


**MICHIGAN STATE**  
**UNIVERSITY**

To: Trustee Policy Committee

From: Kim Wilcox, Provost 

Date: June 13, 2011

Re: Memorandum of Understanding between Michigan State University  
College of Law and Michigan State University

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**RECOMMENDATION**

The Trustee Policy Committee recommends to the Board of Trustees that it approve the following resolution.

BE IT RESOLVED, that the President and the Vice President for Finance and Operations are each hereby authorized to execute, on behalf of Michigan State University, a new Memorandum of Understanding Regarding Affiliation between the University and Michigan State University College of Law (the "Law College"), in substantially the form annexed hereto as Attachment 1 (the "MOU"); and be it further

RESOLVED, that the President is authorized to serve as the President of the Law College and to take such other actions as may be necessary or appropriate to implement the MOU; and be it further

RESOLVED, that the new MOU shall be effective July 1, 2011.

**BACKGROUND**

The University and the Law College have been negotiating a new MOU. The last MOU between the University and the Law College dates from 2004. The new MOU is not dramatically different from the 2004 version of that document, as shown in the black-lined version of the proposed MOU (Attachment 2) highlighting the changes that will be made to the 2004 version if the Board approves the resolution. Apart from a few minor housekeeping matters, the alterations to the MOU all derive from a pair of related conceptual changes in the governance and administrative structure of the Law College.

Currently, a Law College trustee serves as President of the Law College. No Law College trustee is designated as the chair of the Law College's board. The trustee serving as President of the Law College, in essence, functions as the chair of its



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board, as well as meeting other responsibilities. The President of MSU has an ex officio seat on the Law College's board and a place on its Executive Committee, as well as a stipulated role in certain Law College processes which are modeled on similar processes at MSU. She has, however, no designated executive responsibilities at the Law College. She exercises her administrative authority indirectly, through her supervision of the University Provost, who, under the 2004 MOU and the Law College's bylaws, also serves as Provost of the Law College.

The present changes will integrate the Law College more closely into the University's administrative structure by making MSU's President the President of the Law College and, as such, its principal executive officer. In connection with the change, the Law College board will now elect one of its members to serve in the new position of Chair of the Board. Under the Law College's bylaws, the Chair of the Board must be one of the trustees elected by the Law College's board, not one of the trustees appointed by the MSU Board, though the Law College trustees appointed by the MSU Board may vote on which elected trustee will serve as Chair of the Board. After this change, in general terms, the board governance responsibilities previously held by the President of the Law College's board will be handled by the Chair of the Board, while the MSU President takes on executive responsibilities that encompass the other duties previously discharged by the President of the Law College. The Provost of MSU will continue to serve as Provost of the Law College. The President's authority to supervise the Dean of the Law College, as well as the Provost, will be explicitly stated in the new MOU, which also includes certain clarifications in the Dean's role. These clarifications reflect the fact that the Dean will remain a Law College employee, not a University employee, despite reporting to and through the President and the Provost.

Although Dr. Simon's service as President of the Law College's board will be a function of her service as President of the University, Dr. Simon has felt it important that the board of the Law College have an opportunity to provide input on the MSU President's discharge of her/his responsibilities as President of the Law College. Since service as President of the Law College will, in the future, be one of the duties performed by the University's President, it seems best to give the Law College's board that opportunity for input in connection with the MSU President's selection and annual evaluation. The revisions to the MOU so provide. The contractual obligation to consult the Law College board on these matters will not affect the MSU Board's control of the selection and evaluation of MSU's President.

A resolution approving the new MOU and making related changes to the Law College's Bylaws and Certificate of Incorporation will be submitted to the Law College's board for approval at its meeting on June 14, 2011. The inclusion of this resolution on the Board's agenda for its meeting on June 17, 2011 is contingent upon the Law College board's approval of the new MOU and the related changes prior to that date.

The Law College trustee who has acted as the Law College's President for the last ten years, Clifton E. Haley, will be at the Policy Committee's work session to speak to the Board about the proposed new MOU and the relationship between the University and the Law College. The Law College's Dean, Joan Howarth, will be accompanying President Haley. As you know, President Simon, General Counsel Noto, Assistant General Counsel Larry Gremel, former Associate Provost Bob Banks, and I have been handling this matter for the University. We are all available to answer any questions you may have.

c:     President Simon  
       Vice President Poston  
       Secretary Beekman  
       Vice President Noto  
       Dean Howarth  
       Assistant General Counsel Gremel  
       Dr. Banks

## **MEMORANDUM OF UNDERSTANDING REGARDING AFFILIATION**

This Memorandum of Understanding Regarding Affiliation ("Memorandum") between Michigan State University College of Law (the "Law College"), a Michigan non-profit corporation, and Michigan State University ("MSU"), a Michigan public institution of higher education, replaces the Memorandum of Understanding dated April 14, 2004, between the Law College and MSU.

