

CONFIDENTIAL SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Confidential Settlement Agreement and Mutual Release (this “Agreement”) is entered into by Conference USA (the “Conference”); Marshall University (“Marshall”), the University of Southern Mississippi (“USM”), and Old Dominion University (“ODU”) (Marshall, USM, and ODU collectively, the “Universities,” each of the Conference and the Universities a “Party,” and, collectively, the “Parties”), through their respective authorized representatives.

RECITALS

A. The Conference is an Illinois not-for-profit corporation with its principal place of business located in Dallas, Texas.

B. Marshall is a public state institution of higher learning located in Huntington, West Virginia. Marshall joined the Conference in 2003.

C. USM is a public state institution of higher learning located in Hattiesburg, Mississippi and joined the Conference in 1995 as a charter member.

D. ODU is a public state institution of higher learning located in Norfolk, Virginia. ODU joined the Conference in 2013.

E. Beginning in October of 2021, the Universities provided the Conference with separate notices that they would withdraw from the Conference.

F. The Conference contends that the Universities must abide by Conference Bylaw Section 3.06 and provide at least fourteen months’ notice to the Conference with an effective date of withdrawal of July 1, 2023, about which the Universities disagree.

G. The Universities separately notified the Conference that the Universities intended to leave the Conference effective June 30, 2022.

H. A dispute has arisen between the Conference and the Universities concerning the termination of their membership in the Conference effective June 30, 2022.

I. The Conference has initiated three separate proceedings before the American Arbitration Association against the Universities and their governing boards (Marshall-012200006694; USM-012200006699; and ODU-012200006697) (the “Arbitration Actions”).

J. Marshall has initiated an action against the Conference in Cabell County (West Virginia) Circuit Court bearing Civil Action No. 22-C-66 (the “West Virginia Action”).

K. USM has initiated an action against the Conference in Forrest County (Mississippi) Circuit Court bearing Civil Action No. 22-38 (the “Mississippi Action”).

L. ODU has initiated an action against the Conference in the City of Norfolk (Virginia) Circuit Court bearing Civil Action No. CL22-2333, in which the Conference has asserted counterclaims against ODU and sought certain injunctive relief against ODU (the “Virginia Action”).

M. The Arbitration Actions, the West Virginia Action, the Mississippi Action, and the Virginia Action are collectively referred to as the “Actions”.

N. In the interest of resolving all potential claims between the Conference and the Universities, including, without limitation, all claims the Parties have asserted or could have asserted in the Actions, and to avoid the burden and cost of the Actions, the Parties desire to settle and compromise all such claims, whether known or unknown and asserted or unasserted, without any admission of liability, on the following terms and conditions.

In consideration of the mutual promises and obligations of this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties agree and covenant as follows:

TERMS AND CONDITIONS

1. Recitals. The Recitals above are true and correct and are a material part of this Agreement.

2. Definitions.

(a) The following definitions shall apply to and constitute part of this Agreement:

“Person” shall mean an individual, corporation, limited liability company, professional corporation, limited liability partnership, partnership, limited partnership, association, joint stock company, conference, including any Division I collegiate conference, estate, legal representative, trust, unincorporated association, or government (or any political subdivision or agency including but not limited to a public university), and any business or legal entity and any predecessors, successors, representatives or assigns of any of the foregoing.

“University Releasees” shall mean, as to the Universities, the Universities, their current and former officers, administrators, trustees, governing boards, directors, employees, attorneys, counsels, insurers, trustees, beneficiaries, transferees, predecessors, successors, and assigns.

“Conference Releasees” shall mean, as to the Conference, the Conference, its Commissioner, its current and former officers and administrators, its current and former Board of Directors, its employees, its current and future members, and its current withdrawing members but shall exclude the Universities.

(b) Other terms may be defined in this Agreement and, unless otherwise indicated, shall have such meaning throughout this Agreement.

3. Consideration Paid to the Conference for Early Withdrawal. Subject to the necessary approvals as provided in Paragraph 24, below, Marshall, USM, and ODU shall each pay to the Conference the sum of One Million Seven Hundred Fifty Thousand U.S. dollars and 00/100

U.S. cents (\$1,750,000.00) (the “Settlement Amount”). The Universities shall each pay its Settlement Amount no later than thirty (30) calendar days after the date it obtains the required approval as provided in Paragraph 24, below, but the thirty (30) calendar days will run individually for Marshall, USM, and ODU based upon their individual date of acquiring the approval. Marshall, USM and ODU shall promptly provide the Conference notice in writing, as set forth in the notice provisions below, if and when they separately obtain approval. The Conference shall promptly provide written notice of receipt of payment to the University delivering the payment.

