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**AGREEMENT BETWEEN
THE MERCATUS CENTER AND GEORGE MASON UNIVERSITY
REGARDING THE ESTABLISHMENT OF A PROFESSORSHIP**

THIS AGREEMENT is made May 3, 2007 between the Mercatus Center, Inc., 3301 North Fairfax Drive, Arlington, Virginia 22201 ("Mercatus") and George Mason University, Fairfax, Virginia ("the University").

WHEREAS Mercatus has received an offer of assistance from Mr. Menlo F. Smith ("Smith") to create the Frederic Bastiat Professorship of Political Economy at the Mercatus Center at George Mason University ("Professorship"); and

WHEREAS Mercatus deems it in its interest to support the academic excellence and advancement of the University; and

WHEREAS the University deems it in its interest to attract a qualified faculty member to their department of Economics to fulfill the objectives of the Professorship (as herein described);

NOW THEREFORE, Mercatus and the University enter into this Agreement to create a tenured faculty position within George Mason University ("GMU Faculty Position") to be occupied by the initial holder of the Professorship (that is, the candidate selected as a result of the procedures detailed in this document, the "Professor"). In consideration of the University's creation of the GMU Faculty Position, Mercatus agrees to contribute \$1,000,000 to the George Mason University Foundation as scheduled in Section 5, *infra*.

The final say in all faculty appointments lies in specified GMU procedures, involving academic approval and final approval by the Board of Visitors. Nothing in this document shall be construed as overriding such procedures. Alterations in the terms or conditions of this Agreement can be instituted only upon mutual agreement of the parties to the agreement and acceptance of any changes is likewise subject to the rules and procedures of George Mason University.

1. Objectives and Requirements of the Professorship. The objective of the Professorship is to advance the understanding, acceptance and practice of those free market processes and principles which promote individual freedom, opportunity and prosperity including the rule of law, constitutional government, private property and the laws, regulations, organizations, institutions and social norms upon which they rely. The occupant of the Professorship ("Professor") shall hold a doctorate degree and shall be qualified in and committed to the foregoing principles. The objectives of the Professorship shall be accomplished through teaching, research, publishing, print and electronic media and such other means as may reasonably be deemed to comport with the mission of Mercatus. The primary academic affiliations of the Professor will be GMU and Mercatus. At the conclusion of each academic year, the occupant shall provide the Selection Committee and the Advisory Board with a brief summary of the principal activities, accomplishments and expenditures of the Professorship for the previous year and a budget and plan for the subsequent academic year. Any additional objectives or requirements for the Professorship shall be decided by unanimous vote of the Selection Committee (Section 2, *infra*).

In addition to an annual report by the Professor to the Selection Committee and Advisory Board, the president of Mercatus will report to these same bodies on how the Professor has contributed to the mission of Mercatus, as well as the purposes defined in the grant underwriting the Professorship. Substantive contributions to Mercatus programs include 5 or more per year of the following:

- Teaching in a Capitol Hill Campus course or event;
- Producing a research product (e.g., an article published in a refereed journal, a working paper of suitable quality, a useful database, a public interest comment), decided jointly with the President and General Director of Mercatus, and which is closely related to the Center's mission of producing highly credible research about the underlying sources of prosperity and poverty;
- Participating in a minimum of three Mercatus fundraising or public relations events;
- Supervising a student supported by Mercatus on a research project related to the Mercatus mission (e.g., a research project in Regulatory Studies, a dissertation, other research likely to significantly advance the student's knowledge and skills).

Substituting these contributions with alternative activities is allowable upon unanimous approval of the selection committee.

