

McKnight Brain Research Foundation Gift Agreement
University of Miami Medical School

This Agreement is made as of the 24th day of December, 2002, by and between the McKnight Brain Research Foundation ("MBRF") and the University of Miami for the benefit of the School of Medicine of the University of Miami ("UM").

1. **The Gift.** The MBRF agrees to contribute \$5,000,000 ("Gift") to the UM. The Gift and any and all additions to the Gift, including but not limited to matching dollars, growth, and income, shall, for purposes of this Agreement, be referred to as the Evelyn F. McKnight Center for Age Related Memory Loss Fund (the "Fund") and shall be held and used in accordance with this Agreement. Except as otherwise expressly permitted in this Agreement, the Gift and any match (as defined at paragraph 4 hereof) shall be considered "permanently restricted" as that term is used in Statement of Financial Accounting Standards No. 117 and shall be reported as such on the UM's financial statements. It is understood and agreed that the UM may establish multiple accounts for the Fund and distributions from the Fund in accordance with its normal accounting practices. This Agreement is not intended to require a modification of these practices except to the extent such practice may be in direct conflict with this Agreement.

2. **Purpose.** The purpose of the Fund is the support of medical research of the brain, principally intended for clinical application, to accomplish alleviation of age related memory loss. All references herein to purpose or purposes shall be to this purpose (the "Purpose"). The overriding intent of THE MBRF is that all dollars spent hereunder are spent for the furtherance of the Purpose.

Any change in the Purpose will require approval of the MBRF, which approval will not be unreasonably withheld. In the event for any reason the UM and the MBRF are unable to agree

on a change in the Purpose, the Fund shall be disposed in accordance with the procedure set out in paragraph 10 hereof. The MBRF believes that research in Alzheimer's disease is very important.

The research emphasis of the MBRF, however, is on the non Alzheimer memory loss associated with the aging process. The Purpose will be so interpreted.

3. **Schedule and Form of Contributions.** The MBRF will make five transfers to the UM as follows:

\$1,500,000 on or before 7/1/03

\$875,000 on or before 7/1/04

\$875,000 on or before 7/1/05

\$875,000 on or before 7/1/06

\$875,000 on or before 7/1/07

It is agreed that the MBRF may transfer cash and/or publicly traded securities. For this purpose, securities will be valued in accordance with the federal income tax rules that apply to valuing charitable contributions.

4. **University Match.**

The MBRF is making this Gift contingent upon a 100% match by the UM or other UM donors (the "Match"). It is agreed that if the entire 100% Match is not received on or before July 1, 2008, then at the option of the MBRF, the Gift may be returned to the MBRF.

5. **Investment of the Fund and Spending Policy.**

5.1 *Investment of the Fund.* The Fund shall be invested by the UM in accordance with its Endowment Spending and Investment Policy ("Investment Policy") as of the date of this Agreement and as the same may be changed from time to time by the UM. Exhibit 5.1 is the current Investment Policy. It is agreed that if, for any reason, the authority to invest the Fund is removed

from the UM or the UM's investment discretion is limited, then at the direction of the MBRF the Fund will be managed by one or more corporate fiduciaries mutually agreed upon by the MBRF and the UM. Should that occur, the Investment Policy will be to produce a real total return for assets invested that will preserve or increase the Fund's purchasing power and at the same time provide annual distributions to further the Purpose of the Gift.

5.2 *Spending Policy.* The UM will make distributions from the Fund in accordance with its spending policy as adopted from time to time for permanent endowment fund. If, at any time, the authority to adopt and implement a spending policy is removed from the UM, or in any way limited, the Fund will annually distribute an amount equal to the amount that would be distributed if the UM's spending policy or spending rate for the year (that is the percentage of the total fund used to further the Purpose of the Fund each year) was equal to the unweighted average spending policy or rate (for permanent endowment type funds) used by the private colleges with the 20 largest endowments in the United States. It is recognized that this average rate will change from year to year. The average rate of any year shall be based on the most current publicly available information published by the National Association of College and University Business Officers ("NACUBO" or if at the time NACUBO does not publish spending rate information, then the spending rate information most similar to the spending rate information published by NACUBO as of the date of this Agreement.

5.3 *Reports.* The MBRF shall receive at least annually an investment performance and spending policy report on the Fund. Additionally, the MBRF shall, at least annually, receive a report on the endowment investment pool or whatever fund within which the Fund is held similar to the report issued to the UM by its external investment consultant.

6. **Prohibited Uses.** The UM agrees that no portion of the Fund will be used directly or indirectly to construct, purchase, improve or maintain real property, pay overhead or indirect type expenses, or otherwise be used for other than direct expenditures in furtherance of the Purpose of the Fund. The periodic reports provided by the UM will include an affirmative statement to the effect that no portion of the Fund or distributions from the Fund have been used for any prohibited purposes as described in this paragraph. It is agreed that the UM may charge the Fund any expense charge that is charged all permanent funds held by the UM. The charge is currently 1% per year. Any such charge shall be no greater than the most favorable charge imposed by the UM on any of its permanent funds. This is commonly referred to as a most favored nation provision and shall be applied as such.

7. **Commercial Exploitation.** The UM agrees that if any property is developed, invented, created or otherwise results from the research conducted as a result of the Fund, that any funds derived therefrom shall be allocated according to the University's policy as the same may exist at the time of the commercial exploitation. A copy of the current policy is attached as Exhibit 7.

8. **Collaboration, Consultation, Etc.**

8.1 *Collaboration/Visiting Professors.* The UM will endeavor to identify research scientists involved in similar research at other institutions who would collaborate with scientists at the Center to complement or augment the Purpose of the Center, if it is anticipated such collaboration would be beneficial.

