation's obligation to fund, at LSU's expense, the Planning and Design, (ii) the intent of LSU and the Foundation to consummate the Future Transactions and (iii) compensation by LSU to the Foundation for the foregoing.

**NOW THEREFORE**, in consideration of the mutual covenants herein contained and the public purposes and benefits to be obtained hereby, the Parties agree as follows:

## ARTICLE I

### DEFINITIONS

**Section 1.01. Definitions.** In addition to such other defined terms as may be set forth in this Agreement, the following terms shall have the following meanings:

"*Agent*" means any agent of the Foundation which performs obligations on behalf of the Foundation which obligations are required to be performed pursuant to this Agreement.

"*Agreement*" means this Intent to Purchase Agreement (Louisiana Emerging Technology Center Building) between LSU and the Foundation, as amended, modified or supplemented from time to time.

"*Applicable Laws*" means any and all laws, statutes, codes, acts, ordinances, resolutions, orders, judgments, case precedents, decrees, writs, injunctions, rules, regulations, restrictions, permits, plans, authorizations, concessions, investigations, reports, guidelines and requirements or accreditation standards of any Governmental Authority having jurisdiction over LSU, the Foundation or the Property or affecting LSU, the Foundation or the Property, including, without limitation, all applicable Environmental Laws, the Americans with Disabilities Act of 1990 and the Occupational Safety and Health Standards of the State and the United States, each as amended; provided, however, that this definition shall not be interpreted as waiving protections granted to any party against future laws impairing the obligations of contracts between the Parties and/or third parties.

"*Architect*" means the architect to be selected by the Foundation, acceptable to LSU, for the Planning and Design.

"*Associate Vice President*" means the Associate Vice President for Facility and Property Oversight of the University (or any successor officer or office) or his or her designee appointed in writing.

"*Campus*" means the campus of the University, located in Baton Rouge, Louisiana.

"*CEA*" shall have the meaning assigned thereto in the Recitals to this Agreement.

"*Construction Loan*" means, collectively, one or more Construction Loans to be obtained by the Foundation pursuant to the Future Agreement, with the prior written consent of an LSU Representative, for the purpose of financing the Facilities Improvements.

"*Delivery Date*" means the date of execution and delivery of this Agreement by the Parties, \_\_\_\_\_, 2023.

"*Effective Date*" means the effective date of this Agreement, \_\_\_\_\_, 2023.

"*Future Agreement*" shall have the meaning assigned thereto in the Recitals to this Agreement.

"*Future Transactions*" shall have the meaning assigned thereto in the Recitals to this Agreement.

"*Executive Vice President*" means the Executive Vice President and Chief Administrative Officer of LSU and shall include any permanent or interim officer or any successor office.

"*Facilities*" shall have the meaning assigned thereto in the Recitals to this Agreement.

"*Facilities Improvements*" shall have the meaning assigned thereto in the Recitals to this Agreement.

"*Fiscal Year*" means (i) when used in reference to LSU, the twelve month period beginning on July 1 of any year and ending on June 30 the following year and (ii) when used in reference to the Foundation, the twelve month period beginning on January 1 and ending on December 31.

"*Force Majeure*" means any (a) act of God, lightning, hurricane, tornado, and other adverse and inclement weather, fire, explosion, flood, act of a public enemy, war, insurrection, riot or civil disturbance; (b) labor dispute, strike, work slowdown or work stoppage; or (c) any other similar cause or similar event beyond the reasonable control of the Foundation or LSU, as applicable.

"*Foundation*" means the LSU Research Foundation, a Louisiana nonprofit corporation, and its successors and assigns.

"*Foundation Representative*" means one or more of the persons designated and authorized in writing from time to time by the Foundation to represent the Foundation in exercising the Foundation's rights and performing the Foundation's obligations under this Agreement; initially the Foundation Representative(s) shall be the Chief Executive Officer of the Foundation.

"*Governmental Authority*" means any and all jurisdictions, entities, courts, boards, agencies, commissions, offices, divisions, subdivisions, departments, bodies or authorities of any nature whatsoever of any governmental unit (federal, state, county, parish, district, municipality, city or otherwise) whether now or hereafter in existence.

"*Ground Lease*" shall have the meaning assigned thereto in the Recitals to this Agreement.

"*Planning and Design Account*" shall have the meaning assigned thereto in Section 8.02(a) hereof.

"*LDMF*" shall have the meaning assigned thereto in the Recitals to this Agreement.

"*Legislature*" shall have the meaning assigned thereto in the Recitals to this Agreement.

"*LETC*" shall have the meaning assigned thereto in the Recitals to this Agreement.

"*Lien*" means any lien, encumbrance, or charge levied on account of any mechanic's, laborer's, or materialman's lien, or any security agreement, conditional bill of sale, title retention agreement, chattel mortgage or otherwise.

"*LSU*" means the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, a public constitutional corporation of the State, and its successors or assigns.

"*LSU Representative*" means one or more of the persons designated and authorized in writing from time to time by LSU to represent LSU in exercising LSU's rights and performing LSU's obligations under this Agreement; initially the LSU Representative(s) shall be the Executive Vice President and the Associate Vice President.

"*Net Condemnation Proceeds*" means the proceeds received by the Foundation or LSU, as applicable, in the event of a Taking of all or a portion of the Property from the condemning Governmental Authority, less all reasonable and necessary costs and expenses issued in the connection with the settlement of the claims arising out of the Taking and the Award granted by the condemning Governmental Authority, including reasonable fees and expenses of counsel.

"*Net Insurance Proceeds*" means the proceeds received by the Foundation or LSU, as applicable, in the event of a casualty, damage or destruction to all or a portion of the Property under and pursuant to the insurance policies maintained by or on behalf of the Foundation with respect to the Property, less all reasonable and necessary costs and expenses insured in connection with the settlement of any insurance claim relative to such proceeds, and the deductible, including reasonable fees and expenses of counsel.

"*Party(ies)*" means, individually, the Foundation or LSU, as applicable, and, collectively, the Foundation and LSU.

"*Person*" means an individual, a trust, an estate or a Governmental Authority, or a partnership, joint venture, corporation, limited liability company, firm or any other legal entity.

"*President*" means the President of LSU and shall include any permanent or interim officer or any successor office.

"*Property*" shall mean, collectively, the LETC, the LDMF and the Land.

"*Purchase Price*" means the Purchase Price to be paid by LSU to the Foundation for the acquisition of the Facilities after completion of the Facilities Improvements.

"*State Approval*" shall have the meaning set forth in Section 2.02 hereof.

"*Transfer*" shall have the meaning assigned thereto in Article XII of this Agreement.

"*Uniform Affiliation Agreement*" means the Uniform Affiliation Agreement dated July 1, 2009, between LSU and the Foundation or any amendment, modification or supplement thereto or replacement thereof.

"*University*" means Louisiana State University and Agricultural and Mechanical College, the flagship institution of the State under the management and supervision of the Board.

"*University Leasing Act*" shall have the meaning assigned thereto in the Recitals to this Agreement.

"*Work*" shall have the meaning assigned thereto in Section 8.01 of this Agreement.

"*2013 CEA*" shall have the meaning assigned thereto in the Recitals to this Agreement.

## ARTICLE II

### PURPOSE OF AGREEMENT

**Section 2.01. Purpose of this Agreement.** The Parties enter into this Agreement to facilitate the Planning and Design of the Facilities Improvements and to set forth the intent of the Parties to enter into the Future Agreement.

**Section 2.02. Anticipated Future Transactions.** The Parties anticipate that the Future Transactions will consist of substantially the following, subject to State Approval:

(a) LSU and the Foundation will enter into the Future Agreement, which will obligate the Foundation complete the Facilities Improvements in one or more phases in accordance with the Plans and Specifications.

(b) The Foundation will be obligated to obtain the Construction Loan to finance the Facilities Improvements; provided that the terms of such Construction Loan shall be subject to the prior written consent of an LSU Representative.

(c) Upon completion of the Facilities Improvements, in exchange for the payment of the Purchase Price, the Foundation will transfer ownership of the Facilities to LSU. It is acknowledged by the Parties that the Purchase Price is intended to be in an amount equal to the cost of the Facilities Improvements, including, without limitation, interest and other amounts due and owing under the Construction Loan, and any other debt then secured by the Facilities.

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### ARTICLE III

#### ESTABLISHMENT OF PLANNING AND DESIGN ACCOUNT; PAYMENT BY LSU

**Section 3.01. Planning and Design Account.** The Foundation shall establish a separate bank account for the deposit of the Payment and the payment for the Work (the "*Planning and Design Account*"). Upon receipt thereof by the Foundation from LSU, the Payment shall be deposited to the Planning and Design Account. The Foundation shall use the funds on deposit in the Planning and Design Account only for the purposes of performing the Work. Upon the termination of this Agreement, all funds remaining on deposit in the Planning and Design Account after payment of all amounts payable therefrom shall be the property of, and shall be remitted to, LSU.

**Section 3.02. LSU's Payment Obligation and Obligation to Enter into the Future Agreement.** In consideration of the Foundation (a) entering into this Agreement, (b) causing the Architect to perform the Work and (iii) agreeing that it shall not enter into any leases of space within the Facilities to third parties without LSU's prior written consent (it being the intent that no leases will interfere with the Future Transactions), LSU shall make a payment to the Foundation in the amount of \_\_\_\_\_ (the "*Payment*"); provided, however, LSU's obligation to make the Payment is conditioned upon receipt by LSU of the Priority 1 Appropriation funds and approval by the Commissioner of Administration of the State of such Payment. Furthermore, the Parties hereto acknowledge and agree that the Future Transactions are subject to the enactment of any necessary legislation or confection of any necessary agreement(s) with the State ("*State Approval*").

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## ARTICLE IV

### PLANNING AND DESIGN OF FACILITIES IMPROVEMENTS

**Section 4.01. Obligation to Plan and Design Facilities Improvements.** The Foundation shall perform, or cause to be performed, the Planning and Design of the Facilities Improvements in accordance with the provisions of this Agreement (the "*Work*"). The Work shall be performed at the sole expense of the Foundation; provided however, such Work shall be payable solely from funds derived from the Payment and the Foundation shall have no obligation to pay for such Work with funds other than those derived from the Payment.