2. Selection Committee. The Selection Committee shall have five (5) members. The decision-making rule for the Selection Committee shall be majority vote, except in the case of changing or providing additional objectives or requirements, in which case the decision-making rule shall be by unanimous vote. The members of the Initial Selection Committee (i.e., the Selection Committee that chooses an Initial Professor as defined in Section 4, *infra*) will be: the President or Executive Director of Mercatus or the most closely corresponding position, two (2) members designated by Smith, one of whom must be a member of the GMU faculty, the Chair of the GMU department where it is anticipated the Professor will receive the majority or all of his appointment, and one (1) member of the same department, to be designated by the department Chair. In addition to the Selection Committee, candidates will also interview with specific members of Mercatus staff appointed by Mercatus General Director, President, Executive Director, and Chief Operating Officer. The Selection Committee will take staff evaluations into account when making hiring decisions. In the event that the selection committee and the Provost do not come to an agreement on selecting a candidate for the Professorship, the donated funds would be returned to the donor if it is then an entity described in Section 501(c)(3) of the Internal Revenue Code. If the donor is an individual or an entity that is not described in Section 501(c)(3), the donated funds would be redirected to other charitable and educational activities selected by Mercatus in its sole discretion.

3. Structure of Professorship. The Professorship will exist at Mercatus in perpetuity in accordance with the terms and conditions of the agreement between Mercatus and Smith (Appendix A). An invitation to occupy the Professorship will require a majority vote of the Selection Committee. Through this Agreement, the University agrees to provide the Initial Professor with a tenured faculty position at George Mason University ("GMU Faculty Position"), with all the privileges and protections associated with that title, at an annual salary of the appropriate amount. The University agrees to pay the university salary and provide full university benefits for the GMU Faculty Position as long as an Initial Professor qualifies for a tenured faculty position at George Mason University and otherwise remains qualified for the Professorship (as determined by the Advisory Board at its sole discretion). For purposes of this agreement and the separate agreement in Appendix A, Initial Professor shall refer to any individuals chosen by the Initial Selection Committee and ratified by GMU to occupy both the Professorship and the GMU Faculty Position prior to September 1, 2013.

The Professorship shall be operated exclusively for charitable and educational purposes within the purview of Section 501(c)(3) of the Internal Revenue Code of 1954 or such section or comparable section as hereinafter amended. No part of the funds shall inure to the benefit of any private individual and/or business corporation and no part of the activities of the Professorship shall consist of carrying on

or otherwise attempting to influence legislation or participating or intervening in any political campaign on behalf of any candidate for public office.

4. Advisory Board. Through the agreement between Mercatus and Smith (Appendix A), an Advisory Board shall be created to receive an annual summary of the activities, accomplishments, and expenditures of the Professorship and to review the administration of the agreement and a budget and plan for the subsequent academic year. In doing so, it shall have the right to:

- Consult with the Selection Committee or the Mercatus Center or Smith regarding the qualifications of candidates for the Professorship;
- Discuss with the Grantees (the Mercatus Center and GMU) and their representatives/affiliates, their administrative officers or trustees, the appointment of an occupant of the Professorship and any other matters relating to carrying out the purposes for which the Professorship is established;
- Ensure compliance with the terms of this Agreement through appropriate administrative or legal channels;
- Make periodic assessments of the Professor's performance and/or activities; and
- Make a determination (based on the individual's performance or otherwise) that the Professor filling the Professorship is no longer qualified to do so, and upon this determination will submit in writing to Smith and to Mercatus a recommendation that the Professor be removed from the Professorship, and that Mercatus withhold the payment of additional funds under this agreement during a vacancy in the Professorship.

The Advisory Board shall have no authority or control, either directly or indirectly over the funds received by Mercatus, over the administration of the Professorship or the selection of the occupant of the Professorship except through its determination of an occupant's continued qualification to fill the Professorship and shall only act as a body that has a continuing interest in seeing that the terms and conditions of this Agreement and the obligations of Mercatus, GMU and their representatives/affiliates are carried out.

5. Payment Schedule. Mercatus will make the first payment of \$200,000 to the George Mason University Foundation on or before August 31, 2007. Each of the additional five (5) annual payments (\$160,000) shall be paid on or before the last day in August each year beginning in 2008 and ending in 2012. In the event that the Professorship may be vacant during any portion of this period, payments may be suspended during such period of vacancy. When the vacancy is filled, payments will then be resumed and the payment schedule extended correspondingly so that the total amount to be paid will remain the same. The payment schedule will be as follows:

<u>On or before</u>	<u>Amount</u>
August 31, 2007	\$200,000
August 31, 2008	\$160,000
August 31, 2009	\$160,000
August 31, 2010	\$160,000
August 31, 2011	\$160,000
August 31, 2012	\$160,000

No additional service fee or tax will be applied to this contribution.


