

## **1.9 - RESEARCH FOUNDATION-UNIVERSITY FOUNDATION OPERATING AGREEMENT**

This agreement is made and entered by and between the University Foundation of California State University, Chico (California Corporation #0184173) hereinafter referred to as the UF, and the CSU, Chico Research Foundation (California Corporation #1784872), hereinafter referred to as the RF.

Both these above-named organizations provide support and services on behalf of the educational and public service missions of California State University, Chico (hereinafter University). Both these organizations are authorized by separate operating agreements with the Trustees of the California State University to perform specified functions as auxiliary organizations for the University. The services addressed by this agreement are consistent with and in implementation of said operating agreements with the Trustees of the California State University, and define the relationship between the two foundations.

This Agreement is based on the following underlying tenets:

1. The UF shall function as the repository of gifts to the University.
2. The RF shall function as the manager of University-related sponsored grants and projects, academic agency accounts, entrepreneurial projects and other non-state-funded business-related activities, and to provide business and administrative support services to others.
3. The RF shall provide to the UF, those business and administrative support services as outlined in Exhibit I of this agreement.
4. This agreement supersedes all other prior verbal or written agreements related to the services described herein.

In consideration of the foregoing, the recital of which is incorporated in the Agreement of the Parties as set forth below as though fully set forth therein, and of the mutual conditions, covenants and promises set forth below, the parties agree as follows:

### **1.9.1 – BUSINESS SUPPORT SERVICES**

- The RF shall provide those business support services requested by the UF and as agreed upon by both parties and set forth in Exhibit I, Scope of Services, incorporated to this Agreement herein.

### **1.9.2 - FEES FOR SERVICES**

- Annual fiscal year charges for RF services shall be calculated by the RF based on an estimate of RF expenses no later than May 15 each year, for the fiscal year beginning the following July 1. RF and UF shall agree to the proposed charges no later than May

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31 annually, and RF shall invoice UF monthly for fees. Changes or extensions to the Scope of Services shall be agreed to by all parties to this agreement.

### **1.9.3 –COMPUTER/SOFTWARE OPERATIONS AND ADMINISTRATION**

- The RF shall provide directly or through a third party, accounting and financial reporting software programs as requested by the UF. Gift and donor recording, reporting and management services will be provided by the University through the division of University Advancement.

### **1.9.4- PERSONNEL AND PAYROLL MANAGEMENT**

- The RF shall act as the employer of record for any staff required by the UF. The UF shall pay the costs required to cover salary, wages, payroll taxes, benefits and administrative fees, as a reflection of the actual cost of such employees.

### **1.9.5 – PERIOD AND TERMINATION OF AGREEMENT**

- This agreement shall be effective upon the date this agreement is signed by both parties.
- The Agreement will continue through June 30, 2023.
- The agreement may be terminated by either party with 180 days prior written notice to the other party.

### **1.9.6 – INDEMNIFICATION AND INSURANCE**

- Each party shall and does hereby agree to indemnify, defend and hold harmless the other, and the other party's officers, directors, members, employees and agents from and against any and all claims, demands, losses, costs, expenses, obligations, liabilities, damages, recoveries and deficiencies, including without limitation, interest, penalties, and reasonable attorney's fees and costs, that either party may incur or suffer and that arise, result from or related to any breach or failure of the other party to perform any of the representations, warranties and agreements contained in this Agreement, including any injury or damage resulting from one party's negligence or intentional act or omission of that party or its employees, agents, or subcontractors, in connection with this Agreement.
- The Research Foundation and the University Foundation (auxiliaries) agree to indemnify, defend and save harmless the CSU, its officers, agents, employees and constituent campuses and the State of California, collectively "CSU indemnified parties" from any and all loss, damage, or liability that may be suffered or incurred by CSU indemnified parties, caused by, arising out of, or in any way connected with the operation of the auxiliaries as an auxiliary organization.
- Each party further agrees to maintain a policy of insurance or program of self-insurance, in the minimum amount of \$5 million to cover the indemnification obligations contained

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in 1.9.6 above. Failure of either party to comply with any of the requirements of this section shall constitute a material breach of this Agreement.