**Section 4.02. Performance of the Work.** The Foundation shall perform the Work in accordance with the following provisions:

(a) ***Plans and Specifications.*** Plans and specifications for the Facilities Improvements shall be delivered to the LSU Representative for review. The LSU Representative shall approve or disapprove in writing such plans and specifications within fourteen (14) days of receipt thereof.

(b) ***Commencement and Completion of the Work.*** Unless delayed by Force Majeure, the Foundation agrees, upon receipt from LSU of the Payment, to engage an architect acceptable to LSU and commence the Work. Upon engagement of the Architect and subject to Section 8.01 hereof, the Foundation will proceed with the Work with due diligence to completion.

(c) ***Architect Contract(s).*** The Work shall be performed on behalf of the Foundation pursuant to a written contract between the Foundation and the Architect. The LSU Representative shall approve or disapprove such contract within ten (10) days of receipt of a copy thereof from the Foundation. LSU and the Foundation hereby acknowledge and, to the extent practically and legally possible, any contract between the Foundation and any contractor or contractors and all subcontracts entered into by the general contractor shall acknowledge expressly, the following:

(i) The Work will be performed solely and exclusively for the Foundation.

(ii) The Foundation is a separate legal entity from LSU. The Foundation is not acting as an agent for LSU, and the Foundation has no authority to obligate LSU to any extent whatsoever.

(iii) Neither LSU nor the State shall be liable, directly or indirectly, for the payment under the contract of any sums whatsoever or for the performance of any other obligation whatsoever arising out of the Work.

(iv) The Foundation owns the property for which the Work will be performed and the Facilities Improvements will be owned by the Foundation. The Work shall not give rise to any rights against any property of LSU.

(d) ***Approvals.*** LSU may not unreasonably deny or delay any approval required pursuant to this Article IX.

(e) ***Acceptance of the Work.*** The Foundation and LSU agree to cooperate with the Architect in the Planning and Design. The Foundation will not accept the Work without the written approval of the LSU Representative.

(f) ***Information.*** The Foundation shall provide to LSU, within fifteen (15) days of the end of each calendar month, copies of all documentation generated by the Foundation, or generated by third parties and in the possession of the Foundation, in connection with the Work, including without limitation, all draw requests and supporting documentation, statements reflecting debits and credits to the Planning and Design Account and any other information reasonably requested by LSU.

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## ARTICLE V

### INDEMNITY

**Section 5.01. Indemnity Obligations of the Foundation.** The Foundation shall and will indemnify, defend, and save harmless LSU and its board members, authorized agents, officers and employees from and against any and all liability, claims, demands, damages, expenses, fees, fines, penalties, suits, proceedings, actions and causes of action of any and every kind and nature growing out of or in any way connected this Agreement caused by the Foundation, its officers, employees, agents, contractors, guests, members or patrons. This obligation to indemnify shall include fees of legal counsel and third-party investigation costs and all other reasonable costs, expenses, and liabilities incurred as a result thereof; however, the Foundation and LSU may use the same counsel if such counsel is approved by LSU, which approval shall not be unreasonably withheld, delayed or conditioned. It is expressly understood and agreed that the Foundation is and shall be deemed to be an independent contractor and operator responsible to all parties for its respective acts or omissions and that LSU shall in no way be responsible for the acts or omissions of the Foundation. The Foundation's obligation to indemnify LSU in accordance with the terms of this Section 5.01 shall be limited to the extent of (i) its proportionate share of fault and (ii) to Net Insurance Proceeds available for such purpose.

**Section 5.02. Indemnity Obligations of LSU.** To the extent permitted by Applicable Law, LSU shall and will indemnify, defend, and save harmless the Foundation and its board members, authorized agents, officers and employees from and against any and all liability, claims, demands, damages, expenses, fees, fines, penalties, suits, proceedings, actions, and causes of action of any and every kind and nature growing out of or in any way connected with this Agreement caused by LSU, its officers, employees, agents, contractors, guests, members or patrons. This obligation to indemnify shall include fees of legal counsel and third-party investigation costs and all other reasonable costs, expenses, and liabilities incurred as a result thereof; however, the Foundation and LSU may use the same counsel if such counsel is approved by LSU, which approval shall not be unreasonably withheld, delayed or conditioned. It is expressly understood and agreed that the Foundation is and shall be deemed to be an independent contractor and operator responsible to all parties for its respective acts or omissions and that LSU shall in no way be responsible for the acts or omissions of the Foundation. LSU's obligation to indemnify the Foundation in accordance with the terms of this Section 5.02 shall be limited to the extent of (i) its proportionate share of fault and (ii) Net Insurance Proceeds available for such purpose.

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## ARTICLE VI

### TERMINATION

**Section 6.01. Termination by LSU.** Any other provision to the contrary contained herein notwithstanding, LSU may terminate this Agreement for cause based upon the failure of the Foundation to comply with the terms and/or conditions hereof; provided that the Foundation shall give LSU written notice specifying LSU's failure and a reasonable opportunity for LSU to cure the defect.

**Section 6.02. Termination by the Foundation.** The Foundation may exercise any rights available to it under Applicable Law to terminate this Agreement for cause upon the failure of LSU to comply with the terms and conditions of this Agreement, provided that the Foundation shall give LSU written notice specifying LSU's failure and a reasonable opportunity for LSU to cure the defect.

**Section 7.03. Remedies.** In addition to termination of this Agreement pursuant to Section 6.01 or 6.02, as applicable, each Party shall have all remedies at law and in equity in the event of a failure by the other Party to comply with the terms and conditions of this Agreement.

## ARTICLE VII

### NON-ASSIGNABILITY; TRANSFERS

The Foundation shall not (and shall not have the right to) assign, pledge, grant a security interest in, encumber or otherwise transfer or dispose of this Agreement or any interest herein or any right or privilege appurtenant hereto (each, a "*Transfer*"), unless, in each case, the prior written consent of the LSU Representative is first obtained, which consent shall not be unreasonably delayed, conditioned or withheld. Any transfer or assignment of its interest which is made without such written consent of the LSU Representative shall be void *ab initio*.

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## **ARTICLE XIII**

### **AUDIT AND AUDITORS**

LSU may, at its option and at its own expense, and during customary business hours, conduct internal audits of the books, bank accounts, records and other accounts of the Foundation pertaining to its obligations under this Agreement to the extent necessary to verify compliance with this Agreement. Audits may be made on either a continuous or a periodic basis or both, and may be conducted by employees of LSU, or by independent auditors retained by LSU or by the Louisiana Legislative Auditor or by the Office of the Governor, Division of Administration, but any and all such audits shall be conducted without materially or unreasonably or unnecessarily interrupting or interfering with the normal conduct of business affairs by the Foundation. LSU covenants with the Foundation to keep the results of any such audits confidential except as required by rules and regulations of LSU and by Applicable Law.

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## **ARTICLE IX**

### **RECORD RETENTION**

The books, accounts and records of the Foundation which pertain to this Agreement shall be maintained at the principal office of the Foundation. The Foundation agrees to retain all books, records, and other documents relevant to this Agreement and the funds expended hereunder for at least three years after final payment, or as required by applicable federal law if federal funds are used to fund this Agreement.

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## **ARTICLE X**

### **TERM**

This Agreement shall began on the Effective Date and shall terminate on \_\_\_\_\_, 20\_\_ , unless terminated earlier in accordance with the terms hereof.

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## ARTICLE XI

### DISCRIMINATION CLAUSE

**Section 11.01 Requirements.** The Foundation shall, and shall cause the Architect, to agree to, abide by: (a) the requirements of the following as applicable: Title VI of the Civil Rights Act of 1964 and Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, Federal Executive Order 11246 as amended, the Rehabilitation Act of 1973, as amended, the Vietnam Era Veteran's Readjustment Assistance Act of 1974, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, the Fair Housing Act of 1968 as amended; (b) the requirements of the Americans with Disabilities Act of 1990; and (c) any executive order issued by the governor of the State.

**Section 11.02. Additional Requirements.** The Foundation shall additionally require and cause the Architect to agree: (i) not to discriminate in its employment practices; and (ii) to render services under this contract without regard to race, color, religion, sex, national origin, veteran status, political affiliation, or disabilities.

**Section 11.03. Cause for Termination.** Any act of discrimination committed by the Foundation or the Architect or failure to comply with these statutory obligations when applicable shall be grounds for termination of this Agreement.

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## ARTICLE XII

### DIVERSE SUPPLIERS

The Foundation understands that LSU is committed to promoting the growth and development of minority- and women-owned and small and historically underutilized businesses (collectively, "*Diverse Suppliers*") by providing opportunities to participate in LSU agreements. In support of this commitment, (a) the Foundation shall use good faith and commercially reasonable efforts to provide opportunities to Diverse Suppliers that are either certified by the State or another certifying entity in a diverse category as a subcontractor or supplier according to LSU policies and procedures and (b) the Foundation shall provide to LSU a list of Diverse Suppliers during each Foundation Fiscal Year, which list shall identify as to each Diverse Supplier contained thereon (i) the legal name thereof, (ii) the principal office or address, (iii) ownership and (iv) the services or good that it may provide or supply and the value of the goods or services procured therefrom. To the extent that any Applicable Law would require that this Article XII be modified or voided, the Parties agree that such provision may be amended or severed from this Agreement without affecting any of the other terms hereof.

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## **ARTICLE XIII**

### **INDEPENDENT CONTRACTORS**

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the Parties. The Foundation shall at all times remain an "independent contractor" with respect to the Work to be performed under this Agreement.

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**ARTICLE XIV**

**TAX LIABILITY**

The Foundation hereby agrees that the responsibility for payment of taxes due, if any, in connection with the funds received by it under this Agreement shall be the obligation of the Foundation.