8.2 *Annual Consultation.* The operations of the Center will be within the sole discretion of the UM. However, the UM shall discuss the operations with the MBRF at least annually in a consultation mode and shall take into consideration the MBRF's input regarding Center operations.

8.3 *Reports.* At least annually, the UM shall prepare a report that describes the operations of the Center including results of operations and ongoing and recently completed research. The report shall include an affirmative statement that the operations further the Purpose of the Fund and that no portion of the Fund was used for a prohibited purpose as described herein. Additionally, the UM will inform the MBRF of noteworthy items of interest when they occur at the Center.

8.4 *Meetings and Programs.* The UM shall notify the MBRF of meetings, conferences, and similar functions relating to the Center and, when appropriate, permit the MBRF members to attend as observers. It is intended that this will include both formal internal UM meetings and seminars, presentation of papers, and similar activities, generally open to the public.

9. **Recognition/Publicity.** In recognition of the Gift, the University will name a center the Evelyn F. McKnight Center for Age Related Memory Loss of the University of Miami School of Medicine (herein the "Center"). In addition, the UM agrees as follows:

9.1 *References.* All references by the UM to the Center should be to the Evelyn F. McKnight Center for Age Related Memory Loss. To the extent reasonably practicable, the UM shall cause print and broadcast media and scientific publications and presentations to refer to the Center as the Evelyn F. McKnight Center for Age Related Memory Loss. Copies of all such material shall be sent to the MBRF.

9.2 *Signage.* Evelyn F. McKnight Center for Age Related Memory Loss shall appear on or around the UM Medical School Campus in a fashion similar to other centers named in recognition of donors to the UM who have made gifts similar amount to the Gift. The signage actually used and its location shall be subject to approval of the MBRF, which approval will not be unreasonably withheld and shall be consistent with UM signage policies.

9.3 *Stationery.* The letterhead stationery, cards, etc., used by the Center shall show its name as being the Evelyn F. McKnight Center for Age Related Memory Loss.

9.4 *Recognition.* The Gift will be given recognition similar to that given contributions of the dollar amount of the Gift. For this purpose, the dollar amount of the Gift shall include any match (whether from the UM or any other source) received by reason of the Gift.

9.5 *Press Releases.* The UM and the MBRF agree that press releases and other information announcing the Gift shall be subject to prior approval of both the MBRF and the UM, which approval will not be unreasonably withheld. Approval by the University's Senior Vice President for Medical Affairs and Dean, or his or her designee, shall satisfy this requirement.

9.6 *Location.* The Center will be located at the main campus of the University of Miami School of Medicine.

10. **Continuation of the Center.** The MBRF has made the Gift in reliance on the Center continuing in the future in the form and nature as was presented to the MBRF, and as described in Exhibit 10 at the time the MBRF decided to make the Gift. The MBRF recognizes that Exhibit 10 is a general plan that will undergo changes in detail as the Center develops. However, the description is an overview of the understanding of the UM and the MBRF at the time of Agreement and it is agreed the Center will follow the general parameters of Exhibit 10 unless changes are mutually agreed upon by the UM and the MBRF. In the event if, for any reason, the UM is unable to carry out the Purpose of the Gift, and/or the UM and the MBRF are unable to agree on a change of Purpose as provided in paragraph 2 hereof and this paragraph, then at the option of the MBRF, the UM will either transfer the then Fund to a qualifying organization designated by the MBRF, or to the MBRF if it remains a "qualifying organization". For this purpose, a qualifying organization means an organization that carries out the Purpose of the Fund as described herein and to which the

UM is not prohibited by federal or state law (including tax laws) from making distributions. For this purpose, failure to carry out the Purpose of the Gift shall include changes at the UM that materially and structurally change the operations of the Center or eliminate the operations of the Center as those are understood as of the date of this Agreement.

For this purpose, the balance to be transferred shall be an amount equal to the then balance of the Fund multiplied by a fraction, the numerator of which is the amount of the Gift and the denominator of which is the Gift plus the Match.

11. **UM Qualification.** The Internal Revenue Service has declared the UM (Federal Tax Identification No. 59-0624458) to be a duly qualified charitable organization under Section 501(c)(3) and also an organization described in Sections 509(a)(1) and 170(b)(1)(A)(ii) of the Internal Revenue Code of 1986, as amended, and not a private foundation under the provisions of Section 509(a). The UM currently is listed as such a qualifying organization in IRS Publication 78.

12. **Entire Agreement.** This Agreement constitutes the entire Agreement among the parties and supersedes any prior understandings, agreements, or representations by and among the parties written or oral to the extent that they were in any way related to the subject matter hereof.

13. **Notices.** Notices hereunder shall be given to the parties set forth below and shall be made by hand delivery, facsimile, overnight delivery or by regular mail. If given by regular mail, the notice shall be deemed to have been given within a required time if deposited in the U.S. mail, postage prepaid, within the time limit. For the purpose of calculating time limits which run from the giving of a particular notice, the time shall be calculated from actual receipt of the notice. Any deadline which falls on a Saturday, Sunday or legal public holiday, shall be extended to the next business day. Notices shall be addressed as follows, or to such other address as is designated in writing by the UM or the MBRF to the other party.

