

## LETTER OF INTENT

The University of Tennessee, an instrumentality of the State of Tennessee ("UT"), and Martin Methodist College, a non-profit educational corporation formed under the laws of the State of Tennessee ("MMC"), are discussing the possibility of an agreement for the transfer of the assets of MMC to UT under which MMC would become a part of the UT System, to be governed by the Board of Trustees of UT. This Letter of Intent ("LOI") dated as of September 11, 2020, sets forth UT's and MMC's commitment to negotiate in good faith to reach an asset transfer agreement to add MMC as a campus of UT pending the conditions set forth herein and all required approvals (the "Asset Transfer Agreement"). For purposes of this LOI, UT and MMC may be referred to individually as a "Party" or collectively as the "Parties."

The Parties agree as follows:

### **1. Intent**

UT and MMC agree to negotiate to affect a potential transfer of all of the assets of MMC to UT. Subject to all conditions and required approvals set forth herein, the Parties anticipate that that the proposed transaction may include the following components: UT will assume certain debt of MMC and MMC will become a financial responsibility of the State of Tennessee. MMC would be a new campus of UT and would continue to offer a liberal arts experience on a small campus. Becoming part of UT would enhance the financial resources available to MMC and its students. The current president of MMC will become the chancellor of the new campus (for purposes of this LOI, such campus is referred to as the "MMC Campus"). UT will retain the existing faculty and staff of MMC as UT employees who shall be eligible to participate in benefits offered by the State of Tennessee. UT will not pay any consideration for the transfer of all of the financial and real estate assets of MMC (the "Asset Transfer") but shall accept financial responsibility to continue the MMC Campus as a going concern and to provide high quality education to its current and future students. The endowment of MMC shall be transferred to UT and shall be designated to be used for the benefit of the MMC campus. UT will work with MMC to determine a way to honor the mission for the Methodist Church and how to continue that educational opportunity, potentially in a partnership with a separate 501(c)(3).

### **2. Non-Binding Obligation**

Notwithstanding anything herein to the contrary, this LOI is non-binding. By executing this LOI and participating in further discussions and conducting due diligence, neither Party assumes any legal or financial obligation to the other Party or any obligation to

execute any further agreement, including but not limited to the Asset Transfer Agreement.

### **3. Approvals**

Notwithstanding anything herein to the contrary, the Parties acknowledge and agree that any potential Asset Transfer between the parties and/or operation of MMC as a campus of UT, is subject to numerous required approvals, including but not limited to approvals by the following: the governing Boards of both Parties, the Tennessee General Assembly, the Tennessee Higher Education Commission, the Tennessee State School Bond Authority, the Tennessee Attorney General, the U.S. Department of Education, and the Southern Association of Colleges and Schools Commission on Colleges ("SACSCOC"), among other state and federal approving agencies.

### **4. Nondisclosure**

UT and MMC have executed a Mutual Non-Disclosure Agreement dated as of July 17, 2020 and attached as Exhibit A (the "NDA"). The Parties agree that the NDA is enforceable and incorporated by reference into this LOI.

### **5. Exclusivity**

MMC agrees that it will not engage in discussions or negotiations with another institution of higher education or other entity regarding the transfer of its assets during the term of this LOI as set forth below.

### **6. Due Diligence**

The Parties acknowledge that analysis and diligence of each other's information is fundamental to an evaluation of an Asset Transfer. The Parties agree to exchange due diligence requests. Each Party agrees to cooperate in setting up data rooms or otherwise providing the information requested in the respective due diligence lists. Each Party may designate responsive materials as "Confidential" in accordance with the terms of the NDA and this LOI. Each Party shall designate an employee who shall be responsible for gathering and providing due diligence requests to the other Party.

### **7. Conditions to Close**

The Parties agree that the following conditions, among others as may be identified during the term of this LOI, will be conditions to the closing of an Asset Transfer or other similar transaction between the Parties:

- Satisfactory due diligence review, creation of comprehensive list of assets to be transferred, and evidence that no material adverse change has occurred.
- Negotiation of Asset Transfer Agreement.
- Approval of the Boards of UT and MMC.
- Approval of the Legislature of the State of Tennessee and all required State agency approvals, including but not limited to, the Tennessee Higher Education Commission and the Tennessee State School Bond Authority, to the Asset Transfer and operation of the MMC Campus.
- All required Department of Education and other required federal approvals, particularly approvals related to accreditation, including SACSCOC, and participation in federal student loan programs, for the MMC Campus.
- Approval of the Attorney General of the State of Tennessee to transfer the endowment.
- Completion by MMC of the necessary process to become unaffiliated with the United Methodist Church.

#### 8. Timeline for Completion of Tasks and Responsible Parties

The Parties agree to use reasonable efforts to complete the following tasks during the term of this LOI, although they agree that the failure of either Party to satisfy any component of the timeline will not constitute a breach of this LOI or otherwise create any liability to the other Party:

- Production of Responsive Due Diligence Materials
- Draft of Asset Transfer Agreement
- Board Approvals
- Legislative Approval
- DOE and Accreditation Approval
- State Approvals

#### 9. Miscellaneous Provisions

- a. Commencement/Term/Termination. This LOI takes effect upon the signature of MMC and UT. The LOI will remain in effect until the earlier of (i) the agreement in writing that the Parties will not reach an Asset Transfer Agreement and terminate this LOI or termination by either Party or (ii) one year from the date hereof, unless extended by an executed modification, signed and dated by each Party. This LOI may be modified only through written mutual agreement. This LOI may be terminated at any time by either Party upon thirty (30) days' written notice to the other Party.