4. Special Conditions. USM shall host the Conference’s 2022 Baseball Championship in Hattiesburg, Mississippi in compliance with the Conference administrative and sport regulations, including but not limited to handling all necessary production needs, incurring expenses for live stats, media relations support, and necessary event management staffing, and payment of the championship guarantee. The Conference may immediately begin working on alternative competition schedules for all sports without the Universities beginning on Monday, March 28, 2022. The Conference may begin working on alternative arrangements for its members and affiliate members for women’s swimming and men’s soccer beginning on Monday, March 28, 2022. The Universities may continue to market their membership in the Sun Belt Conference and their participation in the Sun Belt Conference for all sports.

5. Monies Due the Universities. At the time that distributions are made to non-withdrawing members of the Conference, the Conference shall pay to the Universities, if it has not already done so, their share of payments from the NCAA for the 2021-2022 academic year that the Conference received from the NCAA in the following categories: the academic enhancement fund, academic performance fund, student assistance fund (which includes the “student-athlete opportunity fund” and the “special assistance fund”), sports sponsorships, and

grants-in-aid. The Conference will also distribute to the Universities, if it has not already done so, all reimbursements due from the Conference to the Universities, including but not limited to, the bowl expense reimbursement for the 2021-2022 academic year. The Conference will not make any other payments to the Universities other than the referenced payments from the NCAA and any reimbursements owed by the Conference, and all other distributions that would have been made to the Universities for the 2021-2022 academic year will be withheld by the Conference.

6. No Admission of Fault, Wrongdoing or Liability. The Parties have entered into this Agreement in compromise of the Actions. Entry into this Agreement is not an admission of any liability or wrongdoing on the part of the Conference or the Universities in the Actions or otherwise. The Universities and the Conference expressly deny all assertions of wrongdoing and liability and dispute the allegations asserted against them in the Actions.

7. Release of Claims by the Conference. Conditioned on the respective Universities' payment of its Settlement Amount to the Conference and obtaining the approvals required by Paragraph 24, below, which will be determined on an individual basis, the Conference fully, finally, and forever releases the University Releasees, on an individual basis as such Settlement Amounts are received from each individual University, from any and all claims, known or unknown, that the Conference asserted or could have asserted in the Actions or any claims known or unknown arising out of or relating to the Universities' membership in or withdrawal from the Conference, based on facts known or unknown, including, but not limited to, claims under federal or state law, including all remedies, costs, expenses, losses, damages, debts and attorneys' and other professionals' fees, expenses, and costs (collectively, the "Conference Released Claims").

8. Release of Claims by the Universities. Conditioned on the respective Universities' payment of its Settlement Amount to the Conference and the Universities obtaining the approvals

required by Paragraph 24, below, and the release of claims by the Conference as provided in Paragraph 7, above, the Universities fully, finally, and forever release the Conference Releasees from any and all claims that the Universities asserted or could have asserted in the Actions, or any claims known or unknown arising out of or relating to the Conference Bylaws, Formation Agreement or New Member Agreement based on facts known or unknown, including, but not limited to, claims under federal or state law, including all remedies, costs, expenses, losses, damages, debts and attorneys' and other professionals' fees, expenses, and costs (collectively, the "Universities Released Claims").

9. Complete Defense and Covenant Not to Sue. The Conference Releasees and the University Releasees may plead this Agreement as a complete defense and bar to any Conference Released Claims or University Released Claims. Each Party covenants and agrees not to sue or bring any other legal action against any other Party for any claims, demands, causes of action, suits, controversies, damages, or liabilities related to the Conference Released Claims and the Universities Released Claims except as provided in Paragraph 10, below.

10. Limitation of Releases. The releases in Paragraphs 7 and 8, above, do not release any Party from obligations arising under or related to this Agreement and shall not be construed in a manner that would extinguish any claim for breach of this Agreement or enforcement of this Agreement. The releases in Paragraphs 7 and 8, above, do not release any person or Party from the obligations arising under or related to the Stipulated Agreement Regarding Confidentiality of Documents and Materials During Mediation.