### **RECITALS**

MSU and the Law College have been affiliated since 1995, when they entered into their first Memorandum of Understanding. The Law College operates a school of law at a building on MSU's campus which it occupies pursuant to a Lease Agreement (the "Lease") dated November 17, 1995. To build on the success of their initial affiliation, in 2004 MSU and the Law College entered into a second Memorandum of Understanding to align their academic reputations and identities more closely and to integrate Law College faculty and students more completely into the academic life of MSU, including its academic administration, academic governance, student government and curricular systems. This stronger affiliation has proved beneficial to MSU and the Law College, facilitating cross-disciplinary instruction, interdisciplinary research, and enhanced public service and outreach opportunities for both institutions. In light of these mutual benefits, MSU and the Law College have chosen to reaffirm and strengthen their affiliation through this Memorandum.

Because the Law College will remain an independent non-profit corporation, with its own board of trustees ("Law College Board"), it will continue to be responsible for its own finances, including the retention and support of Law College faculty and staff. Consequently, as set forth in Article III of this Memorandum, certain Law College practices and policies, primarily those concerning the financial affairs of the College, employee compensation and faculty tenure, will not necessarily comport completely with those of MSU. The parties intend that as to all other matters the Law College will follow MSU administrative and academic policies and practices, which will enable the Law College to function like a constituent MSU college and form a basis for Law College faculty to participate in MSU academic governance and for Law College students to participate in MSU student government.

Pursuant to these Recitals and in consideration of the mutual covenants herein, the parties agree as follows:

ARTICLE I  
AFFILIATION

1.1 Cooperation. MSU and the Law College shall continue to cooperate in order to obtain the maximum academic and strategic benefits from their affiliation. MSU shall continue to make available to the Law College, on an equitable cost-sharing basis where appropriate, various student and administrative services and support facilities and related services.

1.2 Name.

1.2.1 After the effective date of this Memorandum, the Law College shall be known and identified to the public solely as the "Michigan State University College of Law" and in abbreviated forms as "MSU College of Law" or "MSU Law" ("Law College Names"); provided, however, that the terms "Detroit College of Law," "DCL," "Michigan State University-Detroit College of Law," "Michigan State University-DCL College of Law," and "MSU-DCL" may be used as appropriate in reference to the Law College operation as conducted in Detroit and East Lansing prior to 2005.

1.2.2 MSU shall own all rights in the Law College Names, and MSU hereby grants to the Law College a license to use the Law College Names and to use the Michigan State University name, logos and symbols in connection with Law College operations, but in each case only in compliance with MSU policies and practices relating to the use of such names, logos and symbols by MSU administrative units, as if the Law College were a constituent MSU college.

1.2.3 The Law College shall change its corporate name to "Michigan State University College of Law," and MSU hereby consents to such change.

1.2.4 The Law College's right to any use of the Law College Names or of any form of the name "Michigan State University" shall end when this Memorandum terminates, and the Law College shall promptly take any and all actions necessary to cease such use, including without being limited to such actions as are necessary to remove MSU from its corporate name.

1.3 No Corporate Affiliation or Merger. Notwithstanding the close alignment of the parties' academic administration, academic governance, student government and curricular systems, or any other matter set forth in this Memorandum or in any other agreement between the parties, including the Lease, the relationship of the parties is not intended and shall not be construed to create or result in a corporate merger, joint venture or partnership, or any parent-subsiary or other form of common control or joint

enterprise. The Law College and MSU shall retain their respective private and public characters. The Law College shall include in its publications a statement indicating that the Law College is a separate legal entity from MSU. Nothing contained in this Memorandum shall be construed in a way that makes the Law College or its faculty or other employees, or members of the Law College Board, state actors or that affects the status of the Law College as a private legal entity.

1.4 No Financial Obligations. MSU shall have no liability for any financial obligation incurred by the Law College, and the Law College shall have no liability for any financial obligation incurred by MSU. The Law College shall include in any contract (i) obligating it to make payments of, or otherwise to incur liability for, more than \$250,000 in any fiscal year or more than \$1 million in any five-year period, or (ii) including an indemnity from the Law College, a statement that the obligations incurred in that contract are solely the obligations of the Law College and that MSU shall have no liability with respect to the performance of that contract.

