

Memorandum of Understanding
Between the Friends of College of Micronesia-FSM, Inc., and the College of
Micronesia-FSM

THIS AGREEMENT, entered into as of this 7th day of August 2015 by and between the College of Micronesia-FSM (COM-FSM) and the Friends of the College of Micronesia-FSM, Inc. (FCM-FSM) foundation.

FCM-FSM was organized and incorporated in April 2013 for the purpose of stimulating voluntary private support from alumni, parents, friends, corporations, foundations, and others for the benefit of the College of Micronesia-FSM.

The Friends of COM-FSM, Inc. foundation exists to raise and manage private resources supporting the mission and priorities of the College of Micronesia-FSM, provides opportunities for students and a margin of institutional excellence unavailable with FSM national and state funds.

The foundation is dedicated to assisting the college in the building of the endowment and in addressing, through financial support, the long-term academic and other priorities of the college.

As stated in Article THREE of its articles of incorporation, the purposes of FCM-FSM are:

- (a) To support and advance in both the United States and in the Federated States of Micronesia, the charitable and educational purposes of the College of Micronesia-FSM, located in the Federated States of Micronesia.
- (b) To engage in other and additional charitable, scientific, and/or educational activities within the meaning of IRC 170(c)(2)(B), 501(c)(3), 2055(a)(2), and 2522(a)(2).

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 COM-FSM; soliciting cash, securities, real and intellectual property, and other private resources for the support of the COM-FSM; 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 may retain personnel experienced in planning for and managing private contributions and works with the college 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 college, the foundation is granted the use of the name, Friends of COM-FSM, Inc. foundation; however, the foundation will operate under its own seal and logotype and shall not use the college seal or other identifying marks in the promotion of its business and activities.

COLLEGE OF MICRONESIA-FSM BOARD OF REGENTS:

- The Board of Regents of the College of Micronesia-FSM is responsible for overseeing the mission, leadership, and operations of the college.
- The Board of Regents is responsible for setting priorities and long-term plans for the College of Micronesia-FSM.
- The Board of Regents is legally responsible for the performance and oversight of all aspects of the College of Micronesia-FSM operations.
- The Board of Regents is responsible for the employment, compensation, and evaluation of the president of COM-FSM. The president or his designee shall be the official liaison between the college and the Friends of COM-FSM, Inc. foundation.

THE FRIENDS OF COM-FSM FOUNDATION:

- The Friends of College of Micronesia-FSM, Inc. foundation is a separately incorporated 501 (c) (3) nonprofit organization created to raise, manage, distribute, and steward private resources to support the mission of the College of Micronesia-FSM. The Friends of COM-FSM, Inc. 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 Friends of COM-FSM, Inc. foundation 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 Friends of COM-FSM, Inc. foundation is responsible for the employment, compensation, and evaluation of all its employees, including the foundation chief executive.
- The Friends of COM-FSM, Inc. foundation shall annually review and issue a spending policy statement consistent with the provisions of the Uniform Prudent Management of Institutional Funds Act ("UPMIFA"). The spending policy statement will
 - establish the annual distribution rate and disbursement schedule for the purpose of providing a predictable and stable stream of revenue to the college.
 - ensure that the real value (defined as purchasing power) of the revenue stream does not decline over the long term
 - and ensure that the real value of the endowment assets does not decline over the long term.
- Friends of COM-FSM, Inc. foundation will also report annually which portion or percentage of its assets and earnings are unrestricted funds – and are thus earmarked as general unrestricted funds to a discretionary fund for the operation of the college – and which assets and earnings are donor restricted and what conditions apply for the release of said funds.

