



MEMORANDUM OF UNDERSTANDING & SUBLICENSE AGREEMENT
between
AMERICA 250 FOUNDATION, INC.
AND
ASSOCIATION FOR THE STUDY OF AFRICAN AMERICAN LIFE AND HISTORY

This Memorandum of Understanding and Sublicense Agreement (the “Agreement”), including all Schedules attached hereto, is effective as of the [REDACTED] day of [REDACTED], 2021 (the “Effective Date”) and is made and entered into between the America 250 Foundation, Inc., (“Foundation”) a Delaware nonprofit corporation, with an address at 1663 Prince Street, Alexandria, VA 22314 and the ASSOCIATION FOR THE STUDY OF AFRICAN AMERICAN LIFE AND HISTORY [“Designee”], a 501(c)(3), having an address at 301 Rhode Island Avenue, NW, Suite 2204, Washington, DC 20001 in order to recognize partnership initiatives as defined in Schedule A as an expression of the American spirit in support of the 250th anniversary of the founding of the United States of America; and as such defines Designee as a National Partner of America250 and agree on terms for which the Parties will cooperate with each other and to establish terms for which the parties will permit the use of each other’s Sublicensed marks for the duration of this Agreement through a Sublicense agreement. Individually, each is referred to as “Party” and collectively as “Parties.”

Purpose: This MOU outlines the Parties’ general agreement intention to collaborate during the commemorative period from the time of the signing of this MOU approximately through the year 2027 in order to further the Parties’ mutual interest around the commemoration of the 250th anniversary of the founding of the United States. This MOU is non-binding except with respect to its provisions specifically stating the Parties’ contrary intention, namely, trademark sublicensing, the independence of each party, and confidentiality.

RECITALS

WHEREAS, the United States Semiquincentennial Commission (“Commission”), a U.S. Congressional commemorative commission was formed pursuant to the United States Semiquincentennial Commission Act of 2016, Public Law 114-196, to facilitate the planning, development, promotion and coordination of observances and activities that will commemorate the historic events that preceded, and are associated with, the United States Semiquincentennial and the implications of the Semiquincentennial for present and future generations (“A250”);

WHEREAS, the Commission, is the sole and exclusive owner of all right, title and interest in trademarks that are and will be used in connection with the observances and activities that are and will be associated with A250, including, without limitation, the mark depicted in U.S. Trademark Application Serial Nos. 88638123 and 88/638,107, and set forth on Schedule B, together with the goodwill connected with the use thereof and symbolized thereby (“Commission A250 Marks”);

WHEREAS, the Foundation is recognized as exempt from federal income taxation as a charity under section 501(c)(3) of the Internal Revenue Code (the “Code”) and classified as a Type II supporting organization under section 509(a)(3) of the Code to further the Commission’s purpose of facilitating, planning, developing, promoting, and coordinating observances and activities that are and will be associated with A250;

WHEREAS, the Commission has granted the Foundation an exclusive (except as to Commission), worldwide, revocable, non-assignable, non-transferable, royalty-free Sublicense to use and Sublicense use of the Marks

WHEREAS, the Foundation desires to recognize Designee’s Initiatives as defined in the Definition, not through the creation of a legal partnership entity, but through the branding designation of “National Partner” as Designee’s Initiatives meet the Congressional intent behind the United States Semiquincentennial Commission’s creation and further the charitable purposes of the Foundation; and through Designee’s national recognition, it will increase potential for both Parties to advance the programmatic embodiment of A250 on a national stage.

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

DEFINITIONS

“Initiative(s)” means any program(s), event(s), or other project or defined in Schedule A.

“Sublicensed Marks” means the trademarks in any of the variations, which are identified in Schedule B & C, including the “Sublicensed State Marks” and/or the “Sublicensed National Marks” identified therein. Such marks will further include those trademarks, trade dress, slogans, and logos, and modifications thereto, that may be developed by or on behalf of the Commission, from time to time. Schedule B & C may be revised by the Foundation from time to time, effective upon notice to Designee.

“A250 Vision” shall mean the directives, purpose, themes, guidelines and core values as communicated by the Foundation to Designee, effective upon notice, or those identified on the Foundation’s website at www.america250.org/about.