6. State Law Provisions. This Agreement shall be governed by the laws of the state of Virginia. In addition, to the extent an amendment does not conflict with federal law, the agreement may be amended by mutual agreement of the parties.

IN WITNESS WHEREOF, the Mercatus Center and the University have executed this Agreement on the date first stated above.

George Mason University

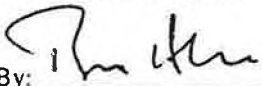
By: 
Peter N. Stearns — Provost

Date: 6/6/07

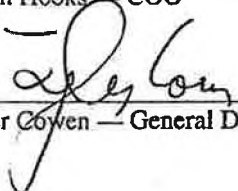
By: 
Jack Censer — Dean, College of Arts & Sciences

Date: June 6, 2007

Mercatus Center, Inc.

By: 
Brian Hooks — COO

Date: 6/11/07

By: 
Tyler Cowen — General Director

Date: 6/11/07

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**AGREEMENT BETWEEN  
THE MERCATUS CENTER AND MR. MENLO F. SMITH  
REGARDING THE ESTABLISHMENT OF A PROFESSORSHIP**

THIS AGREEMENT is made May 3, 2007 between Mr. Menlo F. Smith ("Smith") and the Mercatus Center, Inc. ("Mercatus"), a qualified exempt charitable organization. The purpose of this Agreement is to memorialize the structure, purposes, and recruitment process for the Frederic Bastiat Professorship of Political Economy (the "Professorship") at the Mercatus Center at George Mason University ("GMU"), and to clarify the relationship between the Professor and Mercatus.

The initial challenge was made by Menlo F. Smith to raise funds for 5 professorships at GMU at a total of \$5 million. Mr. Smith offered to assist in finding one or more grants totaling \$1.25 million toward the effort, which was then matched by the Charles G. Koch Charitable Foundation with an additional \$1.25 million. This initial \$2.5 million to be raised by Mr. Smith and pledged by the Koch Foundation is contingent upon at least an additional \$2.5 million in grants or commitments – intended to match the amount of the Smith and Koch monies – to be secured by December 31, 2006. The additional \$2.5 million must be raised for the purpose of supporting these professorships. In the event that these additional funds are received by December 31, 2006, GMU and Smith agree to the terms of this Agreement in full. Requisite funds were raised within the appropriate timeframe and this challenge was met.

The terms of this Agreement shall not be amended without the consent, in writing, of Smith and Mercatus.

The final say in all faculty appointments lies in specified GMU procedures, involving academic approval and final approval by the Board of Visitors. Nothing in this document shall be construed as overriding such procedures. Alterations in the terms or conditions of this Agreement can be instituted only upon mutual agreement of the parties to the agreement and acceptance of any changes is likewise subject to the rules and procedures of George Mason University.

1. Property Transfer. In order to establish the Professorship at the Mercatus Center at George Mason University ("Professorship"), Smith shall assist in finding one or more grants to be paid to Mercatus in the sum of \$1,000,000 under the schedule of six annual installments as stipulated in Section 5, infra; the first to be received in July of 2007.

2. Objectives and Requirements of the Professorship. The objective of the Professorship is to advance the understanding, acceptance and practice of those free market processes and principles which promote individual freedom, opportunity and prosperity including the rule of law, constitutional government, private property and the laws, regulations, organizations, institutions and social norms upon which they rely. The occupant of the Professorship ("Professor") shall hold a doctorate degree and shall be qualified in and committed to the foregoing principles. The objectives of the Professorship shall be accomplished through teaching, research, publishing, print and electronic media and such other means as may reasonably be deemed to comport with the mission of Mercatus. The primary academic affiliations of the Professor will be GMU and Mercatus. At the conclusion of each academic year, the occupant shall provide the Selection Committee and the Advisory Board with a brief summary of the principal activities, accomplishments and expenditures of the Professorship for the previous year and a budget and plan for the subsequent academic year. Any additional objectives or requirements for the Professorship shall be decided by unanimous vote of the Selection Committee (Section 3, infra).