### **1.9.7 – RELATIONSHIP OF THE PARTIES**

- The parties intend and agree that each party, in engaging in this Agreement, shall be and act as separate entities. Each party is not deemed an agent or employee of the other. Each party is responsible for providing, at each party's expense and in the name of each party appropriate insurance as well as licenses and permits usual or necessary for conducting the business of each party.

### **1.9.8 -ARBITRATION**

- Any controversy arising from this agreement or its breach shall first be subject to good faith mediation conducted by a professional mediator or service mutually agreed upon by the parties.
- Should mediation fail, the parties agree that any continuing dispute or controversy shall be determined by one or more arbitrators appointed as set forth below:
  - Within ten days after notice by either party to the other requesting arbitration and stating the basis of the party's claim, the parties shall mutually agree to the appointment of one professional arbitrator.
  - Should a mutually acceptable arbitrator not be found within thirty days after notice is given as required in B.1 above, each party shall appoint an arbitrator. The two arbitrators shall immediately choose a third arbitrator to act with them. If a party fails to select an arbitrator within the time allowed or if the two arbitrators fail to select a third arbitrator within ten days after their appointment, by an application by either party the additional arbitrator shall be promptly appointed by the presiding judge of the Superior Court of the state of California in and for the County of Butte, acting as an individual. The party making the application shall give the other party ten days' notice of the application.
  - Any decision or award as a result of any such arbitration proceeding shall be in writing and shall provide an explanation for all conclusions of law and fact and shall include the assessment of costs, expenses, and reasonable attorneys' fees.
- The arbitration shall be conducted under the California Code of Civil Procedure sections 1280, et seq. Hearings shall be held in Butte County, California. All notices, including notices under Code of Civil Procedure section 1290.4, shall be given in writing either by personal service or by registered or certified mail, postage prepaid, and return receipt requested. Notice shall be considered given three days after mailing. Notices shall be addressed as shown below for each party, except that, if any party gives notice of

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change of name or address, notices to that party shall thereafter be given as shown on that notice.

University Foundation  
Ahmad Boura, Secretary  
Office of the Vice President for University Advancement  
California State University, Chico  
Chico, CA 95929-0156  
Phone: 530-898-3590

CSU, Chico Research Foundation  
Jessica Bourne, Executive Director  
25 Main Street, Suite 203  
Chico, CA 95928  
Phone: 530-898-6467

#### **1.9.9 - ASSIGNMENT**

- Neither party shall assign the Agreement without the prior written consent of the other party.

#### **1.9.10- INTERPRETATION AND MODIFICATION**

- This Agreement and the exhibit(s) attached hereto constitute the entire agreement between the parties and supersede all prior discussions, negotiations and agreements, whether oral or written.
- Any amendment to this Agreement, including an oral modification, must be reduced to writing and signed by authorized representatives of both parties before it is effective.
- This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.
- This agreement inures to the benefit of, and is binding on, all parties and the respective heirs, personal representatives, successors and assigns.

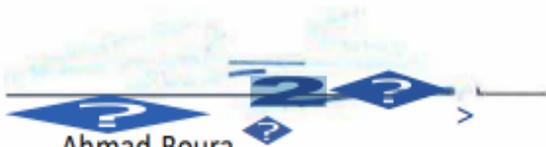
#### **1.9.11– CAPTIONS, JOINT AND SEVERAL LIABILITY, CONTROLLING LAW**

- The captions heading the various sections of this Agreement are for convenience and shall not be considered to limit, expand or define the contents of the respective sections.
- If either party consists of more than one person, each such person shall be jointly and severally liable.
- If any provision of this Agreement is found to be invalid, all other provisions shall remain in force.

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- This Agreement shall be interpreted under the laws of the State of California and not in favor or against any party.

