

BYLAWS
OF
THE FAU FINANCE CORPORATION

Effective December 13, 2009

Last Amended November 2, 2017

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**BYLAWS
OF
THE FAU FINANCE CORPORATION**

**ARTICLE I
NAME**

The name of the Corporation shall be "The FAU Finance Corporation", a Florida not for profit corporation (the "Corporation"). The Corporation shall maintain a registered office in the State of Florida and a registered agent at such office.

**ARTICLE II
MEMBERS**

The members of the Corporation shall consist of the members of the Corporation's Board of Directors (the "Board of Directors").

**ARTICLE III
BOARD OF DIRECTORS**

SECTION 3.1. General Powers. The business, property, affairs and funds of the Corporation shall be managed, supervised and controlled by a Board of Directors subject only to applicable law and the limitations contained in the Articles of Incorporation of the Corporation (the "Articles of Incorporation") and these Bylaws and the powers and duties reserved to the Board of Trustees (the "Board of Trustees") of The Florida Atlantic University (the "University") and the President of the University or the President's designee in regards to the Corporation. The Board of Directors shall have the authority to adopt policy for the Corporation, consistent with the Articles of Incorporation and these Bylaws.

SECTION 3.2. Reserved Powers. The President of the University or the President's designee shall have the following specific powers and duties with regard to this Corporation:

- (a) To monitor and control the use of the University's resources by this Corporation;
- (b) To control the use of the University name by this Corporation;
- (c) To monitor compliance of this Corporation with federal and state laws;
- (d) To recommend an annual budget of this Corporation to the Board of Trustees;
- (e) To review and approve annual expenditure plans of this Corporation; and
- (f) To approve and supervise the Executive Director of the Corporation.

SECTION 3.3. Appointment and Term of Directors. The Directors of the Corporation shall be appointed in the following manner:

- (a) One appointed Director shall be the President of the University or the President's designee;
- (b) One appointed Director shall be appointed by the chair of the University Board of Trustees ; and
- (c) A minimum of three (3) additional Directors shall be appointed by the President of the University and must be approved by the University's Board of Trustees. Each Director must have demonstrated outstanding qualities of leadership or managerial ability.

The term of office of each Director appointed pursuant to Section 3.3(c) above shall be four years in length. A Director appointed pursuant to Section 3.3(c) above shall not be eligible to serve more than two consecutive terms; provided, however, that a Director who has served two consecutive terms may be re-appointed to the Board of Directors after the expiration of one-year following the end of such Director's last previous term and will have the status of a new Director. The President of the University or the President's designee acting in the capacity of a Director pursuant to Section 3.3(a) above, shall serve until the earlier of such President's resignation, removal from office or death. The Director appointed by the chair of the University Board of Trustees pursuant to Section 3.3(b) above, shall serve until the earlier of such chair's resignation or removal as chair, or death. Notwithstanding the expiration of a Director's term, a Director shall serve until a successor Director is appointed. Vacancies of appointed Directors shall be filled by the President or chair of the University Board of Trustees, as applicable.

SECTION 3.4. Removal of Directors. A Director may resign at any time by submitting a written resignation to the Chairperson of the Board of Directors. Any Director, other than the designee of the Chair of the Board of Trustees, may be removed from the Board of Directors at any time upon written notice by the President of the University. The designee of the Chair of the Board of Trustees may be removed from the Board of Directors at any time upon written notice by the Chair of the Board of Trustees.

SECTION 3.5. Conflict of Interest and Code of Ethics. Directors stand in a fiduciary relationship to the Corporation and the University. Therefore, Directors shall act in good faith, with due regard to the interests of the Corporation and the University, and shall comply with the fiduciary principles and law set forth in the Code of Ethics for Public Officers and Employees, Chapter 112, Part III, Florida Statutes, with the exception of subsection 112.313(7). Directors shall comport themselves in accord with the statutory Code of Ethics and the Conflict of Interest Policy attached to these Bylaws as Appendix "A". Each Director shall annually complete and sign a disclosure form as required by said policy.