11. Confidentiality. Except with the express written approval of the Conference or as required by state law (including but not limited to VA Code Ann. § 2.2-514(B)), each Party agrees that it will not voluntarily disclose this Agreement or any of its terms to any entity or person who

is not a Party to this Agreement, which includes the University of North Carolina at Charlotte, Florida Atlantic University, University of North Texas, Rice University, University of Alabama at Birmingham, and the University of Texas in San Antonio and all persons employed by or affiliated with those universities, except that the Universities can disclose the Agreement and its terms to obtain the necessary approvals set forth in Paragraph 24, below. The Conference and the Universities may disclose the terms of this Agreement to their tax advisors, auditors, and Board of Directors and to such other entities as may be necessary to effectuate payment to the Conference. The Conference and the Universities may also disclose the Agreement to its employees to comply with the terms of this Agreement. The Conference and the Universities may also publicly disclose the existence of this Agreement and resolution of the Actions. If at any time this Agreement or any of its terms (i) is subpoenaed by a court, administrative or legislative body, or by any other person or entity purporting to have authority to require the production of such information, or (ii) is requested to be produced under any applicable Freedom of Information Act (FOIA) request, a state open records act, or any other act or statute, the University to which the subpoena or request is directed shall make best efforts to give written notice (which includes electronic communication) to the Conference as soon as reasonably practicable but not later than five business days after receipt of the subpoena or request or otherwise before producing documents. After receipt of the notice specified under this Paragraph, the Conference shall have the sole responsibility for filing a timely motion seeking to obtain an order, temporary restraining order, injunction, or other remedy, legal or equitable (“Motion”), that it believes necessary to prevent disclosure of the information that has been subpoenaed or requested. The University to which the subpoena or request is directed shall not voluntarily produce any copy of this Agreement while such a Motion is pending, except as required by state law or ordered by a court or as otherwise agreed by the Conference.

12. Stay and Dismissal of Actions. The Conference and the Universities will submit agreed orders or instructions to stay the Actions, and to extend all deadlines and continue all hearings set and injunctions granted in the West Virginia Action, the Mississippi Action, and the Virginia Action pending consummation of this settlement. Within ten (10) business days of receiving any individual Settlement Amount from any of the respective Universities, the Conference shall voluntarily dismiss the Arbitration Actions with prejudice that corresponds to the Settlement Amount received by the Conference. In addition, when any individual Settlement Amount is received by the Conference from any individual University, the Conference and the University that paid the Settlement Amount shall sign an Agreed Order of Dismissal with Prejudice, in the corresponding West Virginia Action, the Mississippi Action, or the Virginia Actions.

13. Effective Date of Withdrawal. For each University that delivers the Settlement Amount to the Conference, the University's withdrawal from the membership of the Conference for all sports shall be effective on July 1, 2022, at 12:00 a.m. local time for the University, with the Universities having no further relationship with the Conference. The Conference shall cooperate with this membership termination and take no further action to interrupt the Universities' membership and participation in the Sun Belt Conference.

14. Attorneys' Fees, Expenses, and Costs. Each Party shall bear its own legal fees and other expenses and costs incurred in connection with this matter, including the preparation and performance of this Agreement.

15. No Duress. Each Party and signatory to this Agreement freely and voluntarily enters into this Agreement without any degree of duress or compulsion.

16. Investigation and Independent Counsel. Each Party consulted with its own attorneys regarding the meaning and legal effect of its signature on this Agreement. Each Party has carefully read the Agreement, knows its contents, has consulted with an attorney of its own choice regarding its meaning and effect, and is signing the same solely of its own judgment, in its own best interests, and of its own free will.

17. Authority, Negotiating, and Drafting. Each Party is fully authorized to execute this Agreement for and on behalf of all persons or entities on whose behalf such Party is entering into this Agreement. This Agreement results from negotiations between the Parties and its interpretation shall not be construed against any one Party since each had an opportunity to modify it. No Party nor anyone acting on its behalf is relying on any statement, representation, or promise (other than those in this Agreement) made by or on behalf of any other Party in executing this Agreement. Each Party is represented by counsel (or has been advised to consult with counsel and has been given ample time in which to do so prior to signing this Agreement). Each Party is relying upon its own investigation and knowledge and that of its own attorneys, agents, servants, and employees and in reliance on the legal advice of its attorneys or agents and not upon any legal advice of any other Party or its attorneys or agents.