University Foundation



Ahmad Boura  
President, University Foundation

fo/1z./t

Date

CSU, Research Foundation

Debra Larson  
President, Research Foundation

filj/19

Date

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## **SECTION 1.9 - RESEARCH FOUNDATION – UNIVERSITY FOUNDATION OPERATING AGREEMENT EXHIBIT 1 – SCOPE OF SERVICES**

Services provided by the RF on behalf of the UF:

### **Banking and Cash Management Services**

- **Bank accounts**  
Maintains UF banking relationships and bank accounts to meet the UF’s operational cash needs. Acts in the UF’s best interest, negotiating financial arrangements to minimize bank fees while optimizing use of available banking services.
- **Cash management**  
Maintain liquid cash balances to meet the operating needs of the stakeholders of the UF, and in accordance with the Investment Policies of the UF Board of Governors. Review cash balances monthly, and complete cash transfers between cash and investment accounts to remain in compliance with guidance as set forth by approved policy.
- **Authorized signers and documentation for accounts**  
Maintain and update banking and investment authorized signers for UF bank and investment accounts. Provide support in preparing all documentation and notarization for any changes in authorized individuals and signers.

### **Accounting Services**

- **Accounting Management Services**
  - Fund accounting and account maintenance
  - Bank and investment account reconciliations
  - Collection and reconciliation of fees per UF policy (gift, capital projects, and endowment fees)
  - Fixed assets including real estate, facilities, equipment, and other in-kind gift management and tracking
  - Chart of accounts management and maintenance
  - Risk management review over all activities, as evidenced in payments received and issued
  - GAAP compliance and financial reporting requirements
- **Accounts Receivable and Receipt of Funds**
  - Deposits and cash receipts

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- Petty cash as needed
  - Gift receipts and reconciliation to fundraising software
  - Pledge receivables recording and review
  - Collection and remittance of sales tax
  - Accurate monthly financial reporting of UF accounts that include fund balances and transaction detail, customized as requested by University Advancement staff.
- **Accounts Payable and Funds Disbursement**
    - Check requests, procurement cards, cash payments, wires, electronic payments
    - Procurement policy compliance – CSU Chancellor’s office policies, CSU, Chico policies, RF/UF Procurement policies
    - IRS compliance related to accounts payable – 1099 issuance, Non-resident (Federal and State) tax compliance and reporting
    - Escheatment

**Human Resources and Payroll Services**

- Recruitment Services and Advertising
- On-boarding services
- Management training and best practices
- Required employee trainings
- Collection and remittance of all payroll related taxes – CA SDI, FICA, personal income taxes
- Provision of Worker’s compensation insurance – claims management
- Employee benefits – health, dental, vision, life, 403(b), FSA
- Required federal and state payroll tax filings

**Information Technology Services**

- Enterprise Resource Planning (ERP) Software Management and Maintenance

**Audit and Tax Compliance Services**

- GAAP Compliance in Recording All Transactions
- Reporting to the UF Board of Governor’s Audit Committee, coordinates and plans annual financial audits
- Financial statement preparation and financial statement note review
- Submittal of annual financial reporting to CSU, Chico
- Chancellor’s Office Audits
- IRS annual required tax filings – including but not limited to forms 990, 990-T and 926

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### **Risk Management Services**

- Insurance policy renewal and review
- On-going risk assessment in review of on-going accounting activities – types of funding received and purpose of expenses
- On-going risk assessment of real estate, facilities, equipment and other in-kind gifts.

### **Endowments**

- Endowment administration in accordance with endowment policy
- Calculation of annual endowment distributions
- Tracking of underwater endowments
- Calculation and allocation of quarterly investment earnings
- Participation in policy review

### **Charitable Remainder Trusts**

- Investment accounting and tracking
- Annual tax return preparation
- Issuance of payments as required by individual trust agreements
- Annual CRT report preparation

### **Gift Annuities**

- Investment accounting and tracking
- Annual issuance of 1099 for annuitants
- Issuance of payments as required by individual gift annuity agreements
- Annual filing with the CA Department of Insurance

### **Reporting**

- Reporting to the UF Board of Governors as requested
- Provide quarterly financial reporting
- Provide other reporting as requested by UF

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