1.5 Employee Status. Law College faculty and other employees shall remain employees of the Law College, and not employees of MSU, notwithstanding their participation in MSU academic affairs or other aspects of the affiliation between the parties. This Memorandum does not change the MSU Affiliate Faculty status of Law College faculty previously established by a separate agreement between the parties.

1.6 Exculpation. No MSU Board member, officer or employee shall be personally liable to the Law College for any default or breach by MSU of any of its obligations under the terms of, or arising from, this Memorandum. No Law College Board member, officer or employee shall be personally liable to MSU for any default or breach by the Law College of any of its obligations under the terms of, or arising from, this Memorandum.

1.7 Term and Termination. The term of this Memorandum shall commence as of its effective date, which shall be the date it has been signed by the respective authorized officers of MSU and of the Law College, and shall end on the date on which the Lease terminates.

## ARTICLE II GOVERNANCE

2.1 Board and Executive Committee Membership. In order to enhance cooperation between MSU and the Law College in achieving the common goals of the affiliation, to facilitate compliance with the Law College's obligations under the Lease, and to ensure MSU's participation in the oversight of the Law College, the Law College Bylaws shall provide that:

2.1.1 MSU shall be entitled to appoint certain trustees to the Law College Board as set forth in the Bylaws of the Law College in effect on the effective date of this Memorandum;

2.1.2 The President of MSU shall be a member of the Law College Board;

2.1.3 The President of MSU shall be a member of the Executive Committee of the Law College Board; and

2.1.4 MSU shall be entitled to appoint one additional Law College trustee to the Executive Committee of the Law College Board, which may have up to five members.

The MSU appointed members of the Law College Board shall be appointed with the approval of the MSU Board of Trustees and, subject to applicable law, may be members of the MSU Board of Trustees or other representatives of MSU.

2.2 Bylaws: Consequential Matters. The Law College Board shall amend its Bylaws to provide that the Law College will not take action on a consequential matter unless it is approved by the Law College Board by the positive vote of at least three-fourths (3/4) of the total number of votes that could be cast at the meeting of the Law College Board at which action on the consequential matter will be considered. The total number of votes that could be cast at that meeting shall be calculated by adding the number of votes that would be cast if all members of the Law College Board attended the meeting in question and voted plus all the votes the Chair of the Board of the Law College and the President of MSU would be entitled to cast at the meeting pursuant to Law College Bylaw 2.02. The following are consequential matters:

2.2.1 The approval or amendment of the Law College Articles or Bylaws, of the policies and bylaws for academic governance of the Law College, of the Law College code of student rights and responsibilities, or of the strategic vision for the Law College;

2.2.2 The approval of the Law College's annual budget or of any capital or other expenditure by the Law College that reasonably could be expected materially to affect the Law College's financial condition, operations or facilities;

2.2.3 The establishment or termination of any of the Law College's academic programs;

2.2.4 The conferring of tenure at the Law College or the approval or amendment of the Law College's rules of tenure, promotion and tenure revocation;

2.2.5 The naming of the Law College, any of its centers, institutes or other academic units or programs, or any of its major physical facilities, including without being limited to the acceptance of naming gifts for any of the foregoing;

2.2.6 Any joint degree program, joint clinical program, research institute or other such affiliation between the Law College and an entity other than MSU;

2.2.7 The appointment of the Dean of the Law College; and

2.2.8 Any other matter that the Chair of the Board of the Law College or the President of MSU determines, in good faith, to be a "consequential matter" because it materially affects the Law College, MSU or the relationship between them.

### 2.3 President.

2.3.1 The President of MSU shall also be the President of the Law College and its principal executive officer and shall have the role accorded to the President of the Law College by the Bylaws of the Law College. In that regard, the President shall have such powers as are inherent in the position in managing and directing the affairs of the Law College, including, without being limited to, supervising the Provost of the Law College and the Dean of the Law College. Notwithstanding the foregoing, the members of the Law College Board may initiate contact with the Dean of the Law College or any other employee of the Law College about the affairs of the Law College when they deem it appropriate to do so, and the Dean of the Law College may seek guidance from the Law College Board in the event the interests of the Law College and MSU diverge.

2.3.2 In hiring and evaluating the President of MSU, the MSU Board of Trustees shall consult with the Law College Board regarding the President of MSU's service as the President of the Law College.

### 2.4 Provost.

2.4.1 The Provost of MSU also shall be the Provost of the Law College and shall have the role accorded to the Provost of the Law College by the Bylaws of the Law College.