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## ARTICLE XV

### MISCELLANEOUS

**Section 15.01. Severability.** If any clause or provision of this Agreement is deemed to be illegal, invalid or unenforceable under present or future Applicable Law effective during the term of this Agreement, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby.

**Section 15.02. Governing Law; Venue.** This Agreement shall be construed in accordance with and governed by the laws of the State of Louisiana. The 19th Judicial District Court in and for the Parish of East Baton Rouge, State of Louisiana, shall be the exclusive court of jurisdiction and venue for any litigation, special proceeding or other proceeding by and among the Parties in connection with, or by reason of, this Agreement.

**Section 15.03. Notices.** Any notice required or permitted to be given under or in connection with this Agreement shall be in writing and shall be delivered by: (1) hand; (2) U.S. Postal Service, postage prepaid, certified mail, return receipt requested; (3) by private, commercial carrier; or (4) sent by telecopy or other form of rapid electronic transmission when the receipt is confirmed in writing by the addressee. Notices must be addressed to the addressee at the addresses shown below or to such other person or address as a Party may give notice to the other Parties:

If to LSU:     President of LSU  
                  Louisiana State University  
                  3810 West Lakeshore Drive  
                  Baton Rouge, Louisiana 70803  
                  Facsimile:     (225) 578-4749

With copies to (which copies shall not constitute notice):

                  General Counsel  
                  LSU  
                  3810 West Lakeshore Drive, Suite 124  
                  Baton Rouge, Louisiana 70808  
                  Facsimile:     (225) 578-5524

and

                  Executive Vice President and Chief Administrative Officer  
                  Louisiana State University  
                  330 Thomas Boyd Hall  
                  Baton Rouge, Louisiana 70803  
                  Facsimile: (225) 578-5403

and

Associate Vice President for Facility and Property Oversight  
Louisiana State University  
212A Facilities Services Building  
Engineering Lane  
Baton Rouge, Louisiana 70803  
Facsimile: (225) 578-5597

If to Foundation: LSU Research Foundation  
Building 340, East Parker Boulevard  
Baton Rouge, Louisiana 70803  
Facsimile: (225) 615-8910  
Attn: Chief Executive Officer

**Section 15.04. Entire Agreement.** This Agreement contains the entire agreement between the parties hereto with respect to the matters set forth herein and contains all of the terms and conditions agreed upon with respect to such matters, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the Parties; it being the intent of the parties that neither shall be bound by any term, condition, or representations not herein written.

**Section 15.05. Amendments.** No amendment, modification, or alteration of the terms of this Agreement shall be binding unless the same is in writing, dated on or subsequent to the date hereof and duly executed by the Parties and all required approvals have been obtained.

**Section 15.06. Construction.** LSU and the Foundation and/or their respective counsel have participated jointly in the negotiation and drafting of this Agreement. In the event that an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by LSU and the Foundation, and no presumption or burden of proof shall arise favoring or disfavoring either Party by virtue of the authorship of any of the provisions of this Agreement. In entering this Agreement, the Parties represent that they have relied upon the advice of their attorneys, who are attorneys of their own choice, and that the terms of this Agreement have been completely read and explained to them by their attorneys, and that those terms are fully understood and voluntarily accepted by them.

**Section 15.07. Counterpart Execution.** This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which shall together constitute one and the same instrument. For purposes hereof, facsimile and electronically scanned .pdf copies hereof and facsimile and electronically scanned pdf signatures hereof shall be authorized and deemed effective.

**Section 15.08. Interpretation.** Unless the context of this Agreement clearly requires otherwise, (a) pronouns, wherever used herein, and of whatever gender, shall include natural persons and corporations and associations of every kind and character; (b) the singular shall include the plural wherever and as often as may be appropriate; (c) the word "includes" or "including" shall mean "including without limitation"; (d) the word "or" shall have the inclusive meaning represented by the phrase "and/or"; (e) the words "hereof" "herein," "hereunder," and similar terms in this Agreement shall refer to this Agreement as a whole and not to any particular section or article in which such words appear. The section, article and other headings in this Agreement are for reference purposes, and shall not control or affect the construction of this

Agreement or the interpretation hereof in any respect. Article, section, subsection and exhibit references are to this Agreement unless otherwise specified. All exhibits attached to this Agreement constitute a part of this Agreement and are incorporated herein. All references to a specific time of day in this Agreement shall be based upon Central Time.

**Section 15.09. Further Assurances.** From time to time hereafter, each Party shall execute and deliver such additional instruments, certificates or documents, and take all such actions as the other Party may reasonably request, for the purpose of fulfilling its obligations hereunder.

**Section 15.10. No Personal Liability.** No covenant or agreement contained in this Agreement shall be deemed to be the covenant or agreement of any official, trustee, board member, officer, agent or employee of any Party hereto in his individual capacity, and those persons executing this Agreement on behalf of a Party to this Agreement shall not be liable personally with respect to this Agreement or be subject to any personal liability or accountability by reason of the execution and delivery of this Agreement except to the extent required by Applicable Law.

**Section 15.11. Delay or Omission.** No delay or omission in the exercise of any right or remedy accruing to a Party upon any breach by the other Party under this Agreement shall impair such right or remedy or be construed as a waiver of any breach theretofore or thereafter occurring. The waiver of any condition or the breach of any term, covenant, or condition herein or therein contained shall not be deemed to be a waiver of any other condition or of any subsequent breach of the same or any other term, covenant or condition herein or therein contained.

**Section 15.12. Compliance with Applicable Law.** Each Party shall comply, and shall cause all Persons using the Property (including the Architect) to comply, with Applicable Law in the performance of its obligations under this Agreement.

[SIGNATURE PAGES FOLLOW]



[Signature Page to Intent to Purchase Agreement]

**IN WITNESS WHEREOF**, the undersigned duly authorized representative has signed this Agreement on behalf of LSU on the \_\_\_\_ day of \_\_\_\_\_, 202\_\_, to be effective on the Effective Date.

**BOARD OF SUPERVISORS OF LOUISIANA  
STATE UNIVERSITY AND AGRICULTURAL  
AND MECHANICAL COLLEGE**

By: \_\_\_\_\_

Name: William F. Tate IV

Title: President, Louisiana State University

[Signature Page to Intent to Purchase Agreement]

IN WITNESS WHEREOF, the undersigned duly authorized representative has signed this Agreement on behalf of the Foundation on the \_\_\_\_ day of \_\_\_\_\_, 202\_\_, to be effective on the Effective Date.

**LSU RESEARCH FOUNDATION**

By: \_\_\_\_\_  
Name:  
Title:



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## Board of Supervisors

### ATHLETICS COMMITTEE

BOARD OF SUPERVISORS MEETING | FEBRUARY 10, 2023



**Board of Supervisors**

**Request from LSU A&M to Approve New Employment Agreement  
for Deputy Athletics Director for Leadership and Strategy**

**Date:** February 10, 2023

**1. Bylaw Citation**

Pursuant to Article VII, Section 1(L)(3):

The following matters shall require approval by the Board, regardless of any delegations of authority otherwise provided for in these Bylaws or the Regulations of the Board. Except as set forth herein, no such matter shall be undertaken or approved by or for any campus or the University without prior review by the President and appropriate University Officers and express, formal approval by the Board.

\* \* \* \* \*

Appointments and all other personnel actions relating to varsity athletics coaches and Athletic Directors receiving a salary of \$250,000 or above.

**2. Summary of Matter**

This resolution seeks approval of the Employment Agreement for Lori Williams. The key terms of the Employment Agreement are summarized below:

Name	Title	Proposed Start Date	Proposed End Date	Proposed Total Certain Compensation <sup>a</sup>
Lori Williams	Deputy Athletics Director for Leadership and Strategy	12/5/2022	12/5/2024	\$290,000

Notes:

- (a) Total Certain Compensation includes all compensation which the coach is contractually guaranteed to receive annually. It does not include the value of any fringe benefits, such as car allowances, nor any one-time amounts, such as buy-outs, post-season incentive compensation or relocation allowances.

**3. Review of Business Plan**

Not applicable.

**4. Fiscal Impact**

The Athletics Department currently expects all funds relating to this Employment Agreement will be paid from revenues generated by the Athletics Department. No state general fund or tuition dollars are used.

**5. Description of Competitive Process**

Not applicable.

**6. Review of Legal Documents**

The Office of General Counsel has reviewed the Employment Agreement.

**7. Parties of Interest**

LSU and the above-named personnel.

**8. Related Transactions**

None.

**9. Conflicts of Interest**

None known

**10. Attachment**

Employment Agreement: Lori Williams, Deputy Athletics Director for Leadership and Strategy

**RESOLUTION**

**NOW, THEREFORE, BE IT RESOLVED** the Board of Supervisors of Louisiana State University and Agricultural & Mechanical College approves the Employment Agreement for Lori Williams as described in this item.