- b. Responsibilities of Parties. Each Party will administer its own activities and utilize its own resources, including the expenditure of its own funds, in performing its obligations under this LOI.
- c. Assignment. Neither this LOI nor any rights hereunder, in whole or in part, shall be assignable or otherwise transferable without the prior written consent of the other Party.
- d. Not Agents of Each Other. Nothing contained in this LOI shall be considered to make one Party or any of its employees the agent or employee of another Party.
- e. Publicity Releases. The Parties agree to coordinate in advance on all public information releases to be issued concerning this LOI. This Section shall not limit either Party in fulfilling its legal obligations to provide information under applicable law.
- f. Counterparts. This LOI may be executed by the Parties in separate counterparts, each of which, when so executed and delivered, shall be an original, but all counterparts shall together constitute one and the same instrument.
- g. Entire Agreement. This LOI constitutes the entire agreement between the Parties and supersedes all prior and contemporaneous agreements, understandings, negotiations, and discussions between the Parties, whether oral or written, with respect to an Asset Transfer or establishment of the MMC Campus.
- h. Governing Law. This Agreement is governed by the laws of the State of Tennessee.
- i. Waiver and Notice. No waiver of a provision, violation of a provision, or default shall apply to any other provision or subsequent violation or default or be deemed continuous. Any notice, request, approval, or consent required to be given under this LOI will be sufficiently given if in writing and delivered to a Party in person or by recognized overnight courier at the address appearing on the signature page of this LOI under the section titled "Address for notices," or at such other address as each Party may designate in accordance with this LOI. Notice shall be deemed effective upon receipt.

**MMC address for notices:**

Dr. Mark La Branche  
 President  
 Martin Methodist College  
 433 West Madison Street  
 Pulaski, Tennessee 38478

**UT address for notices:**

David L. Miller  
 Sr. Vice President and  
 Chief Financial Officer  
 The University of Tennessee  
 709 Andy Holt Tower

Knoxville, Tennessee 37996

MMC point of contact for due diligence:

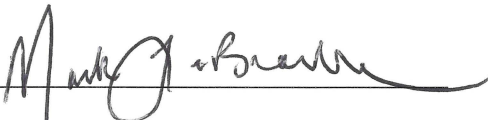
Dr. George Cheatham  
Martin Methodist College  
433 West Madison Street  
Pulaski, Tennessee 38478

UT point of contact for due diligence:

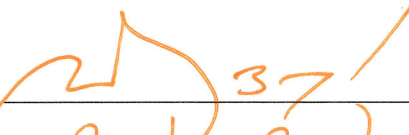
C. Ryan Stinnett  
General Counsel  
The University of Tennessee  
719 Andy Holt Tower  
Knoxville, Tennessee 37796

The Parties have caused this Letter of Intent to be executed by their duly authorized representatives as set forth below.

**MARTIN METHODIST COLLEGE**

By:   
Name: Mark LaBranche  
Title: President  
Date: 9/11/2020

**THE UNIVERSITY OF TENNESSEE**

By:   
Name: Randy Boyd  
Title: President  
Date: 9/11/2020

**EXHIBIT A**  
**MUTUAL NONDISCLOSURE AGREEMENT**

## MUTUAL NON-DISCLOSURE AGREEMENT

This Mutual Non-Disclosure Agreement ("Agreement") is entered into and effective as of July 17, 2020 ("Effective Date") by and between The University of Tennessee, a public higher education institution and instrumentality of the State of Tennessee, having offices at 800 Andy Holt Tower, 1331 Circle Park, Knoxville, Tennessee 37996 ("UT) and Martin Methodist College, a private institution of higher education, having offices at 433 West Madison Street, Pulaski, TN 38478 ("MMC"). UT and MMC are referred to individually as a "Party" and collectively as the "Parties."

The Parties agree as follows:

1. Confidential Information. Each Party possesses proprietary and confidential data, information, documentation, and materials relating to the Purpose (as defined in Section 2). All data, information, documentation, and materials relating to the Purpose disclosed by one Party to the other Party during the term of this Agreement, whether transmitted in writing, orally, electronically, visually, or otherwise, shall be "Confidential Information." The Party receiving Confidential Information is referred to as the "Receiving Party," and the party disclosing Confidential Information is referred to as the "Disclosing Party." All Confidential Information shall be marked with an appropriate restrictive legend, and any Confidential Information disclosed other than in writing must be reduced to writing with an appropriate restrictive legend and delivered to the Receiving Party within fifteen (15) calendar days of the disclosure.