18. Binding Effect. This Agreement is binding on each Party and all other persons or entities that such Party is authorized to represent under applicable law. This Agreement is intended to and does bind and inure to the benefit of the Parties and their respective heirs, executors, legal representatives, administrators, successors, and assigns. No Party may assign, pledge, delegate, or otherwise transfer any of its respective rights, obligations, or duties under this Agreement absent the express written consent of each other Party. Any attempted assignment in violation of the foregoing shall be null and void and of no force or effect.

19. No Third-Party Beneficiaries. Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the Parties and there are no third-party beneficiaries to the Agreement. Any benefits which other third parties receive as a result of this Agreement are incidental to this Agreement and do not create any rights for such third parties.

20. Savings Clause. If one or more of the provisions contained in this Agreement shall be held to be invalid or unenforceable in any respect, such invalidity or unenforceability shall not in and of itself affect any other provision, and this Agreement shall be construed as if the invalid or unenforceable provision does not exist.

21. Entire Agreement, Modifications, Continuation of Stipulated Agreement. This Agreement is integrated and represents and contains the entire agreement of the Parties with respect to the matters detailed and shall not be supplemented or modified by any statement, act, or omission of the Parties not reflected in this Agreement. This Agreement may not be modified, amended, or supplemented except by a written agreement executed by each Party to be affected by such modification, amendment, or supplement. The Stipulated Agreement Regarding Confidentiality of Documents and Materials During Mediation remains in full force and effect and is not integrated into or part of this Agreement pending destruction of the Redacted Rights Agreements and notification to the Conference.

22. Further Assurances. The Parties shall do and cause to be done all such additional acts and things necessary or proper to give effect to all terms and provisions of this Agreement, including but not limited to documentation or information needed to process payment of the Settlement Amount.

23. Counterparts. This Agreement may be signed in counterparts, with electronic signatures operating as if they were originals.

24. Conditional Settlement Requiring Approval. Consummation of this settlement is conditioned on approvals by the appropriate boards or executive official as required by the laws governing the respective Universities. The Universities will use best efforts to obtain those approvals and deliver their respective Settlement Amount within 30 days. If any individual University fails to obtain such approval within 30 days or a reasonable extension after 30 days which will not be unreasonably withheld and fails to pay the Settlement Amount to the Conference, this Agreement will be null and void solely as between that University and the Conference and have no legal effect, including but not limited to the releases in Paragraphs 7 and 8, above, as pertains to that University and the Conference.

25. Indemnification. The Conference shall defend and indemnify the Universities from any complaints, claims, judgments, awards, and associated damages, expenses (including reasonable attorney fees, expenses, and costs), and liabilities, related to the respective Universities' membership in and withdrawal from the Conference brought, made or filed by or on behalf of Florida International University, Louisiana Tech University, Middle Tennessee State University, University of Texas at El Paso, or Western Kentucky University.

26. Effective Date of the Agreement. This Agreement is effective on the date of signature of the last signatory to this Agreement ("Effective Date"). The effective date of any University's withdrawal from the Conference is determined under Paragraph 13., above

27. Notices. All notices as required by this Agreement shall be in writing and shall be sent by personal delivery, electronic mail, Certified United States Mail, or overnight courier to the addresses of the parties set forth below or such other address or addresses as may be designated by either party in writing in accordance with this Paragraph. Such notice shall be deemed to have been given upon being sent.

For Conference USA:

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WE THE UNDERSIGNED CERTIFY THAT WE HAVE READ THIS ENTIRE AGREEMENT AND HAVE HAD THE TERMS AND CONSEQUENCES EXPLAINED BY OUR RESPECTIVE ATTORNEYS. WE FULLY UNDERSTAND ALL THE TERMS AND CONSEQUENCES OF THIS AGREEMENT AND RELEASE AND BASED UPON SUCH, EXECUTE IT.

For Conference USA:



March 29, 2022

**Judy MacLeod
Commissioner**

For Marshall University:



Brad D. Smith
President

For the University of Southern Mississippi:

Rodney D. Bennett, Ed.D.
President

For Old Dominion University:

Brian O. Hemphill, Ph.D.
President

For Marshall University:

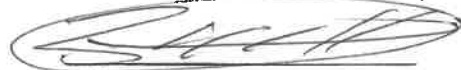
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