## EMPLOYMENT AGREEMENT

This Employment Agreement (“Agreement”) is made and entered into as of the 10th day of February, 2023, by and between Board of Supervisors of Louisiana State University and Agricultural and Mechanical College (“LSU” or “University”), a body corporate existing under the Constitution and laws of the State of Louisiana, herein represented by William F. Tate IV, its duly authorized President, and Lori Williams (“Employee”) for the services of Employee:

1. **Definitions.** For purposes of this Agreement, the following terms shall have the meaning shown:
  - A. “Athletics Director”: The Director of Athletics at LSU.
  - B. “Base Salary”: The annual sum of \$290,000.
  - C. “End Date”: December 5, 2024.
  - D. “Position”: Deputy Athletics Director for Leadership and Strategy.
  - E. “President”: The President of LSU.
  - F. “Start Date”: December 5, 2022.
2. **Term.** The term (“Term”) of this Agreement shall be for a definite term, commencing on the Start Date and ending on the End Date unless terminated sooner in accordance with Section 9 of this Agreement.
3. **Employment.** LSU does hereby employ Employee in the Position for the Term. Employee will report directly to the Athletics Director. It is the goal of the parties that Employee will serve in the Position for the entirety of the Term. Employee acknowledges and agrees that Employee is not eligible for and will not be considered for or granted tenure by LSU.
4. **Duties and Responsibilities.** Employee’s duties and responsibilities shall include the following, all subject to law, LSU policy, and the directives, input, and advice of the President and the Athletics Director:
  - A. Assist with the development and implementation of plans, policies, procedures and programs that are in compliance with the rules and regulations of LSU, the Southeastern Conference (“SEC”) or any successor organization, and the National Collegiate Athletic Association (“NCAA”) or any successor organization, as well as all applicable local, state and federal laws which promote the mission of the Athletics Department (“Department”), LSU’s high standard of academic excellence, and the general welfare of student-athletes;
  - B. Observe, respect, and promote the principles of institutional control in every aspect of the Department and throughout all of its intercollegiate athletic programs;

- C. Assist with management and oversight of the assigned men's and women's intercollegiate sports through each coach, including coordinating and/or overseeing the recruitment, selection (negotiates and approves contracts, subject to President and/or Board approval) and evaluation (including approving salaries, subject to President and/or Board approval) of all assigned coaches;
- D. Promote and ensure inclusive excellence throughout the Department;
- E. Assist with management and oversight of all direct and indirect reports, including coordinating and/or overseeing the recruitment, selection and evaluation (including approving salaries) of all Department staff members;
- F. Establish and periodically refine, as necessary, the Department's organizational structure to ensure the effective management of human resources;
- G. Consult with the Human Resource Management and the Office of Civil Rights and Title IX, regarding employee relations or similar personnel issues, and shall assist, as necessary in resolving all matters where a policy violation has or may have occurred;
- H. Work with others as directed by the Athletics Director to develop and implement a comprehensive ongoing program of comprehensive education for the Department;
- I. Cooperate fully and completely, and will use best efforts to ensure that Department staff members cooperate fully and completely, with any investigation of any alleged violation of any of the covenants enumerated herein, conducted by LSU, the SEC, or the NCAA;
- J. Take prompt corrective or disciplinary action to address any non-cooperation by any Department staff member in any investigation;
- K. Consult with the LSU Office of General Counsel (and other LSU-engaged counsel, as directed by the LSU Office of General Counsel), regarding NCAA or similar rule compliance issues, and shall assist, as necessary in investigating all cases where a violation has or may have occurred;
- L. Participate in, among others, speaking engagements, news conferences, radio, television and other media appearances at the request of the Athletics Director as appropriate;
- M. Represent the Department at all times including without limitation within the NCAA, SEC, LSU, community, and all other meetings and conventions consistent with the Position;
- N. Cultivate and advance a diverse, equitable, and inclusive learning and working environment to provide an unsurpassed student and employee experience;

- O. Understanding and complying with Title VI of the Civil Rights Act of 1964, other federal laws, state law, and LSU policies on equal opportunity and discrimination, including, but not limited to, LSU Permanent Memorandum 55;
  - P. Understanding and complying with Title IX of the Education Amendments of 1972 and LSU policies on Title IX and sexual misconduct, including but not limited to LSU Permanent Memorandum 73 (“PM-73”), and, as a mandatory reporter under PM-73, understanding and complying with the obligation to report incidents of sexual misconduct (including sexual harassment and sexual violence) and other inappropriate sexual conduct of which Employee has knowledge or receives notice to LSU’s Title IX Coordinator and other appropriate designee as required by PM-73; and
  - Q. Perform other duties reasonably assigned by the Athletics Director.
5. **Base Salary.** LSU agrees to pay Employee the Base Salary annually, in 12 equal monthly installments, on LSU’s regular monthly payroll date.
6. **Incentive Compensation.** Employee shall be entitled to Post-Season Incentive Compensation for every year the LSU women’s basketball team participates in post-season game(s). If payable, Post-Season Incentive Compensation shall be in the amount of \$10,000, shall be paid within 60 days of achieving the applicable goal, and may be payable from affiliated foundation funds. Post-Season Incentive Compensation is additional compensation for the extra services required of Employee in the preparation for and participation in post-season play, in accordance with LSU’s policies and procedures. If Employee does not maintain employment for any post-season game for any reason, Employee shall not be entitled to Post-Season Incentive Compensation.
7. **Retirement and Fringe Benefits.** Employee shall be entitled to the following benefits:
- A. Employee is entitled to participate in the retirement and fringe benefit programs available to all unclassified professional LSU employees, with contributions and benefit amounts as defined by law. Employee understands and agrees that no contributions for purposes of any State of Louisiana retirement program will be made by LSU or withheld from Employee’s compensation except as to the Base Salary and any earned Post-Season Incentive Compensation, and Employee shall not be entitled to any retirement benefits that may otherwise be attributable to any other compensation paid pursuant to this Agreement. Retirement contributions are subject to the limitations of federal law and Louisiana law.
  - B. Employee shall be entitled to (1) an annual automobile allowance in an amount not to exceed \$800 per month or, (2) to the extent consistent with state ethics law, use of one courtesy vehicle provided by a dealership and related automobile insurance.
8. **Additional Revenue.**
- A. Subject to compliance with Governing Athletics Regulations, including but not limited to current NCAA Bylaw 11.2.2 and 11.3.2, and LSU Permanent



Memorandum 11 (“PM-11”), Employee may earn or receive other revenue (“Additional Revenue”) while employed by LSU, including working with sports camps or clinics, provided, however, that Employee shall obtain prior written approval from the President before engaging in any commercial or private venture (other than a passive investment), including the use of Employee’s name by any commercial, public or private entity, which approval shall not be unreasonably withheld. Employee shall report annually to the President and the Athletics Director, in writing, in compliance with NCAA Bylaws 11.2.2, 11.3.2.1, and 11.3.2.1.1, and any applicable LSU policy, all athletically-related income or benefits received by Employee from sources outside LSU, and LSU shall have reasonable access to all records of Employee to verify this report. LSU does not guarantee any amount of Additional Revenue.

- B. Employee shall not, without written approval of the President and the Athletics Director and compliance with PM-11, arrange for or agree to the receipt by any other employee of any supplemental pay, bonus, or other form of payment from any outside source, except for income earned by assistant coaches or other staff from operation of sports camps, or as otherwise authorized by LSU in accordance with PM-11.
- C. Except for routine news media interviews or educational or development programs for which no compensation is received, Employee shall not appear on, or in, any radio, television, or internet programs or other electronic media other than those produced or sponsored by LSU without the prior written approval of the Athletics Director or the Athletics Director’s designee.
- D. Employee shall not appear in or make any advertisement or make any commercial endorsement without the prior written approval of the President and the Athletics Director.

**9. Termination and Suspension.**

- A. **Termination by LSU for Cause.** This Agreement may be terminated for “cause” by LSU, acting through the Athletics Director, at any time prior to its expiration, upon written notice to Employee.
  - 1. For purposes of this Section, “cause” for termination shall be defined as:
    - a. If, as determined by LSU and without the need for any adjudication by any other entity, Employee commits any material and substantial violation (or repeated lesser violations) of Governing Athletics Regulations, fails promptly to report any such violation by another person to the Director of Compliance, or commits a material and substantial violation of any LSU policies, rules, or procedures;
    - b. If, as determined by LSU and without the need for any adjudication by any other entity, there is any material and substantial violation of Governing Athletics Regulations, involving any aspect of the

Department by any other person if either: (i) the violation occurs or continues to occur after Employee knew or had constructive knowledge that it was about to occur or was occurring, or (ii) Employee failed to follow reasonable policies and procedures established in writing by the Athletics Department to prevent violations of Governing Athletics Regulations from occurring and to detect promptly any such violations which may occur;

- c. Engaging in serious misconduct which either: (i) displays a continual, serious disrespect or continual, serious disregard for the mission of LSU; (ii) brings Employee into substantial public disrepute sufficient, at the reasonable discretion of LSU, to materially impair Employee's ability to perform the obligations contained herein without material adverse impact on the Department; or (iii) constitutes moral turpitude and breaches the high moral and ethical standards applicable to Employee as a visible representative of LSU, including but not limited to, a material act of dishonesty, misrepresentation, or fraud, or an act of violence where Employee is the aggressor; in each case whether or not it rises to level of criminal prosecution by the relevant authorities;
- d. Unreasonable refusal or repeated failure to perform any duties imposed upon Employee herein, or failing to perform the same to the best of Employee's reasonable ability;
- e. Failing to cooperate in the investigation and enforcement of Governing Athletics Regulations or in any LSU internal investigation or inquiry; or knowingly permitting any other person under Employee's supervision to fail to reasonably cooperate in such investigation and enforcement;
- f. Subject to any right of administrative appeal permitted or granted to Employee by the NCAA or SEC, any finding or determination by the NCAA, SEC, or any commission, committee, council, or tribunal of the same, of any major or repetitive violations by Employee of NCAA or SEC rules, or of any such major or repetitive violations by others under the direct supervision of Employee which were knowingly and intentionally permitted, encouraged, or condoned by Employee, or about which violations Employee knew or should have known and should have acted reasonably to prevent, limit, or mitigate (it is recognized that this subsection includes findings or determinations of any previously undisclosed violations during employment of Employee at any other institution of higher education);

