

Sample Memorandum of Understanding - Affiliate Agreement

This Memorandum of Understanding (the Agreement) is entered into as of the date set forth below, by and between The United Way of South Hampton Roads Foundation (the Foundation) and affiliate (the Affiliate).

WHEREAS, the Foundation and the Affiliate maintain separate and autonomous endowment funds; and

WHEREAS, the Foundation and the Affiliate deem the investment of their endowment funds by one or more investment managers to achieve optimal investment returns and cost savings to be in the best interest of both organizations; and

WHEREAS, the Foundation and the Affiliate have negotiated an arrangement under which the endowment funds of the Affiliate will be invested with the endowment funds of the Foundation and under which the Foundation may provide development assistance to the Affiliate upon request; and

WHEREAS, the Foundation and the Affiliate wish to establish procedures, methods, and goals for investment and management of the endowment funds of the Foundation and the Affiliate; and

WHEREAS, the Foundation and the Affiliate have received and reviewed the Foundation Statement of Investment Policy Guidelines and Objectives and its Endowment Investment Information Statement.

NOW, THEREFORE, for and in consideration of the receipt of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Common Investment Manager(s). The Foundation and the Affiliate agree to have funds from their respective endowments invested by, and to confer investment responsibility for their endowment funds on, the investment manager(s) selected by the Foundation with the Foundation as agent for the Investment Manager. The Foundation and the Affiliate agree that the investment manager(s) shall assume the management of, and investment responsibility for, the funds of the Foundation and the Affiliate that are held and invested pursuant to this Agreement, and providing the information that will be basis for disclosure materials. The investment manager's performance shall be overseen by an Investment Committee of the Board of Trustees of the Foundation, which shall from time to time designate, and may at any

time terminate the designation of, investment managers of the commonly invested endowment funds. The Investment Committee shall meet on at least a quarterly basis to review investment performance, objectives, goals and fund management.

2. Expense Sharing. During the term of this Agreement, the commonly invested endowment funds shall be charged for all expenses incurred through the investment thereof, including fees charged by the investment manager(s) and custodial and asset purchase and sale fees incurred with respect thereto. If separately identified real property or other assets of the Affiliate are held in the commonly invested endowment funds, the Foundation shall charge to the Affiliate all expenses that are attributable solely to that real property or those other assets. In addition, the Foundation shall charge against the Affiliate's interest in the commonly invested endowment funds an annual amount, determined as follows, to defray what the Foundation and the Affiliate have determined to be the Affiliate's share of the Foundation's operating expenses attributable to its activities undertaken for the benefit of the Affiliate, including record keeping, other administrative and oversight functions and development activities: \$100 for an endowment fund balance of the Affiliate below \$10,000; 1% for a balance of \$10,000 to \$1 million; and an amount determined by mutual agreement of the Foundation and the Affiliate for a balance of more than \$1 million. Payment shall be made in quarterly installments and shall be computed for each quarter based on the endowment fund balance on the last day of that quarter or as the Foundation and the Affiliate may otherwise agree.

3. Development Services. The Foundation agrees to assist the Affiliate, at its request, in such manner and to such extent (if any) as the Foundation may determine, in development of solicitation programs to enhance growth of the Affiliate's endowment fund and, further, by making its staff available to the Affiliate in order to effect those programs. The Foundation shall not give legal advice to the Affiliate.

4. Acceptance of Gifts. The Affiliate shall have responsibility for determining which gifts will be accepted by the Affiliate for investment with the common investment manager(s) on behalf of the Affiliate, subject to review by the Foundation of investments to be added to the commonly invested endowment funds.

5. Term. Subject to paragraph 6 below, this Agreement shall remain in effect for a period of one (1) year from the date hereof. The term shall automatically renew from year to year unless either party notifies the other party of its intent to terminate this Memorandum of Understanding. Such notice must be given no later than ninety (90) days before the expiration of the one-year term then in effect.

6. Separate Account and Withdrawals. The Affiliate's interest in the common funds invested pursuant to this Agreement by the common investment manager(s) shall be accounted for separately, by the Foundation or its designee, from other funds held for or attributable to the Foundation or any other organization; provided, however, that while the Foundation's and Affiliate's endowment funds are commonly invested, neither of them shall be deemed to own

any particular commonly invested asset (other than separately identified real property or other assets expressly so designated at the time they are added to the commonly invested endowment funds). The Affiliate shall have sole discretion to make additions of funds to and withdrawals from its share of the jointly invested endowment funds of the Foundation and the Affiliate, subject to the Foundation's review of the acceptance of additional funds. Generally, withdrawals may be made only as of the last day of a calendar month; provided, however, that the Affiliate shall have provided written notice to the Foundation on or before the 15th day of that calendar month of its intent to withdraw funds and the amount of funds to be withdrawn. The Foundation and the Affiliate may allow withdrawals at other times by mutual agreement.

7. Reporting. The Foundation shall furnish consolidated statements to the Affiliate reflecting investments, income and expenses of the endowment funds invested hereunder, including a description of the Affiliate's share of the commonly invested endowment funds invested hereunder, on at least a quarterly basis. The parties agree to work with each other to modify and/or create reports to satisfy the needs of the parties.

8. Miscellaneous.

8.1 Modifications. This Agreement may be altered or amended, in whole or in part at any time, only by filing with this Agreement a written instrument signed by the representatives of the Foundation and the Affiliate setting forth such changes.

8.2 Performance of Necessary Acts. The Foundation and the Affiliate agree to perform any further acts and to execute and deliver any additional documents which may be reasonably necessary to carry out the provisions and intent of this Agreement.

8.3 Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their legal successors and assigns.

8.4 Notices. Any and all notices, designations, consents, offers, acceptances or any other communication provided for herein shall be deemed to have been validly given if in writing and delivered personally or delivered by certified mail, return receipt requested, postage prepaid, as follows:

If to the Foundation, to:

Mr. Michael Hughes
Executive Director
P.O. Box 41069
Norfolk, VA 23541-1069

For delivery:

2515 Walmer Avenue
Norfolk VA 23513-2604

If to the Affiliate, to:

With a copy to:

IN WITNESS WHEREOF, The United Way of South Hampton Roads Foundation and the
Affiliate have executed this Memorandum of Understanding this ____ day of _____,
_____.

The United Way of South Hampton Roads Foundation

By: _____
Michael Hughes, Executive Director

Affiliate:

By: _____

Name: _____

Title: _____

This is not an Actual Agreement