In addition to an annual report by the Professor to the Selection Committee and Advisory Board, the Mercatus president will report to these same bodies on how the Professor has contributed to the mission of Mercatus, as well as the purposes defined in the grant underwriting the Professorship. Substantive contributions to Mercatus programs include 5 or more per year of the following:

- Teaching in a Capitol Hill Campus course or event;
- Producing a research product (e.g., an article published in a refereed journal, a working paper of suitable quality, a useful database, a public interest comment), decided jointly with the President and General Director of Mercatus, and which is closely related to the Center's mission of producing highly credible research about the underlying sources of prosperity and poverty;
- Participating in a minimum of three Mercatus fundraising or public relations events;
- Supervising a student supported by Mercatus on a research project related to the Mercatus mission (e.g., a research project in Regulatory Studies, a dissertation, other research likely to significantly advance the student's knowledge and skills).

Substituting these contributions with alternative activities is allowable upon unanimous approval of the Selection Committee,

3. Selection Committee. The Selection Committee shall have five (5) members. The decision-making rule for the Selection Committee shall be majority vote, except in the case of changing or providing additional objectives or requirements, in which case the decision-making rule shall be by unanimous vote. The members of the Initial Selection Committee (i.e., the Selection Committee that chooses an Initial Professor as defined in Section 4, *infra*) will be: the President or Executive Director of Mercatus or the most closely corresponding position, two (2) members designated by Smith, one of whom must be a member of the GMU faculty, the Chair of the GMU department where it is anticipated the Professor will receive the majority or all of his appointment, and one (1) member of the same department, to be designated by the department Chair. In addition to the Selection Committee, candidates will also interview with specific members of Mercatus staff appointed by Mercatus General Director, President, Executive Director, and Chief Operating Officer. The Selection Committee will take staff evaluations into account when making hiring decisions. In the event that the selection committee and the Provost do not come to an agreement on selecting a candidate for the Professorship, the donated funds would be returned to the donor if it is then an entity described in Section 501(c)(3) of the Internal Revenue Code. If the donor is an individual or an entity that is not described in Section 501(c)(3), the donated funds would be redirected to other charitable and educational activities selected by Mercatus in its sole discretion.

4. Structure of Professorship. The Professorship will exist at Mercatus in perpetuity in accordance with the terms and conditions of this Agreement. An invitation to occupy the Professorship will require a majority vote of the Selection Committee. Additionally, through a separate agreement between the Mercatus and George Mason University (Appendix A) any Initial Professor will have a tenured faculty position within George Mason University ("GMU Faculty Position"), afforded all the privileges and protections associated with that title. Mercatus will enter into that agreement with the University in reliance upon fulfillment of this Agreement. George Mason University will pay the university salary and provide full university benefits for the GMU Faculty Position as long as an Initial Professor qualifies for a tenured faculty position at George Mason University and otherwise remains qualified for the Professorship (as determined by the Advisory Board at its sole discretion). For purposes of this Agreement and the separate agreement in Appendix A, Initial Professor shall refer to any individuals chosen by the Initial Selection Committee and ratified by GMU to occupy both the Professorship and the GMU Faculty Position prior to September 1, 2013.

Should an initial holder of the Professorship vacate the position after September 1 2013, Mercatus will have sole discretion, with the concurrence of the Advisory Board, to bestow the Mercatus position on the subsequent holder including the option of transferring the professorship to an existing GMU professor or other Mercatus Scholar whose work is consistent with the original intent of this Agreement.