If to the UM:

John G. Clarkson, M.D.
Senior Vice President for Medical
Affairs and Dean
University of Miami School of Medicine
1600 N.W. 10th Avenue
Miami, Florida 33136
Telephone: (305) 243-6545
Facsimile: (305) 243-4888

Copy to:

Robert L. Blake, Esq.
General Counsel
University of Miami
Plumer Building, Suite 10
5915 Ponce de Leon Boulevard
Coral Gables, Florida 33146
Telephone: (305) 284-2700
Facsimile: (305) 284-5063

If to the MBRF:

c/o SunTrust Bank, Corporate Trustee
P.O. Box 620005
Orlando, Florida 32862-0005
Attention: Teresa W. Borcheck, Group Vice President
(407) 237-5907 (o)
(800) 432-4760, ext 5907 (o)
(407) 237-5604 (f)

14. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

15. **Severability.** Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any jurisdiction.

16. **Specific Performance.** Each party acknowledges and agrees that the other party would be damaged irreparably in the event any of the provisions of this Agreement are not performed in accordance with the specific terms or otherwise are breached. Accordingly, each party agrees that the other party shall be entitled to an injunction or injunctions to prevent breaches of the provisions of this Agreement and to enforce specifically this Agreement and the terms and provisions hereof and any action instituted in any court of the United States or any state hereof having jurisdiction over the parties in the matter in addition to any other remedy which they may be entitled at law or equity.

17. **Prevailing Party.** To the extent that either party must file an action to obtain the enforcement of this Agreement, the prevailing party therein shall be entitled to an award of their reasonable attorneys fees and costs (including appeals) regardless of whether such cost would ordinarily be taxable. The court, in rendering the opinion on an enforcement action, shall determine which party has prevailed; if no party prevails, or if both parties prevail, then each party shall bear their own attorney fees and costs.

18. **Authorization.** The MBRF and the UM represent that each has the full power and authority (including full corporate power authority) to execute and deliver this Agreement and to perform its obligations hereunder.

[Signatures follow on next page.]

McKNIGHT BRAIN RESEARCH FOUNDATION

By: J. Lee Dockery, M.D.
J. Lee Dockery, M.D., Trustee

By: Michael L. Dockery, M.D.
Michael L. Dockery, M.D., Trustee

By: Nina Ellenbogen Raim, M.D.
Nina Ellenbogen Raim, M.D., Trustee

SUNTRUST BANK

By: Teresa Borcheck
Teresa Borcheck, Group Vice President

THE UNIVERSITY OF MIAMI

By: John G. Clarkson
John G. Clarkson, M.D.
Senior Vice President for Medical
Affairs and Dean

By: Sergio M. Gonzalez
Sergio M. Gonzalez
Vice President of University Advancement and
Government Relations

Exhibit 10

The Plan for the Evelyn F. Mc Knight Center for Age Related Memory

Loss of the University of Miami School of Medicine (the "Center")

A world-class scientist in the field of aging and of brain and memory disorders will be recruited to be the Center's Scientific Director. Under the leadership of the Scientific Director, the basic and clinical scientists at the University of Miami will promote and expand collaborative research in the field of age related memory loss. The Scientific Director may recruit several new research groups that will bring new perspectives and techniques from the basic sciences to apply to the problem of age related memory loss.

An Education Director, who shall be under the supervision of the Scientific Director, will focus on enhancing awareness and developing clinical and postgraduate research training fellowships. Aiding the Scientific Director will also be an Executive Committee consisting of the directors of the Center's clinical, research, and educational programs. There also will be an Advisory Committee made up of the chairs of departments collaborating on the Center (including, but not limited to Psychiatry, Neurology, Ophthalmology, Neuroscience, Neurosurgery and Psychology); and at least three experts in memory disorders from other institutions in North America.

The Center scientists and clinicians will develop peer-reviewed nationally funded research programs to add to the already active portfolio of research grants held by the participating individual scientists at the University of Miami. The goal is that, within five years, the Center will be supported by federal and other grants to its research programs.

The McKnight Brain Research Foundation Board will be notified of the date, time and location of meetings of the Advisory Committee and will be permitted to attend as observers.

Years 2002-2003

This period will be devoted to initial planning for the Center, guided by the following objectives:

- Create a working group to implement and oversee the integration of the University of Miami clinicians and scientists working in memory disorders, the neurosciences, and aging. The working group will consist of representatives of the Department of Neurology, Psychiatry and Behavioral Sciences, Neurosurgery, Psychology, Center for Adult Development and Aging, Miami Project to Cure Paralysis, Physical Medicine and Rehabilitation, Ophthalmology and Neuroscience Graduate Program.
- Sponsor informational seminars and strategic retreats for faculty interested in memory disorders, the neurosciences, and aging to enhance inter-departmental integration in clinical, research and teaching programs. Develop a program of faculty enhancement to bring existing University of Miami faculty into the Center.
- Launch an international search for, and recruit the Scientific Director of the Center.
- Identify the research areas for recruitment in the targeted strategic areas. These areas may include clinical intervention programs to alleviate memory loss in the aging, neuronal cell death, endogenous stem cell research, protein aggregation research, and molecular neuro-psychiatric genomics.
- Initiate planning of outreach and public education programs.

Years 2003-2008

The Center would begin operation in 2003 in space that offers scientists the ability to collaborate. With the arrival of the Scientific Director, a systematic phase-in of research groups in the targeted strategic areas will be implemented. The first group of clinical and basic research

fellows also will begin work. A research pilot grant program will be created to stimulate interdepartmental collaborative studies. It is expected that these projects will lead to NIH and other funding after the initial phase.