SECTION 3.6. Meetings. An annual meeting of the Board of Directors shall be held within the State of Florida. Following proper notice, regular meetings of the Board of

Directors may be held, at such time and place as from time to time shall be determined by the Chairperson of the Board of Directors. Special meetings of the Board of Directors may be called by (a) the Chairperson of the Board of Directors, or (b) the Secretary of the Corporation, or (c) any two officers. Written notice of the time and place of such special meetings of the Board of Directors shall be given to each Director as provided by law, along with all materials needed for the meeting. All meetings of the Corporation shall be noticed and open to the public in accordance with the requirements of Section 286.011, Florida Statutes.

SECTION 3.7. Quorum. At all meetings of the Board of Directors, the presence of a majority of the Board of Directors shall be necessary and sufficient to constitute a quorum. A quorum must be present to transact the business of the Corporation at a meeting.

SECTION 3.8. Voting. Each Director shall have one vote. All questions shall be decided by the act of a majority of the Directors present, except as otherwise provided in these Bylaws, the Articles of Incorporation, or Florida law. Proxies, general or special, shall not be accepted for any purpose in the meetings of the Directors or committees.

SECTION 3.9 Executive Session. The Legislature has provided limited exemptions from the Sunshine law for certain meetings because of the confidential material that must be discussed. When the Board decides to avail itself of any such exemption, it will do so by convening an executive session of the Board. Meetings to discuss pending litigation in which the Board is presently a party before a court or administrative agency may be held in executive session outside the Sunshine, provided the following procedures and conditions are met:

1. Counsel for the Board must advise the Board at a public meeting that he or she desires an executive session and must state the basis therefor.
2. Only Board members, the Board's attorney(s) and the President of the University may attend a closed executive session to discuss pending litigation. Staff members or consultants are not permitted to attend. The Board must give advance public notice, pursuant to its procedures, of the time and date of the executive session, and must identify the names of the persons who will be attending the closed session.
3. The session must commence with an open meeting at which the Chairperson or his/her designee shall announce the commencement of the meeting, the estimated length of the closed executive session, and the names of the persons attending. At that point, the meeting is closed to all except those whose names have been announced. The executive session may then commence. At the conclusion of the executive session, the meeting must be reopened to the public and the person chairing the meeting shall announce the termination of the closed executive session.
4. A certified court reporter must record the entire executive session. The reporter must record the times of commencement and termination of the

executive session; all discussions and proceedings; the names of all persons present at any time; and the names of all persons speaking. No portion of any executive session may be held off the record. The Board must have the court reporter's notes fully transcribed, and the transcript filed with its records custodian. The transcript is exempt from Florida's public records law, and is not to be disclosed until the litigation concludes. Upon the conclusion of the litigation, the transcript becomes part of the public record.

5. The subject matter of the closed session must be confined to settlement negotiations or strategy sessions related to litigation expenditures. The Board may not go beyond these strict parameters. No final action, no vote, and no decisive action may be taken during the closed session. Any final decision to settle a lawsuit, for a certain amount of money, or under certain conditions, is a decision that must be voted upon in a public meeting.

ARTICLE IV OFFICERS

SECTION 4.1. Officers. The officers of this Corporation shall be a Chairperson, a Vice Chairperson, a Secretary, a Treasurer and such other officers as may be determined by the Board of Directors. The offices of Secretary and Treasurer may be held by a single person. Only Directors of the Corporation may be elected to the office of Chairperson and Vice Chairperson of the Corporation pursuant to this Article IV, from nominations submitted to the Directors by the Nominations Committee or from nominations from the floor. All officers shall have such authority and perform such duties as described below:

- (a) Chairperson. The Chairperson shall preside at all meetings of the Board of Directors and shall do and perform such other duties as may be assigned by the Board of Directors. The Chairperson may execute all documents in the name of the Corporation, with the Secretary attesting, including but not limited to all contracts, deeds, notes, certificates and other documents or legal instruments authorized or issued by the Board of Directors.
- (b) Vice Chairperson. The Vice Chairperson shall act as Chairperson in the Chairperson's absence or unavailability, and shall do and perform such other duties as may be assigned by the Board of Directors.
- (c) Secretary. The Secretary shall keep full and accurate minutes for all meetings of the Board of Directors. The Secretary shall transmit all notices required by the Bylaws of the Corporation, as the same may be amended from time to time. The Secretary may attest to documents with the Chairperson in the name of the Corporation and, when required, shall affix thereto the seal of the Corporation. The Secretary shall have charge of all official records of the Corporation that shall be at all reasonable times open to examination of any

Director, and shall in general perform all duties incident to management of the office of Secretary for the Board of Directors.

