

**MEMORANDUM OF AGREEMENT
FRANCIS MARION UNIVERSITY
&
THE FRANCIS MARION UNIVERSITY EDUCATION FOUNDATION**

This agreement, entered into as of this 10th day of May, 2017, by and between FRANCIS MARION UNIVERSITY (hereafter referred to as “the University” and the FRANCIS MARION UNIVERSITY EDUCATION FOUNDATION (hereafter referred to as “the Foundation”).

The Foundation was organized and incorporated in 1974 for the purpose of stimulating and obtaining private support from alumni, parents, friends, corporations, foundations, and others for the benefit of the University.

The Foundation exists to raise and manage private resources supporting the mission and priorities of the University and provide opportunities for students and a margin of institutional excellence beyond that available with state funds.

The Foundation is dedicated to assisting the university in the building of the endowment and in addressing, through financial support, the long-term academic and other priorities of the university. The Foundation may also provide operational and logistical support or oversight for programs designed to support the University’s mission.

As stated in its articles of incorporation, the foundation is a separately incorporated 501 (c) (3) organization and is responsible for identifying and nurturing relationships with potential donors and other friends of the University, soliciting cash, securities, real and intellectual property, and other private resources for the support of the University; and acknowledging and stewarding such gifts in accordance with donor intent and its fiduciary responsibilities.

Furthermore, in connection with its fund-raising and asset-management activities, the foundation provides support in planning for and managing private contributions and works with the university to assist and advise in such activities.

In consideration of the mutual commitments herein contained, and other good and valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

Foundation Name, Seal and Logotype

Consistent with its mission to help to advance the plans and objectives of the university, the foundation is granted the use of the name, FRANCIS MARION UNIVERSITY. The Foundation is also granted the use of the university seal and other indicia in conjunction with its name or derivatives (“Francis Marion University Education Foundation” or “FMU Education Foundation”).

Institution Governance

- The Board of Trustees of the University is responsible for overseeing the mission, leadership, and operations of the University.

- The Board of Trustees of the University is responsible for setting priorities and long-term plans for the University.
- The Board of Trustees of the University is legally responsible for the performance and oversight of all aspects of University operations.
- The Board of Trustees of the University is responsible for the employment, compensation, and evaluation of all University employees, including the president.
- The president is responsible for establishing the fundraising priorities for Francis Marion University and ensuring initiatives to fulfill those priorities are implemented.

The Foundation's Relationship to the Institution

- The Foundation is a separately incorporated 501 (c) (3) nonprofit organization created to raise, manage, distribute, and steward private resources to support the various missions of the university.
- The Foundation board of directors is responsible for the control and management of all assets of the foundation, including the prudent management of all gifts consistent with donor intent.
- The Foundation board of directors is responsible for the performance and oversight of all aspects of its operations based on a comprehensive set of bylaws that clearly address the board's fiduciary responsibilities, including expectations of individual board members based upon ethical guidelines and policies.
- The Foundation is responsible for the employment or the reimbursement to the University for compensation of its employees, including the foundation chief executive.
- The Foundation may earmark a portion of its unrestricted funds to a discretionary fund for the president of the University and will reimburse appropriate presidential expenditures or make appropriate expenditures on the president's behalf. All such expenditures must comply with the I.R.S. 501 (c) (3) code and be consistent with the foundation's mission. Such funds will be audited as part of the foundation's annual independent audit.

The Institution's Relationship to the Foundation

- The president of the University is responsible for communicating the University's priorities and long-term plans, as approved by the board, to the foundation.
- The University recognizes that the foundation is a private corporation with the authority to keep all records and data confidential consistent with the law.
- The chief executive of the foundation is a coterminous appointment with the position of Vice President for Development, a position that reports to the University President.
- The president or chancellor of the university shall serve as an ex-officio member of the foundation board and shall assume a prominent role in fund-raising activities.

Foundation Responsibilities

Fund-Raising

- The Foundation shall create an environment conducive to increasing levels of private support for the mission and priorities of the University.
- The Foundation, in consultation with the University President and office of Development, is responsible for planning and executing comprehensive fund-raising and donor-acquisition programs in support of the institution's mission. These programs include

annual giving, major gifts, planned gifts, special projects, and campaigns as appropriate. As per its established purpose to support the University, the Foundation will adhere to fundraising priorities and initiatives as determined by the University President.

- The Foundation will establish, adhere to, and periodically assess its gift-management and acceptance policies. It will promptly acknowledge and issue receipts for all gifts on behalf of the foundation and the university and provide appropriate recognition and stewardship of such gifts.
- The University recognizes that the foundation bears major responsibility for fund-raising. University representatives will coordinate fund-raising initiatives including major gifts solicitations with the foundation.
- The University President will work in conjunction with the leadership of the foundation board and the foundation chief executive to identify, cultivate, and solicit prospects for private gifts.
- The Foundation shall establish and enforce policies to protect donor confidentiality and rights.