The Education Director will be recruited and begin developing curricula for medical student and resident education and clinical and graduate research fellowships in the fields of memory and age-related memory loss. The Education Director will also be responsible for outreach and public awareness programs, and the Center faculty's strategic retreats. In the second and subsequent years, the Education Director, together with the faculty and fellows, will organize annual International Clinical and Research Workshops dealing with the aging of the brain and associated memory and cognitive disorders.

PATENT AND COPYRIGHT POLICY

The Patent and Copyright Policy was adopted by the Board of Trustees November 22, 1967 and amended by the Board on May 31, 1976. Clarification and an expansion of this policy was approved by the Senate and then by the President on February 10, 2001 and is incorporated in this section.¹⁰⁷

I PREAMBLE

In adopting this policy the Board of Trustees recognizes that there may be research projects sponsored by governmental authorities, industrial concerns or others that may entitle the sponsors to the ownership, without payment of any royalty to any person, of a discovery or invention made by a faculty member, staff member or student of the University as to which there is a reasonable likelihood of obtaining a patent or a copyrightable material authored by a faculty or staff member or student.

II CREATION OF PATENT AND COPYRIGHT COMMITTEE

The Board of Trustees of the University of Miami hereby authorizes the President to appoint a University of Miami Patent and Copyright Committee (to be referred to as "the Committee"), with the authority and responsibility provided below, and consisting of four members of the University's faculty and three members of the University's administrative staff. Legal counsel for the University shall serve as counsel to the Committee.

III DISCOVERIES AND INVENTIONS

3.1 Disclosure of Discoveries and Inventions. Any faculty member or staff member or student of the University who has made a discovery or invention that reasonably appears to be patentable (hereinafter referred to as "patentable") shall bring such discovery or invention to the attention of the President of the University, or a designee, for the purpose of determining whether and to what extent the University has an interest in the discovery or invention. Any such discovery or invention shall be so disclosed promptly, but in any event within a period of not more than two months.

3.2 Ownership of Discoveries and Inventions.

(a) A discovery or invention, whether or not subject to patent, developed as a direct result of the regular duties of a faculty or staff member, or developed by a faculty member or staff member or student as a result of research done on or in connection with theses or dissertations or problems pertaining thereto, or as a result of a program of research financed wholly or in part by University funds, or by funds under the control of the University, shall except as otherwise owned for reasons mentioned in the Preamble, be the exclusive property of the University.

¹⁰⁷ #2000-15(B)

The ownership of any such discovery or invention, and any patent rights pertaining thereto, shall be assigned to the University or its designee and shall be administered in accordance with the determination of the Committee.

(b) A discovery or invention developed by a faculty member or staff member or student shall be the exclusive property of the inventor or inventors if all of the following conditions exist:

(1) if the University has contributed nothing substantial or essential to the production and development of such discovery or invention in funds, space, facilities or time of a faculty member, staff member, or student, and

(2) if the discovery or invention is not along lines related to any University research then in progress, known to the faculty member or to which the University is committed, and with which in either case such faculty member or staff member or student is connected, and

(3) if the discovery or invention was developed by the inventor or inventors on their own time without any expense to the University.

(4) If there is a difference of opinion as to whether a discovery or invention is within subparagraph (1) or subparagraph (2) above, or if a discovery or invention is within neither such category, the ownership of the discovery or invention, and the determination of equities with respect thereto shall be decided by the Committee whose decision, subject to appeal to the President of the University as provided for hereinafter, shall be binding upon the University and upon the faculty member, staff member, or student who made the discovery or invention.

3.3 Authority and Responsibility of the Committee.

With respect to discoveries and inventions, the Committee, subject to appeals to the President hereinafter provided for, shall have the following authority and responsibility with respect to discoveries and inventions:

(a) To receive and act upon reports of discoveries and inventions.

(b) To determine the ownership of discoveries and inventions and to determine the dates of their conception, disclosure and reduction to practice.

(c) To determine the equities of the University, the inventor or inventors, and other parties in discoveries and inventions and to provide equitably for the sharing between the University and the inventor or inventors of royalties received for any patented or patentable discovery or invention in which the University has a property interest, in accordance, however, with the following:

(1) In situations where an agreement, letter or other document involving the University and another party or governmental agency having an interest in such discovery or invention requires that royalties on such discovery or invention be distributed in a particular manner, the sharing of such royalties between the University and the inventor or inventors shall be in accordance with the royalty distribution provisions of such agreement, letter or other document. In all other cases, the procedure set out hereafter in subparagraphs (2), (3) and (4) shall be followed; provided, however, that where an agreement, letter or other document involving the University and another party or governmental agency having an interest in such discovery or invention places a limitation upon the amount of royalties to be paid to the inventor or inventors, then the amount of royalties to be paid to the inventor or inventors in accordance with subparagraphs (2), (3), and (4) shall not exceed such limitation.

(2) The University shall retain all such royalties until it shall have recovered in full all expenses incurred in connection with the filing and prosecution of a patent application, or applications, for the discovery or invention in question.

(3) The next \$1,000 of such royalties shall be paid to the inventor or inventors of the discovery or invention.

(4) Royalties received beyond those required to meet the conditions specified in (1), (2) and (3) above shall be divided as follows:

(i) One-third of such royalties shall be retained by the University.

(ii) One-third shall be paid to the inventor, or to the inventors in accordance with their rights thereto.

(iii) One-third to the primary department of the inventor, or primary departments of co-inventors according to the establishment of proportionate participation as determined under (d) below.

(d) When there are co-inventors, to recommend the extent of the participation of each inventor in the financial returns from the discovery or invention.