- (d) Treasurer. The Treasurer shall be a member of the Finance Committee, and must have the requisite financial skills to be designated as a Financial Expert pursuant to the criteria of Sarbanes-Oxley. The Treasurer shall prepare the annual budget and present the financial statements of the Corporation to the Board of Directors at each regular meeting of the Board of Directors and at such other times as the Board of Directors may determine. The Treasurer shall ensure that all financial reports and expenditure plans are filed in a timely manner in accordance with applicable law. The Treasurer shall ascertain that a full and accurate account is made of all monies received and paid out on accounts administered by the Corporation in accordance with guidelines or directives established by the Board of Directors, and shall in general perform all duties incident to management of the office of Treasurer for the Board of Directors, including, but not limited to, the following:

The deposit of all monies, checks, and other credits to the account of the Corporation in such bank or banks or other depositories as the Board may designate; the review of all receipts and vouchers for payment made to and all vouchers and checks made by this Corporation; rendering to the Board an account and statement of all the Treasurer's transactions at each meeting of the Board and at such other times as the Board may determine; preparation of a quarterly expenditure plan to be reviewed and approved quarterly by the President of FAU or his or her designee who shall be a Vice President or other senior officer of FAU reporting directly to the President. The plan shall separately delineate planned actions which result in a commitment of University resources or which represent significant commitment of the resources of the Corporation.

SECTION 4.2. Appointment and Term of Office. The officers of the Corporation shall be elected as necessary by majority vote of the Board of Directors at the annual meeting. Each of the officers shall serve terms of two years, each commencing immediately following their election or appointment.

SECTION 4.3. Removal. Any officer may be removed with or without cause by a two-thirds vote of the Board of Directors.

SECTION 4.4. Vacancies. A vacancy in any office because of death, resignation, removal or otherwise may be filled by a vote held at a meeting of the Board of Directors.

**ARTICLE V
EXECUTIVE DIRECTOR**

The Executive Director shall generally be responsible for the carrying out of the plans, purposes and objectives of the Board of Directors, as well as the routine day-to-day business functions of the Corporation. The Executive Director must be faithful in the performance of his or her duties as the Board of Directors may require and will exercise the authority to collect revenues, make expenditures, disburse funds, and execute documents on behalf of the Corporation, and is responsible for maintenance and management of the Corporation's activities and personnel, and will perform other duties assigned to him or her by the Board of Directors of these Bylaws. The Executive Director shall be selected and appointed by the President of the University, in consultation with the Chairperson of the Corporation. The Executive Director shall report to the President of the University or the President's designee.

**ARTICLE VI
COMMITTEES**

SECTION 6.1. Creation of Committees. The Chairperson of the Board of Directors may appoint such committees as he/she may deem necessary and advisable to assist in the conduct of the Corporation's affairs, each to consist of one or more of the Directors of the Corporation. Such other committees shall have such functions as may lawfully be delegated by the Board of Directors to the extent provided in the resolution or resolutions creating such committee or committees. The actions of any committee shall be subject to review and approval by the Board of Directors, except when the power to act is specifically granted to a committee by the Board of Directors. Each committee shall keep approved minutes and submit them to the Board of Directors for review.

SECTION 6.2. Nominations Committee. The Board may appoint a Nominations Committee of three (3) members, whose duty it shall be to nominate candidates to fill vacancies of Directors and officers of the Corporation. The Board shall name the Chair of the Committee. The slate of nominations will be submitted, for the officers, to the Board of Directors for consideration at its next ensuing meeting, and, for the Directors, to the President of the University.