2.4.2 If and to the degree the deans of the constituent colleges of MSU would do so under then existing MSU policies, procedures and practices, the Dean of the Law College shall obtain the Provost's approval before the Law College accepts any naming gift, or enters into any joint academic or research program, that is not required to be approved by the Law College Board as a consequential matter.

2.5 Treasurer. The Treasurer of the Law College shall consult with the Treasurer of MSU before the Law College takes any action which would materially affect its financial condition, including without being limited to incurring a material amount of debt, making a material capital expenditure, buying or selling real property, entering into a lease with a term in excess of ten years, or otherwise assuming a material financial obligation.

2.6 ABA Accreditation. The Law College at all times shall maintain the accreditation of its academic programs by the American Bar Association. MSU shall assist the Law College in maintaining such accreditation.

ARTICLE III  
POLICIES AND PROCEDURES

3.1 Adoption. So that the Law College may function like a constituent MSU college, effective August 15, 2004, the Law College adopts and agrees to retain all academic and administrative MSU governance policies, procedures and practices, now existing or as established or amended after August 15, 2004, except as they relate to:

3.1.1 Financial affairs of the Law College, including without being limited to its annual budgets, revenues, expenses, capital expenditures, endowment funds, affiliated foundation and indemnification policy;

3.1.2 Terms and conditions of employment for Law College faculty members hired prior to the year 2000;

3.1.3 Compensation (salary and benefits) of Law College employees;

3.1.4 Faculty appointments, which will be made by the Law College in accordance with the Law College's Bylaws for Academic Governance, and the appointment of the Dean of the Law College, which will be made by the Law College Board upon the recommendation of the President of the Law College and the Provost of the Law College;

3.1.5 Final decisions on the grant or denial of tenure or promotion for Law College faculty, which will be made by the Law College Board after compliance with MSU policies and procedures has resulted in a recommendation from the Dean of the Law College and the Provost to the Law College Board;

3.1.6 Final decisions on grievance appeals relating to disciplinary action against a Law College faculty member where dismissal is not sought, or to the denial of tenure to a Law College faculty member, each of which will be made by the President of the Law College;

3.1.7 Presidential recommendations and final decisions on revocation of tenure for Law College faculty under the MSU Dismissal of Tenured Faculty for Cause Policy, which will be made, as to recommendations, by the President of the Law College, and, as to final decisions, by the Law College Board; and

3.1.8 Conferral of the Juris Doctor degree and other advanced graduate degrees in law.

The policies, procedures and practices adopted by this section 3.1 shall supersede and replace any duplicative or contrary Law College policy, procedure or practice, unless an exception or modification is made pursuant to section 3.2.

3.2 Interpretation. In MSU policies and procedures as applied to the Law College, references to MSU faculty and MSU students shall be deemed to apply to Law College faculty and Law College students. Any question or ambiguity about the applicability to the Law College of MSU policies, procedures or practices will be resolved in favor of applicability. No exception to or modification of any MSU policies, procedures or practices, as applicable to the Law College, shall be effective unless, and then only to the extent, the exception or modification is approved in writing by a duly authorized MSU officer.

3.3 Policies, Procedures and Student Code Specific to Law College. To the same extent to which constituent MSU colleges adopt and operate under policies and procedures for academic administration and academic governance that are college-specific, the Law College may adopt college-based policies and procedures. Similarly, the Law College may adopt a code of student rights and responsibilities that is specific to Law College students. Such policies, procedures and code, and the process and requirements for their adoption, shall be consistent with sections 2.2, 3.1 and 3.2.

3.4 Participation in MSU Governance. MSU shall support the efforts of the Law College to enable Law College faculty members to participate in academic governance at MSU on the same terms as faculty members of constituent colleges of MSU do. MSU shall support the efforts of the Law College to enable Law College students to participate in the student government system at MSU on the same terms as students of constituent colleges of MSU do.

#### ARTICLE IV GENERAL CONTRACT PROVISIONS

4.1 Notices. All notices, consents, approvals, requests and other communications required or permitted under this Memorandum shall be given in writing, signed by an authorized representative of MSU or the Law College, as applicable, and (i) mailed by certified or registered mail return receipt requested, (ii) hand delivered, or (iii) sent by facsimile transmission, with confirmation of receipt, (A) to the President of MSU and the Provost of MSU, at their respective business addresses and facsimile numbers, as to MSU, or (B) to the Chair of the Board of the Law College, the President of the Law College, the Provost of the Law College and the Dean of the Law College, at their respective business addresses and facsimile numbers as to the Law College.