(e) To determine, in the case of a discovery or invention in which the University has a property interest, whether the University should attempt to obtain a patent or should submit the discovery or invention to the University's patent agent, any such determination to be made within two months from the date the discovery or invention has been disclosed to the Committee or, if sooner, within thirty (30) days after a written request that such determination be made is received from the President of the University or from the inventor or inventors.

(f) If the Committee decides to submit a discovery or invention of the University to the University's patent agent, and if the patent agent shall decide either not to

file an application for a patent or to abandon an application that has been filed, then the Committee shall determine whether the University shall file such application or proceed with an application already filed, or shall assign any right that the University may have in the discovery or invention to the inventor or inventors, such determination to be made within thirty (30) days after the receipt by the Committee of notice from the University's patent agent of a determination not to file such application or to abandon an application already filed.

(g) To report to the President of the University and other interested parties its findings and determinations with respect to a discovery or invention within four (4) months of the receipt by it of knowledge of the discovery or invention except in those situations for which a different period of time for making a determination is established.

(h) To report its findings to the President of the University on all matters bearing on patentable research, or on patents offered to the University by gift, devise, purchase, sale or assignment, regardless of the potential value thereof or the circumstances under which such patentable research or patents were discovered.

3.4 Management and Exploitation of Patents.

The President of the University shall determine the manner in which patents that are the property of the University shall be managed and exploited.

IV COPYRIGHTABLE MATERIAL

4.1 Rights of Authors.

In accordance with custom in institutions of higher learning, and except as provided below, the right of first publication and of statutory copyright in any book, manuscript, television or motion picture script or film, educational material, or other copyrightable work, whose author is a faculty member or staff member or student, shall be the property of the author.

4.2 Rights of the University.

Copyrightable material resulting from a project assigned to members of the faculty as a part of their regular duties shall inure to the University only if so specified at the time of assignment by an instrument of specific detail and agreement signed by the faculty or staff member, by the department chair or director, and by the school or college dean.

4.3 Authority and Responsibility of the Committee with Respect to Copyrightable Material.

The Committee shall have the same authority and responsibility with respect to copyrightable material authored by a faculty member, a staff member, or student as it has in respect to discoveries or inventions made by such persons and dealt with in part III. The specific authority and responsibilities of the Committee with respect to discoveries and inventions, described in paragraph 3.2, shall apply with equal force to copyrightable material except as context does not permit or require change.

4.4 Notice to Committee.

Department chairs, deans and directors, shall notify the Committee in writing of any work assigned in accordance with paragraph 3.2 of this Policy that might result in a manuscript or other property for which copyright may be obtainable.

4.5 Software.

For individuals who are staff members, software developed as part of their normal or assigned duties at the University shall be deemed "works-for-hire" and shall be the property of the University. Software that is developed by a staff member that is unrelated to the staff member's duties at the University and is developed without the use of University resources, shall be the property of the staff member.

Faculty, students, and research associates or postdoctoral researchers working under faculty guidance on funded research, who develop software will normally be deemed to own the software. Exceptions are 1) when a prior, written agreement between the individual and the University exists, as described in paragraph 4.2, above; 2) when the individual is engaged in a research grant or contract, where software ownership is specified by the grant or contract (If such a grant or contract leaves ownership with the grant recipient, that shall be interpreted to mean the creator(s), subject to this policy.); 3) when the software is an integral part of a patentable invention or machine developed at the University, in which case ownership and rights will be the same as for a patentable device, as described above; 4) when the University has committed substantial resources (University funds, facilities, equipment, or other resources significantly in excess of the norm for educational and research purposes in the department or unit in which the creator holds his or her primary appointment) to the development of the software, in which case ownership and rights shall be the same as described above for patentable devices. Faculty or student use of an office and desktop computer, or use of limited time on the mainframe computer, is, alone, not considered to be a "substantial" use of University resources; 5) software created by students who have also been hired by the University in a staff position not directly related to their education as a student, and who create software as part of their regular job responsibilities, shall be the property of the University.

Courseware.

Syllabi, lecture notes, class handouts, and other such materials, whether on paper or posted on the web, are considered the property of the faculty member who creates such documents. Lectures at the University of Miami are a public performance of the lecturer's intellectual property, and thus the property of the speaker under federal copyright law. Unless otherwise provided in an agreement with a faculty member, faculty own the rights to their web-based courses, courseware, and to the representation in any medium of teaching which forms part of their ordinary duties.

- 4.6.1 Unless a faculty member specifically objects, the University may use photographs and reasonable audio and/or video recordings of classroom or other teaching for publicity purposes.
- 4.6.2 Faculty members must obtain permission from the Provost or Provost's designee before offering for sale audio or video products produced in University classrooms or University facilities.
- 4.6.3 If the University has committed substantial University resources (as defined in paragraph 4.5, above), any further use of such courseware is subject to an agreement between the faculty member and the University, as described below. Also, faculty participation in the preparation of distance learning materials, or of other materials, which the University will sell or re-use beyond the initial class or session, must be the subject of an agreement with the faculty member before such sale or reuse. In forming such agreements, both the University and the faculty member should strive to conform to the following principles:
 - (a) Equitable division of the revenues in a manner proportionate to the value of the efforts contributed by the persons and institutions involved in the preparation and marketing of the materials;
 - (b) Regard for the intellectual property rights of third parties who are not parties to the agreement;
 - (c) The University's rights to use the product produced may be exclusive, but the faculty must retain the right to use information and ideas contained in it in all forms other than those directly competitive with the product;
 - (d) Agreements should be for a definite period of time, ordinarily not to exceed five years, after which ownership of the intellectual property would revert to the faculty member(s) who created it;
 - (e) Provisions must be made to safeguard the "moral rights" of the author(s). For example the authors must have a right to include corrections or updates in a form accessible to purchasers of the original courseware or

other product, especially in circumstances where the professional reputation of the author might otherwise be affected;

- (f) The agreement should specify what happens to the courseware or other product in the event that the author(s) are no longer employed by the University;
- (g) Written consent of students whose voice or image will be captured as part of distance learning or other products for sale or re-use should be obtained in advance of the recording.