SECTION 6.3. Finance and Audit Committee. The Board may establish a Finance and Audit Committee of three (3) members. The Finance and Audit Committee shall be responsible for the preparation and periodic review of the Corporation's financial statements and the annual budget. The budget shall be prepared before the beginning of the University's fiscal year, approved by the Directors and recommended by the University President to the Board of Trustees each year no later than sixty (60) days following the beginning of the Corporation's fiscal year. The Board of Trustees must approve the Corporation's budget before it can be enacted. The Finance and Audit Committee shall cause an audit to be made by an independent certified public accountant of the books of the Corporation as soon as possible after the close of the fiscal year of the Corporation, and to have the results reported to the Board of Directors at its next ensuing meeting. The annual audit report shall be submitted by the University President to the Board of Trustees for review no later than the end of the fourth month following the close of the

organization's fiscal year. The annual audit report shall also be submitted to the Auditor General and to the Board of Governors no later than nine (9) months after the close of the Corporation's fiscal year. The audit shall be conducted in accordance with rules promulgated by the Board of Trustees and with the policies adopted by the Auditor General. The Finance and Audit Committee also shall ensure that the financial records of the Corporation are maintained in accordance with generally accepted accounting principles, that consistent and reliable financial practices are followed and that the current financial status of the Corporation is reported to the Board of Directors regularly.

SECTION 6.4. Meetings of Committees. Following proper notice, regular meetings of committees may be held at such time and at such place as shall from time to time be determined by the Board of Directors or the chairperson of the committee, upon proper notice in accordance with the Sunshine law. Meetings of committees may be conducted by conference telephone or similar communications facilities, in the same manner as if the meeting were held in person, if the Chairperson or the Chair of the Committee determines it is appropriate and is in full compliance with all requirements of the Sunshine law. The notice of any meeting conducted by means of telephone or similar communication facilities will state where and how members of the public may gain access to the meeting.

SECTION 6.5. Vacancies on Committees. Vacancies on any committees shall be filled by a majority vote of the Board of Directors then in office at any regular or special meeting.

ARTICLE VII INDEMNIFICATION

The Corporation shall indemnify each Director, officer, employee and agent of the Corporation, and may indemnify any other person, to the full extent permitted by the Florida Not For Profit Corporation Act and other applicable laws. The rights conferred by this Article VI shall not be exclusive of any other right that any Director, officer, employee, agent or other person may have or hereafter acquire under the Florida Not For Profit Corporation Act, any other statute or agreement, pursuant to a vote of disinterested Directors, or otherwise. No repeal or modification of this Article VII shall limit the rights of any Director, officer, employee or agent to indemnification with respect to any action or omission occurring prior to such repeal or modification.

ARTICLE VIII AMENDMENTS

SECTION 8.1. Amendments to Bylaws. These Bylaws may be amended by a two-thirds vote of the Board of Directors, and shall be submitted for approval to the University Board of Trustees prior to becoming effective.

SECTION 8.2. Amendments to Articles of Incorporation. The Articles of Incorporation of the Corporation may be altered or amended at any regular or special meeting of the Board by

resolution approved by the affirmative vote of two-thirds of the voting Directors present, and subject to any approval which may be required by the Board of Trustees. Written notice of any proposed amendment of the Articles of Incorporation shall be mailed to each Director not less than fifteen (15) days prior to any meeting at which such proposed amendment is to be considered.

SECTION 8.3. Requirements of Florida Law. All amendments to the Bylaws and Articles of Incorporation of the Corporation shall comply with Florida law and appropriate state rules and policies.

ARTICLE IX MISCELLANEOUS

SECTION 9.1. Fiscal Year. The fiscal year of the Corporation shall be consistent with the fiscal year of the University.

SECTION 9.2. Records. Public access to the records of the Corporation shall be governed by the provisions of Chapter 1004.28, Florida Statutes.