“Brand Assets” shall mean those marketing images, designs, and copy set forth in Schedule C, subject to revision by the Foundation from time to time, effective upon notice to Designee.

“Brand Guidelines” shall mean those directives and specifications set forth in Schedule D, subject to revision by the Foundation from time to time, effective upon notice to Designee.

“Licensed Marks” means the marks, including the trademarks and service marks, which are identified in Schedule B. Such marks will further include those trademarks, service marks, trade dress, slogans, and logos, and modifications thereto, that may be developed by or on behalf of the Commission from time to time and be associated with Products to be promoted and/or sold in connection with the A250.

1. Designation of “America250 National Partner.”

According to the terms and conditions as set forth in this MOU and attached Schedules, the parties agree that the Designee shall be recognized as an “America250 National Partner.” Designee acknowledges that America 250’s recognition of the Association for the Study of African American Life and History as a National Partner acknowledges the initiatives outlined in Schedule as an expression of the America 250 vision to inspire the American spirit yet does not constitute and shall not be construed as Commission or Foundation’s approval of or responsibility for any aspect of the content or implementation of its programming, including, without limitation, opinions and comments that are uploaded or posted on Designee’s website, promotional material or any other website or social media page controlled by Designee. For purposes of this designation, the Designee agrees to adhere to the Commission’s legislative intent and authorities; the Foundation’s vision statement and specific policy guidelines as established by the Foundation. Should at any time the Designee fail to adhere to these principles, the recognition of national partnership may be terminated by the Foundation at its sole discretion at any time with 30 days written notice to the Designee.

The Parties agree that they will collaborate on joint timing of any public (press or other) release of the designation of this National Partner relationship. Designee further agrees not to publicly disclose this designation without the written consent (email is acceptable) of Foundation.

2. Grant of Sublicense.

Subject to the terms and conditions herein and Designee’s compliance with design specifications and usage guidelines set forth in the attached Schedules, Foundation grants to Designee a non-exclusive, non-assignable, non transferable, fully paid-up, royalty-free, worldwide sublicense to use in fulfillment of the terms of this MOU. All rights not specifically granted to Designee herein are reserved by Foundation.

3. Restricted Use.

- a. Under no circumstances shall Designee amend or modify the Sublicensed Marks (or any components thereof) or use the Sublicensed Marks in a manner other than as depicted on Schedule C, Branding Guidelines, without the prior written approval of Foundation.
- b. Under no circumstances shall Designee use the Sublicensed Marks beyond the express purpose set forth in this Agreement. Nor shall Designee use the Sublicensed Marks on or in connection with any products or services not expressly permitted herein. A separate Sublicense is and must be required for any use of the Sublicensed Marks that falls outside the scope of this Agreement.
- c. Under no circumstances can Designee use the Sublicensed Marks for any merchandizing or other commercial purposes. A separate Sublicense is and must be required for the selling of any Product as defined in this Agreement.

4. Quality Controls and Approvals.

Designee agrees to ensure that, unless otherwise expressly agreed in writing by Foundation, that all Initiatives and any materials developed, published, displayed and/or issued in connection with the Sublicensed Marks shall be (a) consistent with the A250 Vision; (b)

in strict compliance with the requirements, directives and instructions communicated by the Foundation pertaining to quality of Initiatives and any materials related thereto; (c) in strict compliance with the Brand Guidelines; and (d) consistent with the quality of similar goods and services offered under the Commission A250 Marks, with which Designee confirms it is familiar (collectively, the “Quality Specifications”). Foundation may, upon reasonable prior notice thereof, request assurances that Designee is conforming to Quality Specifications.

5. Ownership.

a. Foundation represents and warrants to Designee that all right, title and interest in the Marks, except for Foundation’s limited right to Sublicense the Marks, is and shall at all times be held by Commission.

b. Nothing in this Sublicense Agreement shall be construed as an assignment to Designee of any right, title and/or interest in the Sublicensed Marks, it being understood that (except for the Trademark Sublicense granted herein) all right, title and interests relating thereto are expressly reserved by Commission and/or Foundation. If Designee acquires any rights in the Sublicensed Marks, by operation of law or otherwise, Designee hereby irrevocably assigns such rights to Commission without further action by any of the Parties.

c. All use of the Sublicensed Marks that will be made by Designee shall inure to the benefit of Commission. Designee further agrees to cooperate with both Foundation and Commission, and to execute any additional documents, as may be reasonably necessary, to protect the Sublicensed Marks.