4.6.4 A copy of each agreement between a faculty member and the University and/or a department or unit made pursuant to this clause (after removal of the faculty member's name and replacement of any specified dollar payments with either percent of royalties or percent of faculty member's salary, as appropriate) will be deposited with the Faculty Senate and kept on file for review of any interested faculty member. Experience with this process will be reviewed after 5 years.

V PUBLICATION OF MATERIAL RELATING TO DISCOVERIES, INVENTIONS AND SCHOLARLY INVESTIGATION

The Board of Trustees recognizes and wishes to give the fullest possible operation of traditional principles and practices of academic freedom in connection with the publication of writings that relate to discoveries and inventions. At the same time it also recognizes that governmental authorities, industrial concerns or other organizations that sponsor research projects may require temporary restriction on publication in order to protect the sponsor's interest in patentable inventions or discoveries, or because of considerations relating to the national interest or for other reasons considered sufficient by the sponsor. If the University has been authorized or required by the sponsor to determine whether or not publication would be in compliance with such restrictions and conditions such determination shall be made by the Committee.

VI APPEALS FROM COMMITTEE DETERMINATIONS

If any interested person is dissatisfied with the determination or disposition by the Committee of any matter relating to any discovery, invention, patent, copyright, or copyrightable material, or the publication of any writing discussing or disclosing any of the foregoing, such person may request that the determination be reviewed by the President of the University. Any such request shall be in writing and shall be delivered to the Committee not later than fifteen (15) days after such person has received notice of the determination or disposition which the person regards as unsatisfactory, or if sooner, within fifteen (15) days after the expiration date of the period of time within which the Committee should have reported its findings and determinations to interested parties. The Committee, on receipt of such request, unless it reconsiders its original determination and modifies the same in a manner that is satisfactory to all interested parties, shall forward

promptly such request, together with its determination and recommendations, to the President. The President may affirm, modify or reverse the Committee's determination, on the basis of such information as the President wishes to consider, and the President's decision shall be binding on all interested parties. The Committee shall assist the President in reviewing any such matter in whatever manner the President may request.

University of Miami
Growth Pool
Statement of Investment Policy

April 2003

Introduction

This document presents the investment process of the University of Miami's Growth Pool ("Growth Pool"), including investment objectives, asset allocation, investment restrictions, and review procedures (collectively, the "Policy"). The Growth Pool consists primarily of the University's Endowment Fund and other long term funds. The overall investment objectives are as follows:

- **Preserve the portfolio's purchasing power through asset growth in excess of the spending policy plus the rate of inflation.**
- **Invest assets in order to maximize the long term return while assuming a reasonable level of risk**

Investment Responsibilities

The Executive Committee of the Board of Trustees has responsibility for establishing and modifying all elements of this Policy. This includes establishing the portfolio's asset allocation strategy. The Executive Committee has directed through the investment responsibilities described below, required activities of the Investments Committee ("Committee"), University Staff, the Investment Consultant, and the Investment Managers ("Managers").

The Committee is responsible for:

- 1) Overseeing the Growth Pool's assets and reporting on the status of the portfolio to the Executive Committee at least two times per year.
- 2) Monitoring the investment performance of each manager versus the manager's benchmark using reports prepared by the Managers, the University's staff, and its Investment Consultant.
- 3) Monitoring the appropriateness of each manager's investment strategy given the University's overall investment strategy, philosophy, and objectives.
- 4) Overseeing the process of monitoring manager portfolios to insure compliance with this policy, its guidelines and restrictions.
- 5) Selecting and terminating investment managers for the Growth Pool in accordance with the strategic asset allocation adopted by the Executive Committee as set forth in this policy.

University of Miami
Growth Pool
Statement of Investment Policy (cont.)

Investment Responsibilities (cont.)

- 6) Reviewing this Policy on an ongoing basis and recommending changes to the Executive Committee, as may be necessary or desirable.

All Managers are responsible for:

- 1) Acting in accordance with “prudent man” principles with respect to the management of the University’s assets.
- 2) Immediately reporting in writing, any violations of the guidelines and restrictions as set forth in this Policy.
- 3) Immediately reporting any findings against the firm or its principals, either by the SEC or any other regulatory authority. In addition, any lawsuits brought against the firm or its principals should also be immediately reported to the University.
- 4) Preparing quarterly written statements, including actions taken in the portfolio and expected changes in the portfolio, including proxy voting.
- 5) Attending meetings with the Committee and University staff as needed.
- 6) Immediately communicating all pertinent changes in the Manager’s firm to the University. This includes, but is not limited to:
 - Changes in personnel involved in the University relationship
 - Changes in Manager’s ownership
 - Changes in senior investment professionals’ responsibilities
 - Changes in Manager’s investment style
- 7) Complying with the University’s Policy for Socially Responsible Investments and voting all proxies related to equity holdings in accordance with that policy, in a timely fashion, and in the best economic interests of the University.
- 8) Adhering to the investment strategy or style for which the Manager was selected.

University of Miami
Growth Pool
Statement of Investment Policy (cont.)

Investment Responsibilities (cont.)