SECTION 9.3. Checks and Depositories. Except as may otherwise be specified in these Bylaws, the Board shall provide, by Resolution, which officers or Directors or other designees are authorized to draw checks on the accounts of the Corporation and may impose any reasonable terms, conditions or limitation on such authority. Funds of the Corporation shall be deposited to the credit of the Corporation only in institutions approved by the Board by resolution and only in financial institutions insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

SECTION 9.4. Seal. The seal of this Corporation shall bear the words "The FAU Finance Corporation", as more particularly shown in the following impression:

ARTICLE X EMPLOYEES

Any person employed by the Corporation shall not be considered an employee of the State of Florida or an employee of the University by virtue of such employee's employment by the Corporation. The Corporation shall provide equal employment opportunities to all persons regardless of race, color, religion, gender, age or natural origin.

ARTICLE XI PARLIAMENTARY RULES

The most recent edition of "Roberts Rules of Order" shall be followed in conducting the meetings of the Board of Directors, unless otherwise provided in these Bylaws.

**ARTICLE XII
DISSOLUTION**

In the event the University's Board of Trustees approves a decertification of the Corporation as a direct-support organization of the University, the Directors shall, after paying or providing for all debts and obligations of the Corporation, transfer the assets of the Corporation to the University and take all steps necessary to dissolve the Corporation.

APPROVED BY THE BOARD OF DIRECTORS ON DECEMBER 13, 2009, January 26, 2011, November 16, 2011, November 2, 2017.

APPENDIX A
THE FAU FINANCE CORPORATION
CONFLICTS OF INTEREST POLICY

PURPOSE

The purpose of this conflicts of interest policy is to protect the interest of The FAU Finance Corporation (referred to herein as the “FAUFC” or “corporation”) when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an interested person of the FAUFC or might result in a possible excess benefit transaction. This policy is intended to supplement but not replace any applicable laws governing conflicts of interest applicable to nonprofit and charitable corporations such as the FAUFC.

POLICY

I. DEFINITION OF TERMS

Interested Person

Any director, officer, member of a committee with broad delegated powers, administrator or faculty member who has a direct or indirect financial interest, as defined below, is an interested person with respect to the corporation. If a person is an interested person with respect to any entity related to the FAUFC, he or she is an interested person with respect to the FAUFC.

Financial Interest

A person has a financial interest if the person has, directly or indirectly, through business, investment or family:

1. an ownership or investment interest in any entity with which the FAUFC has a transaction or arrangement;
2. a compensation arrangement with the FAUFC or with any entity or individual with which the FAUFC has a transaction or arrangement; or
3. a potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the FAUFC is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are substantial in nature. A financial interest is not necessarily a conflict of interest.

II. DUTY TO DISCLOSE

In connection with any actual or possible conflicts of interest, an interested person must disclose the existence of his or her financial interest and all related material facts on a disclosure statement that must be updated annually. An additional disclosure statement must be filed for any additional matters subject to disclosure that arise before the next annual disclosure statement is due.

III. DETERMINING WHETHER A CONFLICT OF INTEREST EXISTS

After disclosure of the financial interest and all related material facts, and after any discussion with the interested person, the Chairperson and the University General Counsel shall determine if an actual or potential conflict may exist that requires board review. Any actual conflicts must be presented to the board to consider the proposed transaction or arrangement.

IV. PROCEDURES FOR ADDRESSING THE CONFLICT OF INTEREST

1. An interested person may make a presentation at the board meeting, but after such presentation, he or she shall leave the meeting during the discussion of, and vote on, the transaction or arrangement that results in the conflict of interest.
2. The chairperson of the board shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
3. After exercising due diligence, the board shall determine whether the FAUFC can obtain a more advantageous transaction or arrangement with reasonable efforts from a person or entity that would not give rise to a conflict of interest.
4. If a more advantageous transaction or arrangement is not reasonably attainable under circumstances that would not give rise to a conflict of interest, the board shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the FAUFC's best interest and for its own benefit and whether the transaction is fair and reasonable to the FAUFC and shall make its decision as to whether to enter into the transaction or arrangement in conformity with such determination.