6. Sublicensee Restrictions.

a. Designee shall not grant or attempt to grant a security interest in, or otherwise encumber, the Sublicensed Marks or record any such security interest or encumbrance against any application or registration regarding the Sublicensed Marks in the United States Patent and Trademark Office or elsewhere.

b. Designee agrees that it shall not directly or indirectly take, omit or permit any action that will infringe or dilute the Sublicensed Marks or tarnish or bring into disrepute the reputation or goodwill associated with the Sublicensed Marks, Foundation or Commission, or which will or may invalidate or jeopardize any of the Sublicensed Marks; dispute or challenge, or assist any person or entity in disputing or challenging the validity or distinctiveness of the Sublicensed Marks, or Commission’s and Foundation’s rights in and to the same; apply for, obtain, or assist any person in applying for or obtaining a registration for the Sublicensed Marks, or any trademark, service mark, trade name or other indicia confusingly similar to the Sublicensed Marks; or use, or permit to be used, any marks confusingly similar to any of the Sublicensed Marks unless it first obtains Foundation’s prior written consent.

7. Sublicensee Representations and Warranties.

Designee represents and warrants that: (i) it has the full power and authority to enter into this Agreement and to perform the obligations set forth herein; (ii) the execution, delivery and performance of this Agreement will not conflict with or violate any law, rule or regulation to which it is subject, or any agreement of other instrument applicable to it; (iii) it shall comply with all applicable laws, rules, and regulations in the performance of this Agreement; and (iv) it has truthfully represented and fully disclosed to the Foundation the mission, activities, and organizational make-up of Designee.

8. Website Use.

a. Designee acknowledges that the Foundation is entitled, but not obligated, to include a link or hyperlink to the Designee’s website on the www.america250.org website.

b. Designee agrees that it will include a hyperlink to www.america250.org.

c. Designee acknowledges that it has a duty to monitor and police inappropriate content on its website. It shall, consistent with its policies and practices, actively monitor and remove any inappropriate comments, posts or other content uploaded to its Website or Social Media that violate its policies or paragraph (1) above. Designee further acknowledges and agrees that the Foundation is not responsible, and shall not under any circumstances be liable, for any comments, posts, wishes or other content that is uploaded to, or appears on, Designee’s Website, Social Media, presentations, event banners or press releases that are developed, published, displayed, or issued by Designee related to this Agreement.

9. Promotional Use. Each Party is permitted to promote Foundation’s official recognition of Designee as a “National Partner” subject to the Paragraph 1 limitations of prior written agreement or permission.

10. Confidentiality. The Parties agree that the terms of this Agreement will remain confidential, except (1) the terms of this Agreement may be subject to disclosure, if requested, under the Freedom of Information Act, 5 U.S.C. § 552, or federal regulation as applicable to an individual federal agency National Partner and (2) to the extent required by law or Congress. Any public communication regarding the terms of this Agreement shall be subject to the Parties’ mutual written consent.

11. General Provisions

Nonpartisan, Nonpolitical Status. Designee acknowledges that the Foundation is a nonpartisan, nonpolitical, charitable organization supporting the Commission, a federal government entity. In fulfilling the terms of this Agreement with the Foundation, Designee shall not conduct, fund, or promote any lobbying activities, candidate forums, partisan, or political events, or otherwise engage in any political campaign intervention or partisan political activity.

Injunctive Relief. Designee expressly agrees that the Foundation and/or the Commission would suffer irreparable harm from a material breach by Designee or its Sublicensees of any of the covenants contained in this Agreement, and that remedies other than injunctive relief cannot fully compensate or adequately protect the Foundation and/or the Commission for such a violation. Therefore, without limiting the right of the Foundation and/or the Commission to pursue all other legal and equitable remedies available for breach of this Agreement, in the event of actual or threatened material breach by Designee, Designee consents that the Foundation and/or the Commission shall be entitled to seek injunctive or other relief in order to enforce or prevent any such violation or continuing violation thereof. Designee agrees not to raise the defense of an adequate remedy at law in any such proceeding. Designee acknowledges and agrees that the provisions of this paragraph are reasonably necessary and commensurate with the need to protect the Foundation and/or the Commission against irreparable harm and to protect its legitimate and proprietary business interests and property.