The University's Staff is responsible for:

- 1) Preparing investment reports for the Committee's review that contain information necessary for the Committee to exercise its investment responsibilities.
- 2) Monitoring the portfolio's asset allocation versus its strategic asset class and manager targets, rebalancing the portfolio as needed.
- 3) Assisting the Committee and the Managers with all components of this Policy.

The Investment Consultant is responsible for:

- 1) Assisting Staff and the Committee with its responsibilities.
- 2) Monitoring this policy and recommending changes as needed.
- 3) Monitoring each investment manager's ownership structure and investment personnel and reporting all significant changes to the University.
- 4) Monitoring each investment manager for adherence to this policy as well as to their stated investment style.
- 5) Monitoring investments of alternative investment managers on a quarterly basis for compliance with the manager's stated strategy.
- 6) Monitoring portfolio exposures versus asset allocation and manager targets, recommending re-balancing strategies to staff as needed.

Spending Policy

The University is a permanent institution. As a result, it has adopted stable long-term policies that increase the likelihood of achieving the investment objectives listed in the Introduction to this document. These policies begin with the Endowment Spending Policy. In order to supply the University with a predictable level of funds a total return spending policy has been adopted.

Deposits/Withdrawals

The University Vice President and Treasurer with the approval of the Investments Committee Chairman and with the advice of the Investment Consultant will determine how to allocate large deposits (greater than 5% of the total portfolio) to the managers in a manner that is consistent with the asset allocation policy.

University of Miami
Growth Pool
Statement of Investment Policy (cont.)

Deposits/Withdrawals (cont.)

Smaller deposits and all withdrawals will generally be made at the discretion of the University Vice President and Treasurer with the advice of the Investment Consultant and in a manner that is consistent with the asset allocation policy.

Investment Philosophy

As a long-term investor, the following issues are significant factors in the prudent allocation of the University's assets:

- In order to achieve a rate of return that will support the above-mentioned spending policy while protecting the assets from inflation, the University must be willing to take some investment risk. At present, the return needed to support the University's spending policy is approximately 8.5%, while the portfolio's projected return is 9.5% (Consultant's estimate).
- The Committee believes that the most effective way to establish an appropriate volatility level for the portfolio is through its asset allocation (i.e. stocks, bonds, and cash). Long term investment return and volatility depend on the portfolio's strategic asset allocation. In consultation with its Investment Consultant, a strategic asset allocation policy has been adopted which best balances the opportunity for achieving the investment return objectives as set forth in this policy with an appropriate volatility level.
- There is significant evidence that long-term investors do not benefit from attempting to earn returns through short-term asset class forecasts or market timing. As a result, the University has adopted a strategic long-term asset allocation. Over time, the portfolio will remain invested in percentages that are fairly close to those called for in the strategic allocation.
- The University strongly believes in the long-term benefits of diversifying its portfolio into a number of different asset classes and investment strategies. While each asset class and strategy is carefully selected, the focus of the investment process is always on the overall portfolio.
- To achieve the long-term benefits of a widely diversified portfolio, the University has adopted strategic targets for each asset class that it utilizes. It expects that the portfolio weight for each asset class will remain within minimum and maximum percentages. The current strategic asset allocation including targets and acceptable ranges is outlined in Appendix A

University of Miami
Growth Pool
Statement of Investment Policy (cont.)

Investment Philosophy (Cont.)

- Within each asset class, the University seeks to earn the most efficient rate of return possible (after investment expenses). Investments will be well diversified by investment style and strategy. Style/strategy diversification will increase the probability over three to five year time periods that the University will achieve its investment goals and reduce volatility. The University has adopted specific requirements and restrictions for each asset class. These are described in Appendix B.

Performance Objectives

In order to achieve the objectives stated in the Introduction to this policy, the University's total portfolio must earn a rate of return that is at least equivalent to the rate of inflation plus the spending rate. Thus, the long-term objective for the Growth Pool is to earn a return of at least the Consumer Price Index plus 5%. Given that this benchmark is not directly related to market performance, success or failure in achieving this goal should be evaluated over ten to twenty years.

In order to evaluate the performance of its managers over shorter time periods, the University has also adopted a market driven benchmark for each manager. For the Growth Pool as a whole, the Total Portfolio Benchmark ("Benchmark") will consist of a suitable index for each asset class used. These indices will be weighted on a monthly basis according to the University's strategic asset allocation targets listed in Appendix A. Appendix C defines the current Benchmark.

The University's goal, over each five year time period, is to earn a rate of return on its total portfolio that exceeds the Benchmark return by fifty basis points after investment management fees have been deducted.

Socially Responsible Investments

The University's Policy for Socially Responsible Investments applies to the Growth Pool.

University of Miami
Growth Pool
Statement of Investment Policy (cont.)

Administrative and Review Procedures

The Investments Committee will review this Policy at least annually.

The Investments Committee will review the performance of the Growth Pool assets each meeting with the assistance of its Investment Consultant and the University staff. These reviews will include

- Review of the Growth Pool's overall asset allocation to assure compliance with this document.
- Review of the assets held in each portfolio to assure compliance with the University's policies regarding investment restrictions and the consistency of the manager's strategy.
- Review of performance against the benchmarks set forth in this document.

University Staff and the Investment Consultant will perform the above review at least monthly and report any deviations or concerns as soon as reasonably practicable to the Investment Committee Chairman.

Appendix A Strategic Asset Allocation

The University has adopted the following strategic asset allocation. All figures listed here refer to an asset class's percentage of the total portfolio. The minimum and maximum weights listed here represent the acceptable allocation ranges for each asset class. Actual asset allocation will be compared to these ranges on a monthly basis. In the event that the allocation to a particular asset class falls outside of acceptable range, the portfolio will be re-balanced so that all asset classes are within their permitted allocations. Note that asset allocated to Private Equity but not yet drawn down are added to the Large/Mid Cap Equity target, minimum and maximum percentage.