- g. Failing to report promptly to the Director of Compliance any violations of Governing Athletics Regulations of which Employee has actual knowledge;
- h. Material failure to comply with LSU policies, rules and regulations concerning Title IX, including specifically but not exclusively the reporting of any incident of sexual misconduct in accordance with LSU's Title IX policy and PM-73;
- i. Committing fraud in the performance of any duties and responsibilities herein, either with intent or reckless disregard for the truth, including but not limited to fraud or dishonesty in any written or verbal statements, including résumés, provided by Employee to LSU in the application process or fraud in the preparation, falsification, or alteration of documents or records of LSU, the NCAA, or the SEC, or documents or records pertaining to any recruit or student-athlete, including without limitation transcripts, eligibility forms, and compliance reports; or knowingly permitting any other person under Employee's supervision to commit such fraud;
- j. Being charged with or convicted of (i) any felony, or (ii) any crime involving larceny, embezzlement, fraud, gambling, drugs, or alcohol;
- k. Participation in any gambling, bookmaking, wagering, or betting involving any athletic contest whether by soliciting, placing, or accepting a bet or wager or through a bookmaker, a pool, or any other method of gambling; or knowingly permitting any student-athlete or other individual under Employee's control, authority, or supervision to participate in such activity;
- l. Providing information or data, other than information or data provided to the general public through public presentation, relating in any manner to any intercollegiate sport or to any student-athlete to any individual whom Employee knows (or has constructive knowledge) to be a gambler, bettor, or bookmaker, or an agent of any such person; or knowingly permitting any student-athlete or other individual under Employee's control, authority, or supervision to furnish such information or data;
- m. Use or consumption of alcoholic beverages or controlled substances, steroids, or other drugs or chemicals to such degree and for such appreciable period as to substantially impair Employee's ability to perform the duties herein;

- n. Sale, purchase, use or possession of any controlled substances, steroids, or other drugs or chemicals, the sale, purchase, use, or possession of which by Employee is prohibited by law or Governing Athletics Rules, excepting the use or possession of substances or drugs lawfully prescribed by a health care provider and used in accordance therewith;
  - o. Knowingly encouraging or allowing the sale, purchase, use, or possession by any student-athlete or other individual under Employee's control, authority, or supervision of any controlled substances, steroids, or other drugs or chemicals, the sale, purchase, use, or possession of which by such person is prohibited by law or Governing Athletics Rules; or
  - p. Knowingly committing material violation(s) of the terms of this Agreement; provided, however, that in each case, to the extent curable, Employee has not cured the circumstances constituting "cause" within seven calendar days of written notice thereof from University.
  - q.
2. The process for termination for cause is as follows:
- a. Prior to termination for cause, LSU shall provide Employee written notice of termination. The notice of termination shall be provided at least seven calendar days before the effective date of termination and shall be signed by the Athletics Director or the Athletics Director's designee. The notice of termination shall reference the facts upon which termination is authorized.
  - b. Prior to the effective date of termination in the notice, Employee shall have the right to present a written statement and any supporting materials to the Athletics Director detailing why the Employee believes LSU should rescind its notice of termination. The Athletics Director or the Athletics Director's designee may extend the effective date of termination in writing to allow additional time to consider Employee's response.
  - c. After review of any such response, the Athletics Director or the Athletics Director's designee shall provide Employee written notice of a decision. If confirmed, termination of employment shall be effective on the date of termination previously identified.
  - d. Within seven calendar days of receipt of the decision of the Athletics Director, Employee may make a written request for review to the President and submit materials for consideration. If no such request is made, the decision of the Athletics Director is final.

- e. If a request for review is made, the President or the President's designee shall conduct the review based on materials provided by the Employee and materials considered by the Athletics Director. The request for review by the President shall not suspend the effective date of the termination.
  - f. Within 14 calendar days of the submission, Employee will be provided written notice of the decision of the President, which will be final.
- 3. In the event of termination for cause, Employee's Base Salary, Employee's Supplemental Compensation, Employee's Fringe Benefits and all other compensation and benefits provided for in this Agreement shall terminate on the last day of the month during which such termination date occurred, and LSU shall not thereafter be liable to Employee for any sums or damages other than Base Salary and Supplemental Compensation earned through the last day of such month, as well as Incentive Compensation that has been earned but not paid. The termination date shall be the date on which the initial notice of termination is given, or on such later date as may be set forth by LSU in the notice of termination.
  - 4. As required by NCAA Bylaw 11.2.1, Employee is hereby notified that in addition to the actions LSU may take in accordance with this Agreement, Employee is also subject to disciplinary or corrective action as set forth in the provisions of the NCAA enforcement procedures if Employee is found by the NCAA or LSU to be in violation of NCAA Bylaws. Employee agrees that LSU shall implement any such disciplinary or corrective actions imposed by the NCAA. Employee further understands that Employee has an affirmative obligation to cooperate fully in the NCAA infractions process, including the investigation and adjudication of a case, pursuant to this Agreement and NCAA Bylaw 11.2.1, and that such obligation continues in effect during and beyond the termination of this Agreement for any violations alleged to have occurred during Employee's employment by LSU.

**B. Termination by LSU without Cause.**

- 1. LSU shall have the right to terminate this Agreement without cause upon written notice to Employee. In such event, LSU will pay Employee liquidated damages in the amount of the remaining Base Salary which would have been payable to Employee through the remaining Term of the Agreement with partial years and months pro-rated.
- 2. In the event of termination by LSU without cause, Employee's Base Salary, Supplemental Compensation (if any), Fringe Benefits, and all other compensation and benefits provided for in this Agreement shall terminate on the termination date, and LSU shall not thereafter be liable to Employee

for any sums or damages other than the liquidated damages provided for herein and any compensation (including Post-Season Incentive Compensation) earned pursuant to this Agreement prior to the termination date. The termination date shall be the date on which notice of termination is given, or on such later date as may be set forth by LSU in the notice of termination.

3. Liquidated damages under this Section will be paid in equal monthly installments over a period of time equal to the amount of time then remaining in the Term.
4. The parties have bargained for this liquidated damages provision. This is an agreement for personal services. The parties recognize that termination of this Agreement by LSU prior to its expiration by lapse of term would cause Employee to lose the salary, supplemental compensation, fringe benefits, certain other LSU-provided benefits, and possibly other income and benefits provided by third parties, which damages are impossible to determine with certainty. As such, the damages that may be suffered by Employee in the event of a termination of this Agreement by LSU without cause are difficult to presently and accurately estimate. In addition, the parties expressly agree that the liquidated damages herein are not in any way a penalty.

**C. Termination by Employee Without Cause.**

1. Employee shall have the right to terminate this Agreement without cause upon written notice to LSU.
2. In the event of termination by Employee without cause, Base Salary, Supplemental Compensation (if any), Fringe Benefits, and all other compensation and benefits provided for in this Agreement shall terminate on the termination date, which, unless otherwise agreed to in writing shall be the earlier of: (a) the date on which Employee provides notice of termination to LSU; (b) the date on which Employee accepts employment from another employer; or (c) the date on which Employee performs any work or services of any kind or nature whatsoever on behalf of or for the benefit of another employer. LSU shall not thereafter be liable to Employee for any sums or damages other than any compensation (including Post-Season Incentive Compensation) earned pursuant to this Agreement prior to the termination date, other than any earned but unpaid Base Salary, Supplemental Compensation, and Incentive Compensation. The parties acknowledge that this provision is intended to obligate Employee to repay unearned compensation and fees previously received hereunder.

**D. Suspension or Other Disciplinary Action.**

1. LSU may impose suspension or leave without pay for a period no longer than 120 days for any act or omission which would be grounds for discipline or termination for cause as defined herein. Imposition of such sanctions shall be at the discretion of LSU, which shall not be exercised arbitrarily or capriciously. Prior to suspension without pay under this provision, Employee shall be provided written notice of the grounds for the suspension and shall have seven calendar days from receipt of such notice to cure such circumstances (to the extent curable) and/or respond in writing to the Athletics Director. After review of any such response, to the extent such circumstances are not cured, the Athletics Director or the Athletics Director's designee will provide Employee with written notice of a decision and/or suspension. Suspension under this subsection shall not limit any rights of LSU to terminate Employee for cause.
2. Employee shall be subject to disciplinary or corrective action by the NCAA or SEC for any violation of NCAA and SEC regulations, respectively. Such action by the NCAA or the SEC shall not preclude or in any manner affect LSU's right to take such other corrective or disciplinary action as it deems necessary or proper, including termination for cause.
3. Notwithstanding any other provision of this Agreement to the contrary, if Employee is suspended by the SEC or NCAA, Employee shall automatically be suspended by LSU for the duration of the SEC or NCAA imposed suspension without further notice or process. During such suspension, Employee shall not be entitled to receive any compensation, benefits or any other payments under this Agreement except for fringe benefits provided under Section 7 of this Agreement.

**E. Termination by Death or Disability.** In the event of the death of Employee or the inability of Employee to perform the obligations described in this Agreement with or without accommodation by reason of disability, and such inability to perform has continued or will continue beyond a reasonable period of time, but not less than 90 consecutive days, this Agreement shall terminate with the same consequences as a termination with cause.

**F. Exclusivity of Remedy.** The financial consequences of termination of this Agreement herein are exclusively set forth herein. Therefore, with the sole exception of payments required by this Agreement, in any instance of termination for cause or without cause, or suspension or other disciplinary sanction effected in accordance with the procedures established in this Agreement, neither Employee nor LSU shall be entitled to receive, and each hereby waives any claim against the other, and their respective board members, officers, directors, agents, employees, successors, and personal representatives for consequential damages by reason of any alleged economic loss, including without limitation loss of collateral income, deferred income, loss of earning capacity, loss of business opportunity, loss of

perquisites, loss of fees from speaking, camps or other outside activity, or damages allegedly sustained by reason of alleged humiliation or defamation or other non-compensatory and compensatory damages and attorney's fees resulting from the fact of termination, the public announcement thereof, or the release by LSU or Employee of information or documents required by law. Employee acknowledges that in the event of either termination of this Agreement for cause, without cause, or otherwise, Employee shall have no right to occupy the Position and that Employee's sole remedies are provided herein and shall not extend to injunctive relief.