Asset Management

- The Foundation will maintain asset-allocation, disbursement, and spending policies that adhere to applicable federal and state laws including the Uniform Prudent Investor Act (UPIA) and the Uniform Management of Institutional Funds Act (UMIFA).
- The Foundation will receive, hold, manage, invest, and disperse contributions of cash, securities, patents, copyrights, and other forms of property, including immediately vesting gifts and deferred gifts that are contributed in the form of planned and deferred-gift instruments.
- The Foundation will engage an independent accounting firm annually to conduct an audit of the foundation's financial and operational records and will provide the University with a copy of the annual audited financial statements, including management letters.
- The Foundation is responsible for any liabilities it incurs; the University bears no responsibility for Foundation liabilities.

Institutional Flexibility

- The Foundation will explore current opportunities, including acquisition and management of real estate on behalf of the University for future allocation, transfer, or use.
- The Foundation may serve as an instrument for entrepreneurial activities for the university and engage in such activities as purchasing, developing, or managing real estate for university expansion. It also may hold licensing agreements and other forms of intellectual property, borrow or guarantee debt issued by their parties, or engage in other activities to increase foundation revenue with no direct connection to a university purpose.
- When distributing gift funds to the university, the Foundation will disclose any terms, conditions, or limitations imposed by donor or legal determination on the gift. The University will abide by such restrictions and provide appropriate documentation.

Transfer of Funds

- The Foundation is the primary depository of private gifts and will transfer funds to the designated entity within the institution in compliance with applicable laws, university policies, and gift agreements.
- The Foundation's disbursements on behalf of the university must be reasonable business expenses that support the institution, are consistent with donor intent, and do not conflict with the law.

Foundation Funding and Administration

- The Foundation is responsible for establishing a financial plan to underwrite the cost of foundation programs, operations, and services.
- The Foundation has the right to use a reasonable percentage of the annual unrestricted funds, assess fees for services, or impose gift taxes, to support its operations.
- The Foundation, at its own expense, will provide office space, computer and telephone systems, utilities, adequate personnel, office supplies, and other such services that may be necessary or required to fulfill its responsibilities and obligations, or reimburses the university for such operational services.
- The Foundation shall maintain, at its own expense, copies of the plans, budgets, and donor and alumni records developed in connection with the performance of its obligations.
- The Foundation will provide access to data and records to the university on a need-to-know basis in accordance with applicable laws, foundation policies, and guidelines. The foundation will provide copies of its annual report, and other information that may be publicly released.

Terms of the Memorandum of Understanding (MOU)

This Memorandum of Understanding, made this 10th of May, 2017, by and between the President of Francis Marion University and the Executive Director of the Francis Marion University Education Foundation (an Internal Revenue Code §501 (c) (3) nonprofit corporation), is intended to set forth policies and procedures that will contribute to the coordination of their mutual activities.

To ensure effective achievement of the items of the agreement, the university and foundation officers and representatives shall hold periodic meetings to foster and maintain productive relationships and to ensure open and continuing communications and alignment of priorities.

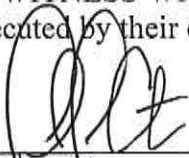
Either party may, upon 90 days prior written notice to the other, terminate this agreement. Notwithstanding the foregoing, either party may terminate this MOU in the event the other party defaults in the performance of its obligations and fails to cure the default within a reasonable time after receiving written show cause notice.

Should the university choose to terminate this agreement the foundation may require the university to pay, within 180 days of written notice, all debt incurred by the foundation on the university's behalf including, but not limited to, lease payments, advanced funds, and funds borrowed for specific initiatives. Should the foundation choose to terminate this agreement the


university may require the foundation to pay debt it holds on behalf of the foundation in like manner.

Consistent with provisions appearing in the foundation's bylaws and its articles of incorporation, should the foundation cease to exist or cease to be an Internal Revenue Code §501(c)(3) organization, the foundation will transfer its assets and property to the institution, to the university, to a reincorporated successor foundation, or to the state or federal government for public purposes, in accordance with the law and donor intent.

IN WITNESS WHEREOF, the parties have caused this Memorandum of Understanding to be executed by their duly authorized officers as of the day and date first above written.



Luther F. Carter, President
Francis Marion University
Date: 5/10/17



Darryl L. Bridges, Executive Director
Francis Marion University Education Foundation
Date: 5/12/17