V. VIOLATIONS OF THE CONFLICT OF INTEREST POLICY

1. If the board has reasonable cause to believe that a member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.

2. If, after hearing the response of the member and making such further investigation as may be warranted in the circumstances, the board determines that the member has in fact failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

VI. RECORDS OF PROCEEDINGS

The minutes of the board and all committees with board-delegated powers shall contain:

1. the names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the board or committee's decision as to whether a conflict of interest in fact existed, and
2. the names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record or any votes taken in connection therewith.

VII. COMPENSATION MATTERS

A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the FAUFC for services is precluded from voting on matters pertaining to that member's compensation. A person related to such member is also precluded from voting on that member's compensation.

VIII. ANNUAL STATEMENTS

Each director, principal officer and member of a committee with board delegated powers shall annually sign a statement which affirms that such person:

1. has received a copy of the conflicts of interest policy,
2. has read and understands the policy,
3. has agreed to comply with the policy, and
4. understands that the FAUFC is a charitable organization and that in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

IX. PERIODIC REVIEWS

To ensure that the FAUFC operates in a manner consistent with its charitable purposes and that it does not engage in activities that could jeopardize its status as an organization exempt from federal income tax, periodic reviews shall be conducted. The periodic reviews shall, at a minimum include the following subjects:

1. whether compensation arrangements and benefits are reasonable (for example, based on competent survey information) and are the result of arm's-length bargaining; and
2. whether partnerships, joint ventures and arrangements with management organizations conform to written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further the FAUFC's charitable purposes and do not result in increment, impermissible private benefit or in an excess benefit transaction.

X. USE OF OUTSIDE EXPERTS

In conducting the periodic reviews provided for the above, the FAUFC may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the board of its responsibility for ensuring that periodic reviews are conducted.

**ANNUAL ACKNOWLEDGEMENT AND DISCLOSURE FORM
FOR CONFLICTS OF INTEREST POLICY**

Board Member's Name _____

Date: _____

I hereby acknowledge that I have received a copy of the Conflict of Interest Policy of the FAU Finance Corporation (referred to herein as the "FAUFC" or "corporation") and have read and understand the same. I also understand that the FAUFC is a charitable organization and that in order to maintain its federal tax-exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes and also must comply with this policy.

I hereby further acknowledge and agree to comply with all provisions of the FAUFC's Conflicts of Interest Policy and understand that this policy applies to me and all committees with board-delegated powers.

1. Are you an officer or director of any corporation with which FAU Finance Corporation conducts business?

YES _____ NO _____

If the answer to the foregoing question is "YES", please list the names of such corporations, the office held, and the "approximate" dollar amount of business involved with FAU Finance Corporation during the past 12 months.

2. Do you, or does any member of your family, have a financial interest in, or receive any remuneration or income from, any business organization with which FAU Finance Corporation conducts business?

YES _____ NO _____

If the answer to the foregoing is "YES", please supply the following information:

- A. Names of the business organizations in which such interest is held and the person(s) by whom such interest is held;

B. Nature and amount of each financial interest, remuneration or income.

3. Did you, or any member of your family receive, in the past twelve months, any gifts or loans from any source with which FAU Finance Corporation conducts significant business?

YES _____ NO _____

If the answer to the foregoing is "YES", list such gifts or loans as follows:

<u>Name of Source</u>	<u>Item</u>	<u>Approximate Value</u>
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4. Are you an employee or volunteer to Florida Atlantic University or any of its direct support organization's other than the FAU Finance Corporation?

YES _____ NO _____

If the answer to the foregoing is "YES", list the employment or volunteer capacity and briefly explain your duties:

5. The following are other matters not listed in one of the categories above, but which in the interest of avoiding either actual impropriety or the appearance of impropriety, I feel it appropriate to disclose.

Neither I, nor members of my immediate family, have any relationship or engage in any activities of which I am aware, that may place me in a position of having a conflict of interest with FAU Finance Corporation except as detailed herein. I hereby agree to

report promptly to the Board of Directors of FAU Finance Corporation any other interest situation of which I may become aware, subsequent to the date of this Disclosure Statement.

Printed Name

Signature

Date