Notices shall be effective when delivered, if hand delivered; on the first business day after mailing, if mailed; if refused, when first refused; or when confirmation is received, if sent by facsimile.

4.2 Entire Agreement; Amendments. This Memorandum, together with the Lease and the existing Operating Agreements between the parties, constitute the entire agreement of the parties with respect to the affiliation between the parties. This Memorandum supersedes all negotiations or previous agreements between the parties (other than the Lease and such Operating Agreements) with respect to all or any part of its subject matter. No amendment of this Memorandum shall be effective unless contained in a writing signed by both MSU and the Law College.

4.3 Successors; Third Parties. The provisions of this Memorandum shall bind and inure exclusively to the benefit of MSU and the Law College and their respective permitted successors and assigns. Such provisions are not for the benefit of any third person, nor shall this Memorandum be deemed to have conferred any rights, express or implied, upon any third person.

4.4 Captions; Section Numbers. Captions and headings in this Memorandum are for convenience of reference only, are not a part of the provisions of this Memorandum, and shall not be used to affect their interpretation. When not otherwise expressly designated, section numbers refer to sections or subsections of this Memorandum.

4.5 Termination of Earlier MOU. This Memorandum is effective as of July 1, 2011. As of that date, the Memorandum of Understanding Regarding Affiliation dated April 14, 2004 between the parties is abrogated and shall have no further force or effect, being replaced in its entirety by this Memorandum.

**IN WITNESS WHEREOF, Michigan State University and the Michigan State University College of Law have duly executed this Memorandum of Understanding Regarding Affiliation.**

**MICHIGAN STATE UNIVERSITY**

**MICHIGAN STATE UNIVERSITY  
COLLEGE OF LAW**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: President

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Title: Vice President for Finance &  
Operations & Treasurer

Date: \_\_\_\_\_

**-- CONFIDENTIAL DRAFT --****MEMORANDUM OF UNDERSTANDING REGARDING AFFILIATION**

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**RECITALS**

MSU and the Law College have been affiliated since 1995, when they entered into their first Memorandum of Understanding. The Law College operates a school of law, known as the Michigan State University DCL College of Law, at a building on MSU's campus which it occupies pursuant to a Lease Agreement (the "Lease") dated November 17, 1995. The affiliation has generated more than a dozen joint degree programs, has facilitated cross-disciplinary instruction, has enhanced research activities of faculty and students of both parties, has facilitated faculty enrichment, and has helped both parties to advance public service and outreach missions. To build on the success of their initial affiliation, in 2004 MSU and the Law College entered into a second Memorandum of Understanding now find it advantageous to align their academic reputations and identities more closely and to integrate Law College faculty and students more completely into the academic life of MSU, including its academic administration, academic governance, student government and curricular systems. This stronger affiliation has proved beneficial to MSU and the Law College, facilitating cross-disciplinary instruction, interdisciplinary research, and enhanced public service and outreach opportunities for both institutions. In light of these mutual benefits, MSU and the Law College have chosen to reaffirm and strengthen their affiliation through this Memorandum.

Because the Law College will remain an independent non-profit corporation, with its own board of trustees ("Law College Board"), it will continue to be responsible for its own finances, including the retention and support of Law College faculty and staff. Consequently, as set forth in Article III of this Memorandum, certain Law College practices and policies, primarily those concerning the financial affairs of the College, employee compensation and faculty tenure, will not necessarily comport completely with those of MSU. The parties intend that as to all other matters the Law College will follow MSU administrative and academic policies and practices, which will enable the Law College to function like a constituent MSU college and form a basis for Law College faculty to participate in MSU academic governance and for Law College students to participate in MSU student government.

Pursuant to these Recitals and in consideration of the mutual covenants herein, the parties agree as follows:

ARTICLE I  
AFFILIATION

1.1 Cooperation. MSU and the Law College shall continue to cooperate in order to obtain the maximum academic and strategic benefits from their affiliation. MSU shall continue to make available to the Law College, on an equitable cost-sharing basis where appropriate, various student and administrative services and support facilities and related services.

1.2 Name.

1.2.1 After the effective date of this Memorandum, the Law College shall be known and identified to the public solely as the "Michigan State University College of Law" and in abbreviated forms as "MSU College of Law" or "MSU Law" ("Law College Names"); provided, however, that the terms "Detroit College of Law," "DCL," "Michigan State University-Detroit College of Law," "Michigan State University-DCL College of Law," and "MSU-DCL" may be used as appropriate in reference to the Law College operation as conducted in Detroit and East Lansing prior to 2005~~the effective date of this Memorandum.~~

1.2.2 MSU shall own all rights in the Law College Names, and MSU hereby grants to the Law College a license to use the Law College Names and to use the Michigan State University name, logos and symbols in connection with Law College operations, but in each case only in compliance with MSU policies and practices relating to the use of such names, logos and symbols by MSU administrative units, as if the Law College were a constituent MSU college.