Further Assurances and Cooperation. Each Party agrees to execute and deliver to the other Party such other instruments, documents, and statements, including without limitation, instruments and documents of recordation, assignment, transfer, conveyance, and clarification and take such other action as may be reasonably necessary or convenient in the discretion of the requesting Party to carry out more effectively the purposes of this Agreement.

Interpretation and Construction. The section titles are intended solely for convenience and shall not affect the construction or interpretation of any of the provisions of this Agreement. No provision of this Agreement shall be construed in favor of or against any Party on the ground that such Party or its counsel drafted the provision. The language used herein, unless defined specifically, shall be construed according to its reasonable and customary meaning in the United States. Terms of art used in this Agreement, which are not defined herein, shall be defined as commonly understood in the United States licensing industry for similar products. This Agreement shall at all times be construed so as to carry out its stated purposes.

Severability. The provisions of this Agreement shall be severable, and if any provision of this Agreement shall be held or declared to be illegal, invalid, or unenforceable in any jurisdiction, such illegality, invalidity or unenforceability shall not affect any other provision hereof or the interpretation and effect of the Agreement as to any other jurisdiction, and the remainder of the Agreement, disregarding such illegal, invalid or unenforceable provision, shall continue in full force and effect as though such illegal, invalid, or unenforceable provision had not been contained herein.

Waiver. No waiver of any of the provisions of this Agreement shall be valid unless in writing signed by the Party against which the waiver is sought to be enforced. No waiver by either Party of any breach or failure of performance shall be deemed a waiver as to any subsequent breach or failure of performance, whether or not similar, nor shall any waiver constitute a continuing waiver.

Insurance. Designee must provide proof of an occurrence based Commercial General Liability Insurance Policy including but not limited to contractual liability, personal injury liability, and operations liability

Relationship Among the Parties. Nothing contained in this Agreement is intended or shall be construed to constitute, alter, or create a legal partnership, joint venture, franchise relationship, or formal business of any kind. Nor shall anything contained in this Agreement be construed to alter or constitute an employee/employer or principal/agent relationship, with it intended that the relationship should at all times be that of independent contractors and sub licensor and Sublicensee, respectively.

Counterparts. This Agreement may be executed contemporaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Each party to this Agreement consents to the use of electronic and/or digital signatures by one or both Parties. This Agreement, and any other documents requiring a signature hereunder, may be signed electronically.

Successors and Assignment. This Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Partner may not assign or otherwise transfer, directly or indirectly, this Agreement in whole or in part, by voluntary act, operation of law or otherwise without the prior written consent of the other Foundation, which may be withheld for any and no reason.

Merger. This Agreement, including Schedules A, B and C contains the entire agreement between the Parties in respect to the subject matter hereof and supersedes and cancels all previous agreements, negotiations, commitments, writings in respect to such subject matter. There shall be no amendments or modifications to his Agreement except by a written document signed by both Parties.

Governing Law. This Agreement shall be construed in accordance with the laws of the Commonwealth of Virginia and any action brought to interpret or enforce the terms and conditions of this Agreement shall be proper only in Commonwealth of Virginia courts. The Parties agree to such exclusive jurisdiction and venue.

Notices. All notices, demands and other communications to be given or delivered under or by reason of the provisions of this Agreement shall be in writing and will be deemed to have been given (i) when personally delivered, (ii) when receipt is acknowledged, if sent by facsimile or other electronic transmission devices; or (iii) one day after deposit with a nationally recognized overnight courier, specifying next day delivery or (iv) three (3) days after being sent by registered or certified mail. Notices, demands and communications to Foundation and Partner, shall, unless another address is specified in writing, be sent to the addresses indicated below:

If to the Foundation:
America 250 Foundation, Inc.
1663 Prince Street
Alexandria, VA 22314
Phone 202-871-1776
Attention Joseph C. Daniels, CEO and President
Email:jdaniels@america250.org

With a copy to:
Thomas J. McGarrigle, Esq.
Reed Smith LLP
Three Logan Square
1717 Arch Street
Suite 3100
Philadelphia, PA 19103
Phone: 215-851-8100
Fax: 215-851-1420
Email: tmcgarrigle@reedsmith.com

If to the National Partner:
Association for the Study of African American Life and History

coverage with minimum limits of: \$1,000,000 Each Occurrence;
\$2,000,000 General Aggregate.