2. Purpose and Handling of Confidential Information. Confidential Information exchanged between the Parties shall be used solely for the purpose of discussing a possible merger/acquisition between the Parties (the "Purpose"). No other use by the Receiving Party of the Confidential Information is granted without the written consent of the Disclosing Party. The Receiving Party shall keep the disclosing party's Confidential Information in strict confidence and shall not disclose such Confidential Information to any third party. Other than as permitted in this Agreement, no Receiving Party may disclose, modify, copy, transfer, or assign any Confidential Information disclosed to it under this Agreement. In the event the Disclosing Party gives its approval for the Receiving Party to disclose Confidential Information to a third party, the Receiving Party shall ensure that all such disclosures are marked with appropriate legends, the receiving third party enters into a non-disclosure agreement to protect Confidential Information with terms at least as protective as those contained in this Agreement, and any other conditions reasonably required by the Disclosing Party in order to preserve the confidential nature of the information and the Disclosing Party's rights therein.

3. Term and Termination. The term of this Agreement is one (1) year from the Effective Date. The Agreement may be terminated at any time by either Party upon thirty (30) calendar days' written notice to the other Party.

4. Obligation Period; Survival of Confidentiality Obligations. Notwithstanding any expiration or termination of this Agreement, all restrictions and obligations set forth herein, including each Party's confidentiality obligations, shall continue for five (5) years from the Effective Date (the "Obligation Period").

5. Return of Confidential Information. Upon expiration or termination of this Agreement or at any time upon written request of the Disclosing Party, the Receiving Party shall promptly return to the Disclosing Party or shall destroy all tangible and digital manifestations of all recorded or stored information that is based on or embodies any of the Confidential Information it received pursuant to this Agreement, except that each Party may retain a total of one (1) copy of such Confidential Information in accordance with its standard archival procedures and in order to determine its obligations under this Agreement.

6. Ownership of and Rights in Confidential Information; Further Business Relationship. All Confidential Information remains the property of the Disclosing Party. No license, option, or right is granted to the Receiving Party other than to use the Confidential Information for the Purpose. The Parties are not obligated to enter into any further business relationship or agreement.

7. Allowed Disclosures of Confidential Information. UT may disclose Confidential Information to its trustees, officers, and employees (including, but not limited to the UT President's executive leadership team and campus chancellors), and legal and financial advisors who need to know it in connection with and to accomplish the Purpose. MMC may disclose Confidential Information to its officers, directors, employees, and legal and financial advisors who need to know it in connection with and to accomplish the Purpose, provided such persons are bound by the terms of their employment to comply with this Agreement. Either Party may disclose Confidential Information to the Tennessee Higher Education Commission in connection with and to accomplish the Purpose. Additionally, either Party may disclose Confidential Information if required to do so by applicable law, a court order, or a government agency, and if such disclosure is required, that Party shall use reasonable efforts to give the other Party prior written notice.

8. Exceptions to Confidentiality Obligation. The restrictions described in this Agreement shall not apply to Confidential Information that:

- a. is already lawfully in the Receiving Party's possession at the time of receipt from the Disclosing Party, as evidenced by appropriate documentation;



- b. is or later becomes public through no fault of the Receiving Party;
- c. is at any time developed by or for the Receiving Party independently and without use of or reference to any of the Disclosing Party's Confidential Information disclosed under this Agreement;
- d. is lawfully received from a third party whom Receiving Party reasonably believes has the right to make the disclosure, as evidenced by appropriate documentation; or
- e. is required by law to be disclosed, including but not limited to the Tennessee Public Records Act, Tenn. Code Ann. § 10-7-501 et seq.

9. Governing Law. This Agreement is governed by the laws of the State of Tennessee, without regard to its conflict of laws principles. Any liability of UT to MMC or third parties for any claims, damages, losses, or costs arising out of or related to acts or omissions by UT, or its trustees, officers, or employees, under this Agreement will be governed by the Tennessee Claims Commission Act, Tenn. Code Ann. §§ 9-8-301 et seq.

10. Entire Agreement; Counterparts; Amendments; Assignment. This Agreement constitutes the entire understanding between the Parties with regard to the Purpose and supersedes all prior agreements between the Parties with regard to the Purpose. This Agreement may be executed in counterparts, all of which taken together shall constitute one agreement. This Agreement may only be amended in writing and must be signed by an authorized representative of each Party. This Agreement may not be assigned, by operation of law or otherwise, or transferred in whole or in part by either Party without the written consent of the other Party.

11. Waiver. No waiver of a provision, violation of a provision, or default shall apply to any other provision or subsequent violation or default or be deemed continuous.

12. Notice. Any notice, request, approval, or consent required to be given under this Agreement will be sufficiently given if in writing and delivered to a Party in person or by recognized overnight courier at the address provided below. Notice shall be deemed effective upon receipt.

UT address for notices:

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MMC address for notices:

433 West Madison St  
Pulaski, TN 38478  
 \_\_\_\_\_

*(Signatures appear on following page)*

The Parties have caused this Agreement to be executed by their duly authorized representatives as set forth below.

UT

By: 

Name: David L. Miller

Title: Sr. Vice President and CFO

Date: 7/17/2020

MMC

By: its President

Name: Mark La Branche

Title: President

Date: July 17, 2020