1.2.3 The Law College shall change its corporate name to "Michigan State University College of Law," and MSU hereby consents to such change.

1.2.4 The Law College's right to any use of the Law College Names or of any form of the name "Michigan State University" shall end when this Memorandum terminates, and the Law College shall promptly take any and all actions necessary to cease such use, including without being limited to such actions as are necessary to remove MSU from its corporate name.

1.3 No Corporate Affiliation or Merger. Notwithstanding the close alignment of the parties' academic administration, academic governance, student government and curricular systems, or any other matter set forth in this Memorandum or in any other agreement between the parties, including the Lease, the relationship of the parties is not intended and shall not be construed to create or result in a corporate merger, joint venture or partnership, or any parent-subsidiary or other form of common control or joint enterprise. The Law College and MSU shall retain their respective private and public characters. The Law College shall include in its publications a statement indicating that

the Law College is a separate legal entity from MSU. Nothing contained in this Memorandum shall be construed in a way that makes the Law College or its faculty or other employees, or members of the Law College Board, state actors or that affects the status of the Law College as a private legal entity.

1.4 No Financial Obligations. MSU shall have no liability for any financial obligation incurred by the Law College, and the Law College shall have no liability for any financial obligation incurred by MSU. The Law College shall include in any contract (i) obligating it to make payments of, or otherwise to incur liability for, more than \$250,000 in any fiscal year or more than \$1 million in any five-year period, or (ii) including an indemnity from the Law College, a statement that the obligations incurred in that contract are solely the obligations of the Law College and that MSU shall have no liability with respect to the performance of that contract.

1.5 Employee Status. Law College faculty and other employees shall remain employees of the Law College, and not employees of MSU, notwithstanding their participation in MSU academic affairs or other aspects of the affiliation between the parties. This Memorandum does not change the MSU Affiliate Faculty status of Law College faculty previously established by a separate agreement between the parties.

1.6 Exculpation. No MSU Board member, officer or employee shall be personally liable to the Law College for any default or breach by MSU of any of its obligations under the terms of, or arising from, this Memorandum. No Law College Board member, officer or employee shall be personally liable to MSU for any default or breach by the Law College of any of its obligations under the terms of, or arising from, this Memorandum.

1.7 Term and Termination. The term of this Memorandum shall commence as of its effective date, which shall be the date it has been signed by the respective authorized officers of MSU and of the Law College, and shall end on the date on which the Lease terminates.

## ARTICLE II GOVERNANCE

2.1 Board and Executive Committee Membership. In order to enhance cooperation between MSU and the Law College in achieving the common goals of the affiliation, to facilitate compliance with the Law College's obligations under the Lease, and to ensure MSU's participation in the oversight of the Law College, the Law College Bylaws shall provide that:

2.1.1 MSU shall be entitled to appoint certain trustees to the Law College Board as set forth in the Bylaws of the Law College in effect on the effective date of this Memorandum;

2.1.2 The President of MSU shall be a member of the Law College Board;

2.1.3 The President of MSU shall be a member of the Executive Committee of the Law College Board; and

~~2.1.4 The President of the Law College and the President of MSU shall co-chair the Executive Committee of the Law College Board; and~~

2.1.45 MSU shall be entitled to appoint one additional Law College trustee to the Executive Committee of the Law College Board, which may have up to five members.

The MSU appointed members of the Law College Board shall be appointed with the approval of the MSU Board of Trustees and, subject to applicable law, may be members of the MSU Board of Trustees or other representatives of MSU.