301 Rhode Island Ave, NW
Suite 2204
Washington DC 20001
Phone: 202-238-5914
Attention:
Email:

IN WITNESS WHEREOF, the Parties execute the Agreement as follows on [___], 2021:

FOR AMERICA 250 FOUNDATION, INC.
JOSEPH C. DANIELS, CEO AND PRESIDENT
1663 PRINCE STREET
ALEXANDRIA, VA 2231
EMAIL: JDANIELS@AMERICA250.ORG

**FOR ASSOCIATION FOR THE STUDY OF AFRICAN
AMERICAN LIFE AND HISTORY**
NAME
EMAIL

SCHEDULE A – TERMS AND CONDITIONS

The Parties agree to the following terms and conditions of this Agreement:

Term. This Agreement is effective as of the Effective Date and shall continue until December 31, 2027, unless terminated earlier in accordance with this Agreement. The Parties may negotiate a further extension of the Term should they agree it is required.

Termination of Agreement. Foundation may terminate this Agreement at any time without cause upon thirty (30) days written notice to Designee. Foundation may also terminate this Agreement immediately if Designee materially breaches this Agreement including but not limited to the unauthorized use of the Foundation's Sublicensed Marks.

Effect of Termination. Upon the expiration or termination of this Agreement, the Trademark Sublicense granted herein to Designee shall forthwith terminate and Designee shall immediately discontinue all use of the Sublicensed Mark unless otherwise agreed to by the Foundation.

AMERICA 250 FOUNDATION AGREES TO:


1. Recognize Designee as a "National Partner" on the basis that Designee's Initiatives are an expression of the A250 vision to inspire the American spirit.
2. Permit Designee to the use of the A250 Sublicensed Marks as described herein solely in connection with the "Initiatives" in digital or analog formats upon prior written (email is acceptable) notice to Foundation.
3. At its discretion, include Designee's logo on Foundation website, social media, and other promotional materials and platforms relating to this National Partnership.

DESIGNEE AGREES TO:

1. Permit America 250 use of the Designee's licensed marks as provided by the Designee for designation as a National Partner and as described herein solely in connection with the "Initiatives" in digital or analog formats upon prior written (email is acceptable) notice to Foundation.
2. Undertake the planning, collaboration, and/or execution of the following Initiatives in a manner consistent with section 501(c)(3) of the Code in accordance with the A250 vision and Congressional intent. At all times, the Sublicensed Marks and funds received by Designee from the Foundation (if any) shall be used exclusively in connection with and to further the accomplishment of the Initiatives in accordance with the terms otherwise set forth herein.
3. Abide by the trademark Sublicense provisions of this agreement and notify Foundation of intent to use any Brand Assets in advance.
4. Indemnify, defend and hold harmless the Foundation for any willful or negligent acts which may occur during the execution of any Designee's Initiatives relating to this agreement.
5. Notwithstanding anything to the contrary:
 - A. Funds, if any, received from the Foundation shall be expended exclusively to further charitable purposes within the meaning of section 501(c)(3) of the Code and to accomplish the Initiatives described in this Agreement. Furthermore, such funds may not be used to attempt to influence legislation or the outcome of any specific public election; to carry on, directly or indirectly, any voter registration drive; or undertake any activities for a non charitable purpose.
 - B. Designee shall use the Sublicensed Marks in a manner that is consistent with the charitable purposes of the Foundation and that furthers the charitable goals of the Initiatives.

SCHEDULE B

A250 Licensed Mark: Federal Trademarks – Filed &/or Registered with U.S. Patent & Trademark Office (USPTO)

Serial No. (SN)	Mark/Name	Application Date
SN: 88638123	AMERICA 250 (Stylized) 	October 1, 2019
SN: 88638107	AMERICA250	October 1, 2019

SCHEDULE C

A250 Brand Assets for Use by Designee - A250 Licensed Mark (as depicted in Schedule B)



SCHEDULE D

See attached PDF document entitled “America250 Brand Identity National Partner Sub-Guidelines” (screenshot of page 1 below)



SCHEDULE E

See attached PDF document outlining Designee's Brand Guidelines