10. **Retention and Return of all Materials, Records, and Other Items.** All documents, records, or materials, including without limitation personnel records, recruiting records, team information, films, statistics, or any other material or data furnished to Employee by LSU or developed by Employee on behalf of or at the expense of LSU or otherwise in connection with the employment of Employee are and shall remain the sole and confidential property of LSU. Within seven calendar days of the expiration or termination of this Agreement, Employee shall cause any such materials in Employee's possession or control to be delivered to LSU. At the same time, Employee shall return to LSU all credit cards, keys, computers, automobiles, mobile communication devices and other items belonging to LSU which were issued to or are in the possession of Employee. For any items not returned to LSU within the time provided, Employee expressly authorizes LSU to withhold the replacement cost from any compensation due Employee. The Athletics Department will maintain a schedule of replacement costs for items issued to employees.
11. **Leave and Overtime.**
  - A. **No Overtime.** Employee qualifies and is designated as exempt under the Fair Labor Standards Act and is not entitled to any overtime pay or compensatory leave for work in excess of 40 hours in any workweek.
  - B. **Annual and Sick Leave.** Employee will accrue and use annual and sick leave in accordance with LSU policy.
  - C. **Notice of Absence.** Employee is required to receive authorization from the Athletics Director or the Athletics Director's designee prior to being absent from Employee's usual duties and responsibilities, not to be unreasonably withheld.
12. **Non-Assignment.** Neither party may assign, transfer, alienate, or encumber any of its rights or obligations hereunder without the express written consent of the other party, except as otherwise specifically set forth in this Agreement.
13. **Entire Agreement.** This Agreement constitutes and expresses the entire agreement and understanding of the parties concerning the matters contemplated hereby and shall, upon the effective date hereof, supersede any other oral and written agreements between the parties. There are no oral or other agreements, understandings, promises, or representations between the parties affecting this Agreement. Both parties have relied solely on their own respective judgments in entering into this Agreement, with full opportunity to seek advice



of competent counsel. It shall be construed, if necessary, without reference to the party that was the principal drafter of the Agreement.

14. **Indirect Actions Prohibited.** Any act which Employee is prohibited from doing directly in this Agreement may not be done indirectly by another person on behalf of or at the behest of Employee.
15. **Amendments to Agreement.** This Agreement may be amended only by a written instrument duly approved by LSU through its designated representatives and accepted by Employee, such approval and acceptance to be acknowledged in writing.
16. **Severability.** If any provision of this Agreement shall be deemed invalid or unenforceable, either in whole or in part, this Agreement shall be deemed amended to delete or modify, as necessary, the offending provision or to alter the bounds thereof in order to render it valid and enforceable.
17. **No Waiver of Default.** No waiver by the parties hereto of any default or breach of any covenant, term or condition of this Agreement shall be deemed to be a waiver of any other default or breach of the same or any other covenant, term or condition contained herein.
18. **No Waiver of Sovereign Immunity.** It is expressly agreed and understood between the parties that nothing contained herein shall be construed to constitute a waiver or relinquishment by LSU of any rights to claim such exemptions, privileges and immunities as may be provided by law.
19. **“Force Majeure” Clause.** Neither party shall be considered in default of performance of any obligations under this Agreement if such performance is prevented or delayed by Force Majeure. “Force Majeure” shall be understood to be any cause which is beyond the reasonable control of the party affected and which is forthwith, by notice from the party affected, brought to the attention of the other party, including but not limited to war, hostilities, revolution, civil unrest, strike, lockout, epidemic or pandemic, government-ordered restriction or cessation of activity, accident, fire, natural disaster, wind or flood or any requirements of law, or an act of God.
20. **Governing Law and Venue.** This Agreement shall be enforced and construed in accordance with the laws of Louisiana. Any civil action to enforce this Agreement shall be brought in a state or federal court having jurisdiction and domiciled in East Baton Rouge Parish, Louisiana.





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## Board of Supervisors

### RISK MANAGEMENT COMMITTEE

BOARD OF SUPERVISORS MEETING | FEBRUARY 10, 2023



**Office of Internal Audit**

Louisiana State University

3810 West Lakeshore Drive • Suite 122 • Baton Rouge, LA 70808

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# Quarterly Audit Summary

*Fiscal Year 2023, 2<sup>nd</sup> Quarter*



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## Louisiana State University A&M (LSUAM)

### **Financial Management**

#### Audit Initiation:

This audit was included on the Board-approved audit plan.

#### Audit Scope and Objectives:

The primary objective of this review was to evaluate controls used by the Office of Budget and Planning (OBP) to develop and monitor the annual operating budget. The scope included the operating budget for fiscal years (FY) 2018 through 2022 at the LSU A&M campus.

#### Audit Findings and Recommendations:

Based on the results of testing, we offered OBP management the following recommendations to enhance controls:

- Develop and implement formal policies for the budget process, including how the operating budget aligns with the University's strategic goals.
- Consult with LSU executive management to establish expectations for the budgetary reporting process.
- Identify budgeting software with sufficient recordkeeping capabilities that integrates with Workday, LSU's financial management system.

#### Management's Response and Corrective Action Plan:

Management agreed with our recommendations and is in the process of implementing corrective action, which will be complete by June 30, 2023.

### **Greek Life Fee**

#### Audit Initiation:

This audit was included on the revised Board-approved audit plan at management's request.

#### Audit Scope and Objectives:

This was a limited scope review of the Greek Life fee at LSU A&M. The objectives were to determine if increases to the fee received proper approval and if Greek Life members were notified timely of fee increases.

**Audit Findings and Recommendations:**

We recommended that management revise Policy Statement 42 to address special service fees and provide required approvals for new or increased fees consistent with previous Board of Supervisors resolutions.

**Management’s Response and Corrective Action Plan:**

Management has not yet provided a response with proposed corrective action.

**Parking and Transportation Operations**

**Audit Initiation:**

This audit was included on the Board-approved audit plan.

**Audit Scope and Objectives:**

The primary objective of this review was to evaluate the administration and oversight controls for parking and transportation operations. The scope included LSU A&M parking operations for FY 2020 through 2022 with the exception of citation history, which went back to FY 2018.

**Audit Findings and Recommendations:**

We provided management with the following recommendations:

- Develop written procedures to standardize business processes related to the sale of parking permits, account oversight, billing, collection, enforcement, and system access.
- Implement controls to ensure the correct payment amount is received for permits sold; justification for special rates should be adequately documented and approved.
- Verify controls are in place and functioning properly to ensure corrective action is taken against customers with excessive violations, and enforcement records are properly documented.
- Establish clear criteria for appeal decisions and standardize the process to minimize inconsistencies, including required supporting documentation.
- Enhance controls for providing user access based on job responsibilities and establish a periodic review of users with access to T2 Flex (parking software) for appropriateness. Additionally, perform testing in the sandbox environment rather than production to preserve data integrity.

### Management's Response and Corrective Action Plan:

Management agreed with our recommendations and is in the process of implementing corrective action, which will be complete by November 15, 2023.

### **NCAA Agreed-Upon Procedures (Louisiana Legislative Auditor)**

#### Audit Initiation:

This external audit was conducted by the Louisiana Legislative Auditor's (LLA) Office.

#### Audit Scope and Objectives:

The LLA evaluated whether the Statement of Revenues and Expenses for LSU's athletic department complied with the National Collegiate Athletic Association (NCAA) Bylaw 3.2.4.17 for the year ended June 30, 2022.

#### Audit Findings and Recommendations:

The audit found that \$6,667,000 in severance payments were incorrectly included in Statement A as coaching salaries, benefits, and bonuses paid by the University. Additionally, the head football coach was overpaid \$1,001,368 in supplemental payments due to an error that resulted in double payments over a six-month period.

#### Management's Response and Corrective Action Plan:

A management response was not required. However, LSU enacted an adjusted payment schedule with the head football coach to recoup the overpayment by the end of FY 2023 and Statement A was corrected.



CAMPUS	AUDIT AREA	DESCRIPTION	STATUS	ESTIMATED DRAFT
MULTI	Financial Management	Review of University financial management controls; may include budgeting, reporting, cash management, and strategic financial planning	Issued	N/A
LSU A&M	Greek Life Fee	Review controls for the assessment and expenditure of Greek Life fee	Issued	N/A
MULTI	Governance of Compliance	Review of compliance framework, including established responsibility at each campus, clear assignment of duties, adequacy of coverage system-wide, and approach for addressing known controls gaps or exposures	Pending Issuance	Draft Completed
MULTI	Information Technology	Follow up on corrective actions from prior audits such as encryption, social engineering, IT governance, and capital assets	In Progress-Fieldwork Phase	TBD
LSU A&M	Residential Life Operations	Review financial and operational controls within Residential Life	In Progress-Fieldwork Phase	Jan 2023
LSU A&M	Facility Services Operations	Review administrative controls which may include billing, outsourcing, inventory management, space utilization, and operational efficiency	In Progress-Fieldwork Phase	Jan 2023
MULTI	Third-Party Billing and Collections	Review of contract compliance and performance of third-party billing and collection service providers at the Health Sciences Centers and Health Care Services Division	In Progress-Planning Phase	Feb 2023
HSCS	EVT Lab Operations	Review of financial and operational controls at the Emerging Viral Threats (EVT) lab	In Progress-Planning Phase	Feb 2023
MULTI	LSU Online	Review of LSU Online operations; may include admissions, enrollment management, assessment of fees/tuition, system integrity, user access, and/or student support	In Progress-Planning Phase	Mar 2023
LSU A&M	International Services	Review of operational controls including compliance with relevant laws, maintenance of immigration status, security of students/faculty abroad, and adequacy of support services	In Progress-Planning Phase	Mar 2023
MULTI	Patch Management	Review controls related to operating and application patching	Not Started	N/A
MULTI	Contract Oversight Administration	Review of controls for contract approval, execution, tracking, and monitoring	Not Started	N/A
MULTI	Student and Consumer Data Privacy	Review of controls to ensure compliance with relevant privacy laws (e.g. FERPA, HIPAA, GLBA)	Not Started	N/A
MULTI	Affiliated Organizations	Review of oversight controls to ensure compliance with the Uniform Affiliation Agreement, including policies and procedures related to employee reimbursement	Not Started	N/A