2.2 Bylaws: Consequential Matters. The Law College Board shall amend its Bylaws to provide that the Law College will not take action on a consequential matter unless it is approved by the Law College Board by the positive vote of at least three-fourths (3/4) of the total number of votes that could be cast at the meeting of the Law College Board at which action on the consequential matter will be considered. The total number of votes that could be cast at that meeting shall be calculated by adding the number of votes that would be cast if all members of the Law College Board attended the meeting in question and voted plus all the votes the PresidentChair of the Board of the Law College and the President of MSU would be entitled to cast at the meeting pursuant to Law College Bylaw 2.0302. The following are consequential matters:

2.2.1 The approval or amendment of the Law College Articles or Bylaws, of the policies and bylaws for academic governance of the Law College, of the Law College code of student rights and responsibilities, or of the strategic vision for the Law College;

2.2.2 The approval of the Law College's annual budget or of any capital or other expenditure by the Law College that reasonably could be expected materially to affect the Law College's financial condition, operations or facilities;

2.2.3 The establishment or termination of any of the Law College's academic programs;

2.2.4 The conferring of tenure at the Law College or the approval or amendment of the Law College's rules of tenure, promotion and tenure revocation;

2.2.5 The naming of the Law College, any of its centers, institutes or other academic units or programs, or any of its major physical facilities, including without being limited to the acceptance of naming gifts for any of the foregoing;

2.2.6 Any joint degree program, joint clinical program, research institute or other such affiliation between the Law College and an entity other than MSU;

2.2.7 The appointment of the Dean of the Law College; and

2.2.8 Any other matter that the ~~President~~Chair of the Board of the Law College or the President of MSU determines, in good faith, to be a "consequential matter" because it materially affects the Law College, MSU or the relationship between them.

2.3 ~~Provost~~ President.

~~2.3.1~~ 2.3.1 The ~~Provost~~President of MSU also shall ~~also be the Provost~~also be the President of the Law College and its principal executive officer and shall have the role accorded to the Provost of the Law College by the Bylaws of the Law College ~~in effect on the effective date of this Memorandum~~. In that regard, the President shall have such powers as are inherent in the position in managing and directing the affairs of the Law College, including, without being limited to, supervising the Provost of the Law College and, the Dean of the Law College. Notwithstanding the foregoing, the members of the Law College Board may initiate contact with the Dean of the Law College or any other employee of the Law College about the affairs of the Law College when they deem it appropriate to do so, and the Dean of the Law College may seek guidance from the Law College Board in the event the interests of the Law College and MSU diverge.

2.3.2 In hiring and evaluating the President of MSU, the MSU Board of Trustees shall consult with the Law College Board regarding the President of MSU's service as the President of the Law College.

2.4 Provost.

~~2.4.1~~ 2.4.1 The Provost of MSU also shall be the Provost of the Law College and shall have the role accorded to the Provost of the Law College by the Bylaws of the Law College ~~in effect on the effective date of this Memorandum~~.

~~2.4.2~~ 2.4.2 If and to the degree the deans of the constituent colleges of MSU would do so under then existing MSU policies, procedures and practices, the Dean of the Law College shall obtain the Provost's approval before the Law College accepts any naming gift, or enters into any joint academic or research program, that is not required to be approved by the Law College Board as a consequential matter.

2.5 Treasurer. The Treasurer of the Law College shall consult with the Treasurer of MSU before the Law College takes any action which would materially affect its financial condition, including without being limited to incurring a material amount of debt, making a material capital expenditure, buying or selling real property, entering into a lease with a term in excess of ten years, or otherwise assuming a material financial obligation.

2.6 ABA Accreditation. The Law College at all times shall maintain the accreditation of its academic programs by the American Bar Association. MSU shall assist the Law College in maintaining such accreditation.

### ARTICLE III POLICIES AND PROCEDURES

3.1 Adoption. So that the Law College may function like a constituent MSU college, effective August 15, 2004, the Law College adopts and agrees to retain all academic and administrative MSU governance policies, procedures and practices, now existing or as established or amended after August 15, 2004, except as they relate to:

3.1.1 Financial affairs of the Law College, including without being limited to its annual budgets, revenues, expenses, capital expenditures, endowment funds, affiliated foundation and indemnification policy;

3.1.2 Terms and conditions of employment for Law College faculty members hired prior to the year 2000;

3.1.3 Compensation (salary and benefits) of Law College employees;

3.1.4 Faculty appointments, which will be made by the Law College upon the ~~recommendation of the Provost, the Dean~~ in accordance with the Law College's Bylaws for Academic Governance, and the faculty of the Law College, and appointment of the Dean of the Law College, which will be made by the Law College Board upon the recommendation of the President of the Law College and the Provost of the Law College;

3.1.5 Final decisions on the grant or denial of tenure or promotion for Law College faculty, which will be made by the Law College Board after compliance with MSU policies and procedures has resulted in a recommendation from the Dean of the Law College and the Provost to the Law College Board;

3.1.6 Final decisions on grievance appeals relating to disciplinary action against a Law College faculty member where dismissal is not sought, or to the denial of tenure to a Law College faculty member, each of which will be made by the President of the Law College ~~with the concurrence of the President of MSU;~~

3.1.7 Presidential recommendations and final decisions on revocation of tenure for Law College faculty under the MSU Dismissal of Tenured Faculty for Cause Policy, which will be made, as to recommendations, by the President of the Law College ~~with the concurrence of the President of MSU, and, as to final decisions, by the Law College Board; and~~

3.1.8 Conferral of the Juris Doctor degree and other advanced graduate degrees in law.

The policies, procedures and practices adopted by this section 3.1 shall supersede and replace any duplicative or contrary Law College policy, procedure or practice, unless an exception or modification is made pursuant to section 3.2.