5. Payment Schedule. The first Smith-arranged payment of \$200,000 shall be made to Mercatus on or before July 31, 2007. Each of the additional five (5) annual payments (\$160,000 each) shall be paid on or before the last day in July each year beginning in 2008 and ending in 2012. In the event that the Professorship may be vacant during any portion of this period, payments may be suspended during such period of vacancy. When the vacancy is filled, payments will then be resumed and the payment schedule extended correspondingly so that the total amount to be paid will remain the same. The payment schedule will be as follows:

| <u>On or before</u> | <u>Amount</u> |
|---------------------|---------------|
| July 31, 2007       | \$200,000     |
| July 31, 2008       | \$160,000     |
| July 31, 2009       | \$160,000     |
| July 31, 2010       | \$160,000     |
| July 31, 2011       | \$160,000     |
| July 31, 2012       | \$160,000     |

No additional service fee or tax will be applied to this grant.

6. Receipt and Management of Funds. The grantors or any other persons or entities may make additional contributions of cash or other real or personal property to support the work of the Professorship. All contributions shall be subject to the terms and conditions of this Agreement. Any funds being held for the Professorship shall be invested to produce optimal income and/or growth with reasonable risk and any such income shall be utilized for the benefit of the Professorship.

7. Safeguard of Philanthropic Intent & Educational Objectives. In order to preserve and safeguard the philanthropic and educational intent of this Agreement and the educational objectives of GMU and Mercatus, the latter entities shall have full and unfettered discretion to administer the Professorship as they deem appropriate, provided that such administration shall be consistent with the terms of this Agreement and in accordance with the objectives, purposes and principles set forth in this Agreement.

The Professorship shall be operated exclusively for charitable and educational purposes within the purview of Section 501(c)(3) of the Internal Revenue Code of 1954 or such section or comparable section as hereinafter amended. No part of the funds shall inure to the benefit of any private individual and/or business corporation and no part of the activities of the Professorship shall consist of carrying on or otherwise attempting to influence legislation or participating or intervening in any political campaign on behalf of any candidate for public office.

8. Advisory Board. An Advisory Board shall be created consisting of one representative named by Smith or Smith's appointee of this power (or by Smith's personal representative if Smith shall fail to appoint this power); one representative to be named by Mercatus; and a third representative to be named by the first two representatives. These representatives shall serve so long as they are willing and able to do so and shall be replaced by the same means. The Advisory Board shall have the responsibility of reviewing the administration of Sections 2 through 7 of this Agreement and a budget and plan for the subsequent academic year. In so doing it shall have the right to;

- Consult with the Selection Committee or the Mercatus Center or Smith regarding the qualifications of candidates for the Professorship;
- Discuss with the Grantees and their representatives/affiliates, their administrative officers or trustees, the appointment of an occupant of the Professorship and any other matters relating to carrying out the purposes for which the Professorship is established;
- Ensure compliance with the terms of this Agreement through appropriate administrative or legal channels;
- Make periodic assessments of the Professor's performance and/or activities; and
- Make a determination (based on the individual's performance or otherwise) that the Professor filling the Professorship is no longer qualified to do so, and upon this determination will submit in writing to Smith and to Mercatus a recommendation that the Professor be removed from the Professorship, and that Mercatus withhold the payment of additional funds under this Agreement during a vacancy in the Professorship.

The Advisory Board shall have no authority or control, either directly or indirectly over the funds received by Mercatus, over the administration of the Professorship or the selection of the occupant of the Professorship except through its determination of an occupant's continued qualification to fill the professorship and shall only act as a body that has a continuing interest in seeing that the terms and conditions of this Agreement and the obligations of Mercatus, GMU and their representatives/affiliates are carried out,

9. State Law Provisions. This Agreement shall be governed by the laws of the state of Virginia. In addition, to the extent an amendment does not conflict with federal law, the Agreement may be amended by mutual agreement of the parties.

IN WITNESS WHEREOF, Mercatus and Smith have executed this Agreement on the date first stated above.

Mr. Menlo F. Smith

By: Menlo F. Smith  
Menlo F. Smith

Date: 9 July 07

Mercatus Center, Inc.

By: Brian Hooks  
Brian Hooks — COO

Date: 6/11/07

By: Tyler Cowen  
Tyler Cowen — General Director

Date: 6/11/07