CAMPUS	AUDIT AREA	DESCRIPTION	STATUS	ESTIMATED DRAFT
MULTI	Data Governance	Review of the availability and reliability of data across the university system; may include financial, personnel, research, and/or student data	Not Started	N/A
LSU A&M	Athletics Financial Controls	Review of financial controls within the athletics department	Not Started	N/A
LSU A&M	P3 Project Review (REFF)	Review of project specific controls for public-private partnership construction facilitated through the Real Estate and Facilities Foundation, including partner selection, comprehensive agreement terms, and monitoring performance/compliance	Not Started	N/A
HSCS	Research Administration	Determine whether resources are being effectively and efficiently deployed under an adequate system of internal control for research operations to help ensure compliance with laws and regulations and university policies, alignment with best practices and industry standards, and financial and operational oversight	Not Started	N/A
HSCS	Procurement Card Review	Review of compliance with LSU Permanent Memorandum 78 and related campus policies	Not Started	N/A
HSCNO	Healthcare Financing	Review of finance operations and intergovernmental transfers; scope may include CEAs, lease agreements, and/or physician service agreements	Not Started	N/A
HSCNO	P3 Project Review (HSCNOF)	Review of project specific controls for public-private partnership construction facilitated through the HSCNO Foundation, including partner selection, comprehensive agreement terms, and monitoring performance/compliance	Not Started	N/A
LSU A&M	Student Athlete Benefits and Expenses	Review of benefits and expenses for student athletes; may include an assessment of both compliance and financial controls	Cancelled	N/A



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# Board of Supervisors

## MEETING MINUTES

BOARD OF SUPERVISORS MEETING | FEBRUARY 10, 2023

MINUTES  
LSU BOARD OF SUPERVISORS MEETING  
*Mumphrey Center, LSU Eunice*  
2048 Johnson Highway, Eunice, LA 70535  
Friday, December 9, 2022 | 10:00 a.m. CT

I. Call to Order and Roll Call

Mr. Rémy Voisin Starns, Chair, called to order the Regular Meeting of the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College on September 8, 2022.

Present

Ms. Valencia Sarpy Jones, Chair  
Mr. Rémy Voisin Starns, Past Chair  
Ms. Laurie Lipsey Aronson  
Mr. Glenn Armentor  
Mr. Jay Blossman  
Mr. Wayne Brown  
Mr. Robert Dampf  
Mr. Lee Mallett  
Mr. Randy Morris  
Mr. Patrick C. Morrow  
Ms. Lizzie Shaw  
Mr. Collis Temple Jr.  
Ms. Mary Leach Werner  
Mr. Richard Zuschlag

Absent

Mr. Jimmie Woods, Chair-elect  
Mr. James Williams

Also participating in the meeting were the following: Dr. William F. Tate IV, President of LSU; Mr. Winston DeCuir, General Counsel for LSU; University officer and administrators of the campuses; faculty and staff representatives; interested citizens and representatives of the news media.

II. Invocation and Pledge of Allegiance

The invocation was offered by Ms. Bettina Trumps, Ms. LSUE and student body president. The Pledge of Allegiance was delivered by Mr. Treyton O'Connor, Radiologic Technology Student

III. Public Comment

There were no individuals registered for public comment.

In honor of the 50<sup>th</sup> anniversary of Title IX, three LSUE student-athletes spoke of their support and experience due to Title IX: Vanessa Duhe, women's basketball; Chloe Bennett, softball; and Jasmine Liddell, women's soccer.

Interim Vice President for Agriculture and Dean of College of Agriculture, Matthew Lee spoke regarding transferable degrees from LSU to LSUE in Agriculture and Animal Science.

State Representative Phillip DeVillier spoke about his experience as an LSUE student.

IV. Committee Meetings

Ms. Jones adjourned the regular meeting to convene the committee meetings.

**4.A. Research and Agricultural Extension Committee**

Present for the Research and Agricultural Extension Committee were Ms. Werner, Mr. Morrow, Mr. Armentor, Mr. Brown, Mr. Morris, Mr. Starns, and Mr. Temple.

4.A.1. Presentation on the Crowley Rice Station

Dr. Kirk Guidry led the presentation regarding the research significance and economic importance of the H. Rouse Caffey Rice Research Station in Crowley, La.

No action needed on the item.

**4.B. Academic Committee**

Present for the Academic Committee were Mr. Brown, Ms. Shaw, Mr. Armentor, Mr. Mallett, Mr. Morrow, Mr. Starns, Mr. Temple, and Ms. Werner.

4.B.1. Request from LSU A&M to Establish a Bachelor of Arts in Chemistry

Upon motion by Mr. Starns, seconded by Mr. Mallett, the item was approved without objection.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Louisiana State University and Agricultural & Mechanical College does hereby approve the request from LSU A&M to establish a Bachelor of Arts in Chemistry.

4.B.2. Request from LSU Health Sciences Center New Orleans to Establish an Undergraduate Certificate in Categorical Medical Laboratory Science

Upon motion by Mr. Mallett, seconded by Ms. Werner, the item was approved without objection.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Louisiana State University and Agricultural & Mechanical College does hereby approve the request from LSU A&M to establish an Undergraduate Certificate in Categorical Medical Laboratory Science

4.B.3. Request from LSU Alexandria to Name the Martin Family Student Success Center

Upon motion by Mr. Morrow, seconded by Ms. Shaw, the item was approved without objection.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Louisiana State University and Agricultural & Mechanical College does hereby approve the request from LSU A&M to name the Martin Family Student Success Center.

4.B.4. Request from LSU A&M to Name Academic Programs and Building

- a. Request to Name the LSU School of Education for Lutrill and Pearl Payne
- b. Request to Name the LSU Graduate School for Dr. Pinkie Gordon Lane
- c. Request to Name the Art & Design Building for Julian T. White

Upon motion by Mr. Morrow, seconded by Mr. Temple, the item was approved without objection.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Louisiana State University and Agricultural & Mechanical College does hereby approve the request from LSU A&M to name the LSU School of Education for Lutrill and Pearl Payne, name the LSU Graduate School for Dr. Pinkie Gordon Lane, and name the Art & Design Building for Julian T. White.

4.B.5. Consent Agenda

There were nine items on the consent agenda.

Upon motion by Mr. Morrow, seconded by Ms. Werner, the following items were approved without objection.

Request from LSU A&M to Dissolve the School of Collaborative Academic Programs

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Louisiana State University and Agricultural & Mechanical College does hereby approve the request from LSU A&M to dissolve the School of Collaborative Academic Programs.

Request from LSU Health Sciences Center Shreveport to Establish the Noel Foundation Leitz Endowed Professorship in Parkinson's Disease Research

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Louisiana State University and Agricultural & Mechanical College does hereby approve the request from LSU Health Sciences Center - Shreveport to Establish the Noel Foundation Leitz Endowed Professorship in Parkinson's Disease Research.

Request from LSU A&M to Augment the Dr. Shirley C. Tucker Endowed Chair in Lichenology

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Louisiana State University and Agricultural & Mechanical College does hereby approve the request from LSU A&M to Augment the Dr. Shirley C. Tucker Endowed Chair in Lichenology.

**BE IT FURTHER RESOLVED** that the President is hereby authorized to execute any documents required to obtain the matching gift and otherwise complete the augmentation of the Dr. Shirley C. Tucker Chair in Lichenology.

Request from LSU A&M to Augment Five Endowed Superior Graduate Student Scholarships

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Louisiana State University and Agricultural & Mechanical College does hereby approve the request from LSU A&M to Augment Five Endowed Superior Graduate Student Scholarships.

**BE IT FURTHER RESOLVED** that the President is hereby authorized to execute any documents required to obtain the matching gift and otherwise complete the augmentation of the Five Endowed Superior Graduate Scholarships.

Request from LSU A&M to Establish Two Endowed Superior Graduate Student Scholarships

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Louisiana State University and Agricultural & Mechanical College does hereby approve the request from LSU A&M to Establish Two Endowed Superior Graduate Student Scholarships.

**BE IT FURTHER RESOLVED** that the President is hereby authorized to execute any documents required to obtain the matching gift and otherwise complete the establishment of the Two Endowed Superior Graduate Scholarships.

Request from LSU A&M to Offer the MS in Finance 100% Online

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Louisiana State University and Agricultural & Mechanical College does hereby approve the request from LSU A&M to offer the MS in Finance 100% Online.

Request from LSU Eunice to Reaffirm the LSUE Mission Statement

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Louisiana State University and Agricultural & Mechanical College does hereby approve the request from LSU Eunice to Reaffirm the LSUE Mission.

Request from LSU Alexandria to Revise the LSUA Mission Statement

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Louisiana State University and Agricultural & Mechanical College does hereby approve the request from LSU Alexandria to Revise the LSUA Mission.

Request from LSU Alexandria to Establish the Alexandria Business Foundation (ABF) Endowed Chair in Accounting

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Louisiana State University and Agricultural & Mechanical College does hereby approve the request from LSU Alexandria to Establish the Alexandria Business Foundation Endowed Chair in Accounting.

**BE IT FURTHER RESOLVED** that the President is hereby authorized to execute any documents required to obtain the matching gift and otherwise complete the establishment of the Alexandria Business Foundation Endowed Chair in Accounting.

#### **4.C. Property & Facilities Committee**

Present for the Property & Facilities Committee were Ms. Aronson, Ms. Werner, Mr. Dampf, Mr. Mallett, Ms. Shaw, Mr. Woods, and Mr. Zuschlag.

##### **4.C.1. Request from LSU Health Sciences Center New Orleans to Authorize a Cooperative Endeavor Agreement with the LSU Healthcare Network for Seton Hall**

Upon motion by Ms. Werner, seconded by Mr. Dampf, the item was approved without objection.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Louisiana State University and Agricultural & Mechanical College does hereby approve the request from LSU A&M to authorize a Cooperative Endeavor Agreement with the LSU Healthcare Network for Seton Hall.

4.C.2. Request from LSU Health Sciences Center New Orleans to Authorize an Intent to Lease Agreement with the LSU Real Estate and Facilities Foundation for HSC-NO Property Redevelopment

Upon motion by Ms. Werner, seconded by Mr. Mallett, the item was approved without objection.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Louisiana State University and Agricultural & Mechanical College does hereby approve the request from LSU A&M to authorize an intent to Lease Agreement with the LSU Real Estate and Facilities Foundation for HSC-NO Property Redevelopment.