3.2 Interpretation. In MSU policies and procedures as applied to the Law College, references to MSU faculty and MSU students shall be deemed to apply to Law College faculty and Law College students. Any question or ambiguity about the applicability to the Law College of MSU policies, procedures or practices will be resolved in favor of applicability. No exception to or modification of any MSU policies, procedures or practices, as applicable to the Law College, shall be effective unless, and then only to the extent, the exception or modification is approved in writing by a duly authorized MSU officer.

3.3 Policies, Procedures and Student Code Specific to Law College. To the same extent to which constituent MSU colleges adopt and operate under policies and procedures for academic administration and academic governance that are college-specific, the Law College may adopt college-based policies and procedures. Similarly, the Law College may adopt a code of student rights and responsibilities that is specific to Law College students. Such policies, procedures and code, and the process and requirements for their adoption, shall be consistent with sections 2.2, 3.1 and 3.2.

3.4 Participation in MSU Governance. MSU shall support the efforts of the Law College to enable Law College faculty members to participate in academic governance at MSU on the same terms as faculty members of constituent colleges of MSU do. MSU shall support the efforts of the Law College to enable Law College students to participate in the student government system at MSU on the same terms as students of constituent colleges of MSU do.

#### ARTICLE IV GENERAL CONTRACT PROVISIONS

4.1 Notices. All notices, consents, approvals, requests and other communications required or permitted under this Memorandum shall be given in writing, signed by an authorized representative of MSU or the Law College, as applicable, and (i) mailed by certified or registered mail return receipt requested, (ii) hand delivered, or (iii) sent by facsimile transmission, with confirmation of receipt, (A) to the President of MSU and the Provost of MSU, at their respective business addresses and facsimile numbers, as to MSU, or (B) to the Chair of the Board of the Law College, the President of the Law College, the Provost of the Law College, and the Dean of the Law College, at their respective business addresses and facsimile numbers as to the Law College.

Notices shall be effective when delivered, if hand delivered; on the first business day after mailing, if mailed; if refused, when first refused; or when confirmation is received, if sent by facsimile.

4.2 Entire Agreement; Amendments. This Memorandum, together with the Lease and the existing Operating Agreements between the parties, constitute the entire agreement of the parties with respect to the affiliation between the parties. This Memorandum supersedes all negotiations or previous agreements between the parties (other than the Lease and such Operating Agreements) with respect to all or any part of its subject matter. No amendment of this Memorandum shall be effective unless contained in a writing signed by both MSU and the Law College.

4.3 Successors; Third Parties. The provisions of this Memorandum shall bind and inure exclusively to the benefit of MSU and the Law College and their respective permitted successors and assigns. Such provisions are not for the benefit of any third person, nor shall this Memorandum be deemed to have conferred any rights, express or implied, upon any third person.

4.4 Captions; Section Numbers. Captions and headings in this Memorandum are for convenience of reference only, are not a part of the provisions of this Memorandum, and shall not be used to affect their interpretation. When not otherwise expressly designated, section numbers refer to sections or subsections of this Memorandum.

4.5 Termination of Earlier MOU. This Memorandum is effective as of July 1, 2011. As of that date, the Memorandum of Understanding Regarding Affiliation dated April 14, 2004 between the parties is abrogated and shall have no further force or effect, being replaced in its entirety by this Memorandum. ~~This Memorandum replaces in its entirety the Memorandum of Understanding dated April 24, 1995, between the Law College and MSU, which is terminated and has no further force or effect.~~

**IN WITNESS WHEREOF, Michigan State University and the Michigan State University Detroit College of Law have duly executed this Memorandum of Understanding Regarding Affiliation.**

**MICHIGAN STATE UNIVERSITY**

**MICHIGAN STATE UNIVERSITY SU  
DETROIT COLLEGE OF LAW**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: President

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

By:

Title: Vice President for Finance &  
Operations & Treasurer

Date: \_\_\_\_\_