<u>Asset Class</u>	<u>Target Percentage</u>	<u>Minimum</u>	<u>Maximum</u>
U.S. Large/Mid Cap Equity	33%	25%	36%*
U.S. Small Cap Equity	12%	9%	15%
International Equity	18%	15%	21%
Aggregate Fixed Income	15%	11%	19%
High Yield Bonds	6%	3%	9%
Event Arbitrage	4%	1%	7%
Private Equity	8%	5%*	11%
Managed Futures	4%	1%	7%
Hedged Equity	0%	0%	9%
Real Estate	0%	0%	5%

* Note that assets committed to Private Equity but not yet drawn down are invested in the U.S. Large/Mid Cap Equity class. This may cause the actual allocation to Large/Mid Cap Equity to exceed the maximum percentage above.

Appendix B

Asset Class Definitions/Guidelines

Domestic Equity

- 1) The domestic equity portfolio will be diversified according to economic sector, industry, number of holdings and other investment characteristics. However, it is recognized that any actively managed portfolio will not be as diversified as the market. To produce overall diversification, equity managers will be selected to employ different management strategies that together achieve the desired degree of diversification.
- 2) Domestic equity managers are permitted to hold up to 10% of their portfolio in American Depository Receipts ("ADRs") or foreign domiciled companies whose equity securities are traded in US markets.
- 3) No more than 5% at cost or 10% at market of a manager's portfolio may be held in the securities of a single issuer.
- 4) Short selling of securities is prohibited. This restriction does not apply to the hedged equity managers.
- 5) Derivative instruments such as financial futures and options may not be used without the prior approval of the University's Investments Committee. This restriction does not apply to the hedged equity managers.
- 6) A manager may only deviate from these guidelines with advance written permission of the University.

International Equity

The following definitions may be used to distinguish between developed and emerging international securities.

International Developed Equity: Listed equity securities traded on developed non-U.S. markets. Developed markets are defined as those included in Morgan Stanley's EAFE index plus Canada.

Emerging Markets Equity: Listed equity securities traded on emerging non-U.S. markets. Emerging markets are defined as any market that is not included in Morgan Stanley's EAFE index plus Canada.

All restrictions listed above for Domestic Equity, other than item number two (ADRs), also applies to International Equity with the following additions and modifications.

- 1) Managers must hold securities in a minimum of three countries at all times.

Appendix B

Asset Class Definitions/Guidelines (Cont.)

- 2) Currency exposure may only be hedged back to the US dollar. The decision to hedge is left to the manager's discretion. Derivative instruments may be used to achieve currency hedging as permitted under this policy.

Fixed Income

- 1) The duration of a manager's portfolio should be within 80% and 120% of the duration of their market benchmark.
- 2) Managers are permitted to invest in the following classes of fixed income securities:
 - a) Bonds or notes issued by the U.S. Government or a U.S. Government Agency backed by the full faith and credit of the US Government
 - b) Mortgage-backed securities
 - c) Corporate bonds issued in the U.S. and denominated in U.S. dollars
 - d) Asset-backed securities
- 3) Aggregate bond managers are expected to maintain an average quality rating for their portfolio that does not fall below an S&P rating of AA-. High Yield bond managers are expected to maintain an average quality rating for their portfolio that does not fall below an S&P rating of B-.
- 4) No more than 5% at market of a manager's portfolio may be held in the securities of a single corporate issuer. This restriction does not apply to securities issued by the U.S. Government or a U.S. Government Agency backed by the full faith and credit of the U.S. Government.
- 5) Derivative instruments may be utilized by a manager in order obtain more efficient exposure to a specific type of security. However, at no time, may derivative instruments be used to leverage the portfolio. In addition, it is expected that a manager will have thoroughly tested the behavior of the derivative instrument under a variety of market conditions before purchasing the security for the portfolio.
- 6) A manager may only deviate from these guidelines with advance written permission of the University.

Appendix B

Asset Class Definitions/Guidelines (Cont.)

Alternative Investments

In order to enhance portfolio results, the University may elect to invest in alternative investment strategies such as hedge funds, real estate or private equity. At present, event arbitrage, private equity, managed futures, real estate and long/short hedge funds are included in this area. These investments are made with the intention of raising portfolio returns and/or lowering total volatility. In most cases, these investments will be implemented via limited partnerships. Therefore, restrictions are established by the offering documents for each partnership.

Appendix C

Total Portfolio Benchmark

The University's total portfolio benchmark is based on its strategic asset allocation using suitable market indices to represent each asset class. This custom index is calculated on a monthly basis using the weights listed below.

<u>Asset Class</u>	<u>Weight</u>	<u>Market Index</u>
US Large/Mid Cap Equity	33 %	S&P 500
US Small Cap Equity	12 %	Russell 2000
International Equity	18 %	MSCI All Country World x/US
Aggregate Fixed Income	15 %	Lehman Aggregate
High Yield Fixed Income	6 %	Merrill High Yield
Event Arbitrage	4 %	T-Bills + 5 %
Private Equity	8 %	S&P 500
Managed Futures	4 %	MLM Index (MLM – Mount Lucas Management)
Hedged Equity	0 %	S&P 500
Real Estate	0 %	To Be Determined

Managers within each asset class will be measured against a specific style benchmark along with the market benchmark for their asset class as indicated above.