4.C.3. Request from LSU Health Care Services Division to Amend the Prior Approval of a Request to Sell the Former Earl K. Long Hospital Property

Upon motion by Ms. Shaw, seconded by Mr. Mallett, the item was approved without objection.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Louisiana State University and Agricultural & Mechanical College does hereby approve the request from LSU A&M to amend the prior approval of a request to sell the former Earl K. Long Hospital property.

4.C.4. Request Approval for Transfer of Assets from Pennington Medical Foundation to Pennington Biomedical Research Foundation

Upon motion by Mr. Dampf, seconded by Ms. Shaw, the item was approved without objection.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Louisiana State University and Agricultural & Mechanical College does hereby approve the request from LSU A&M to transfer assets from Pennington Medical Foundation to Pennington Biomedical Research Foundation.

**4.D. Athletics Committee**

Present for the Athletics Committee were Mr. Temple, Mr. Blossman, Ms. Shaw, Mr. Zuschlag, Ms. Aronson, Mr. Dampf, Ms. Werner, and Mr. Morris.

Upon motion by Ms. Werner, seconded by Mr. Dampf, the following items were approved without objection.

Request from LSU A&M to Approve New Employment Contract for Executive Deputy Athletics Director/Chief Operating Officer

**NOW, THEREFORE, BE IT RESOLVED** the Board of Supervisors of Louisiana State University and Agricultural & Mechanical College authorizes President William F. Tate IV, Ph.D., or his designee, to execute the position change with Keli Zinn as described in this item, in consultation with General Counsel.

Request from LSU A&M to Approve New Employment Contract for an Assistant Baseball Coach

**NOW, THEREFORE, BE IT RESOLVED** the Board of Supervisors of Louisiana State University and Agricultural & Mechanical College authorizes President William F. Tate IV, Ph.D., or his designee, to execute the position change with Joshua Jordan as described in this item, in consultation with General Counsel.



Request from LSU A&M to Approve Employment Agreement for Deputy Athletics Director for Revenue Generation

**NOW, THEREFORE, BE IT RESOLVED** the Board of Supervisors of Louisiana State University and Agricultural & Mechanical College authorizes President William F. Tate IV, Ph.D., or his designee, to execute the Employment Agreement as described in this item, in consultation with General Counsel.

**4.E. Title IX and Access Compliance Committee**

Present for the Title IX and Access Compliance Committee were Ms. Shaw, Ms. Aronson, Mr. Blossman, Mr. Brown, Mr. Dampf, Mr. Mallett, Mr. Morris, Mr. Morrow, Mr. Starns, Mr. Temple, and Ms. Werner.

**4.E.1. Board of Regents Bi-Annual Report**

This included the mandatory Power-Based Violence Report. Motion to receive the report by Mr. Mallett, seconded by Ms. Werner. Without objection, the report was received.

**V. Reconvene Board Meeting**

The regular meeting was called back to order and roll call conducted.

Present

Ms. Valencia Sarpy Jones, Chair  
Mr. Rémy Voisin Starns, Past Chair  
Ms. Laurie Lipsey Aronson  
Mr. Glenn Armentor  
Mr. Jay Blossman  
Mr. Wayne Brown  
Mr. Robert Dampf  
Mr. Lee Mallett  
Mr. Randy Morris  
Mr. Patrick C. Morrow  
Ms. Lizzie Shaw  
Mr. Collis Temple Jr.  
Ms. Mary Leach Werner  
Mr. Richard Zuschlag

Absent

Mr. Jimmie Woods, Chair-elect  
Mr. James Williams

**VI. Approval of Minutes from the October 21, 2022 Board Meeting**

Upon motion by Ms. Jones, seconded by Mr. Morrow, the minutes were approved.

**VII. Emergency Operations Center Enterprise Update**

Report by Mr. Michael Antoine on LSU campus and public safety.

VIII. Amendment to Bylaws to Committees

Proposed merging of the Diversity and Inclusion Committee with the Title IX and Access Compliance Committee. The new committee would be titled "Inclusion, Civil Rights & Title IX Committee."

This change would mirror the recent restructuring of the Office of Inclusion, Civil Rights & Title IX to cover all forms of discrimination and inclusion.

Motion to amend the bylaw by Mr. Morris, seconded by Mr. Mallett. Without objection, the motion was approved.

IX. Reports to the Board

1. Affiliated Entities Reimbursement Report
2. FY 2022-23 1st Quarter LSU Investment Report
3. LSU Quarterly Supplier Diversity Spend Report for Period Ending September 30, 2022

Upon motion by Mr. Mallett, seconded by Mr. Dampf, the reports were approved.

X. President's Evaluation

Motion by Mr. Dampf to enter executive session to conduct the president's evaluation. Without objection, the Board moved into executive session.

Motion by Mr. Armentor, seconded by Ms. Shaw, to exit executive session and return to open session.

President Tate received an exceptional review of his performance.

XI. Reports from Faculty Advisors and Staff Advisors

Dr. Christof Stumpf reported on faculty concerns for undergraduate admissions, graduate student concerns, Pennington staffing, the AgCenter's search for a dean, and faculty compensation at LSUA and other campuses.

Courtney Fruge reported on behalf of Staff Advisors.

XII. President's Report

The president provided an informative report.

XIII. Approval of Committee Recommendations

Ms. Jones called for a motion to accept all committee recommendations. Motion to approve by Mr. Mallett, seconded by Ms. Shaw. Without objection, the recommendations were approved.

XIV. Chair's Report

Ms. Jones provided a report on Title IX past experiences, new campaign "Because of Her".

XV. Adjournment

Without further business before the Board, motion to adjourn by Mr. Mallett, seconded by Ms. Shaw. Without objection, the meeting was adjourned.



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## Board of Supervisors

### PERSONNEL ACTIONS REQUIRING BOARD APPROVAL

Personnel Actions Requiring Board Approval  
per PM-69

February 10<sup>th</sup>, 2023

Personnel Actions Requiring Board Approval per PM-69  
February 10<sup>th</sup>, 2023

**LSU A&M**  
**New Appointments**

<u>Name</u>	<u>Title</u>	<u>Effective Date</u>	<u>Compensation</u>		<u>%Change</u>
			<u>Current</u>	<u>Proposed</u>	
John L. Walters	Vice President	1/2/2023	\$0	\$300,000	NA
Cody Worsham	Interim Vice President of Strategic Communications	12/1/2022	\$140,400	\$200,000 <sup>1</sup>	31.33%
David Guzick	Chancellor at LSU Health Sciences Center Shreveport	1/09/2023	\$0	\$900,000	NA

Notes:

1. Cody Worsham: Interim appointment as Vice President will begin December 1st, 2022. Base salary is \$140,400 with an Interim Allowance of \$50,000 and a car allowance of \$9,600.



December 23, 2022

Mr. David S. Guzick, M.D., Ph.D.  
2515 NW 21st Street  
Gainesville, FL 32605

VIA EMAIL: [jsands@imsearch.com](mailto:jsands@imsearch.com)

Dear Dr. Guzick,

I am pleased to offer you the position of Chancellor at LSU Health Sciences Center Shreveport at a salary of \$900,000, pending approval by the LSU Board of Supervisors. This position reports to and serves at the pleasure of the LSU President, with an effective date of January 9, 2023.

In addition to your salary, we will provide a monthly housing stipend of \$6,000.00 and a monthly vehicle allowance of \$1,000.00. As discussed, you will not engage in any medical practice while you hold the position of Chancellor. Additionally, you will receive paid vacation and sick days to accrue per LSUHSC-S policy, retirement benefits, and health insurance and other voluntary benefits offered by the institution.

You will also receive a joint appointment to the faculty of Obstetrics & Gynecology in the Public Health Program. The appointment will be with tenure upon review of your credentials by the respective departments. You will not be expected to teach or maintain a clinical practice while serving as Chancellor.

LSUHSC-S will pay the actual cost of your moving expenses in accordance with Administrative Directive 8.3, and current IRS guidelines for up to one-tenth of your base annual salary and can be accessed in two parts to coincide with your multi-phased moving schedule. The departmental business manager or designated person will complete the Relocation Authorization form on your behalf and a purchase requisition for payment of your moving expenses. You will be contacted directly by a relocation coordinator to arrange relocation upon acceptance of this offer. Please be advised that under the new Internal Revenue Service (IRS) tax rules, any employer payments and reimbursement for moving expenses will be subject to federal income tax withholding and FICA taxes, including payments from the employer to third parties on behalf of the employee.

**Louisiana Driver's License and Vehicle Registration Requirements:** Louisiana Revised Statute 42:31 requires that all unclassified employees, including faculty, earning \$100,000 or more annually must provide proof of a valid Louisiana driver's license and that all vehicles titled in their name have been registered in the state of Louisiana within 30 days of hire.

**Termination:** If you are terminated as Chancellor without cause, you will revert to a faculty position within your tenured academic department at a salary equal to the average faculty salary (excluding all supplements) of the three highest-paid faculty positions. As a faculty member, your employment will be

Letter to David S. Guzick, M.D., Ph.D.  
Candidate for Chancellor LSUHSC-S  
December 23, 2022  
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governed by the campus policies for tenured faculty. Any gross misconduct while Chancellor (such as violation of the University's Title IX policies, malfeasance, etc.), may result in a termination for cause and complete separation from the university, but only after you are provided notice in writing and an opportunity for a hearing before the president or his designee.

We are pleased that you will be joining us and are confident that your talents, expertise, and future accomplishments will contribute in general to the overall excellence of LSUHSC-S. If this offer is acceptable to you, please respond by signing below and returning the letter within five (5) days of receipt of this letter.

Sincerely,

Handwritten signature of William F. Tate IV in black ink.

William F. Tate IV  
LSU President

Handwritten signature of Del Gil in blue ink, written over a horizontal line.

SIGNATURE

1/24/23

DATE