THE COLLEGE OF MICRONESIA-FSM PRESIDENT/CEO:

- The COM-FSM president/CEO is responsible for communicating priorities and long-term plans, as approved by the board, to the foundation.
- COM-FSM recognizes that the foundation is a private corporation with the authority to keep all records and data confidential consistent with the law.
- The president of the foundation will consult regularly with the college president/CEO. COM-FSM shall include the foundation as an active and prominent participant in the strategic planning for the college.
- The COM-FSM president/CEO or his/her designee shall serve as an ex-officio member of the foundation board and shall assume a prominent role in fund-raising activities.
- COM-FSM shall establish and enforce policies that support the Friends of the COM-FSM, Inc. foundation's ability to respect the privacy and confidentiality of donor records.

FRIENDS OF THE COLLEGE OF MICRONESIA, INC. FOUNDATION RESPONSIBILITIES:

1. Fund-Raising

- The Friends of COM-FSM, Inc. shall create an environment conducive to increasing levels of private support for the mission and priorities of the College of Micronesia-FSM.
- The Friends of COM-FSM, Inc. foundation, in consultation with the college president/CEO, 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. The Friends of COM-FSM, Inc. 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 college and provide appropriate recognition and stewardship of such gifts.
- The College of Micronesia-FSM recognizes that the foundation bears major responsibility for fund-raising. College representatives will coordinate fund-raising initiatives including major gifts solicitations with the foundation.
- The COM-FSM president/CEO 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 Friends of COM-FSM, Inc. foundation shall not accept grants from state or federal agencies, except in special circumstances that are approved by the foundation board of directors and the governmental agency. A salient example might be a circumstance where a U.S. domestic 501(c)3 entity might be eligible for agency funding, but an FAS-based entity might not. In no instance, however, shall the Friends of COM-FSM, Inc. foundation apply for such funding in the name of the college or without the college's express written consent. The Friends of COM-FSM, Inc. foundation shall establish and enforce policies to protect donor confidentiality and rights.

2. Asset Management

- The Friends of COM-FSM, Inc. foundation will establish 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 Friends of COM-FSM, Inc. 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 Friends of COM-FSM, Inc. foundation will engage an independent accounting firm annually to conduct an audit of the foundation's financial and operational records and will provide COM-FSM with a copy of the annual audited financial statements, including management letters.
3. Institutional Flexibility
- The Friends of COM-FSM, Inc. foundation will explore current opportunities, including acquisition and management of real estate on behalf of the College of Micronesia-FSM for future allocation, transfer, or use.
 - When distributing gift funds to the college, the Friends of COM-FSM, Inc. foundation will disclose any terms, conditions, or limitations imposed by donor or legal determination on the gift. COM-FSM will abide by such restrictions and provide appropriate documentation.
4. Transfer of Funds
- The Friends of COM-FSM, Inc. 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 Friends of COM-FSM, Inc. foundation's disbursements on behalf of the college must be reasonable business expenses that support the institution, are consistent with donor intent, and do not conflict with the law.

FRIENDS OF COM-FSM FOUNDATION FUNDING AND ADMINISTRATION:

- The Friends of COM-FSM, Inc. foundation is responsible for establishing a financial plan to underwrite the cost of foundation programs, operations, and services.
- The Friends of COM-FSM, Inc. 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 Friends of COM-FSM, Inc. 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 Friends of COM-FSM, Inc. foundation will provide access to data and records to the college 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 7th day of August 2015 by and between the Board of Regents of the College of Micronesia-FSM and the Friends of COM-FSM, Inc. 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. Notwithstanding, none

of the provisions of this document shall be in force if they conflict with provisions of the Internal Revenue Code §501 (c) (3).

To ensure effective achievement of the items of the agreement, the college and foundation officers and board 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 forgoing, 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 college choose to terminate this agreement the foundation may require the college to pay, within 180 days of written notice, all debt incurred by the foundation on the college'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 college 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 college, to a reincorporated successor foundation, 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.

Chairman
Board of Regents, COM-FSM

President
Board of Friends of COM-FSM, Inc.

Date: _____

Date: _____

President/CEO
College of Micronesia-FSM

Date: _____