



December 9, 2009

Ms. Susan Miller  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue, # 410  
Portland, Oregon 97201

RECEIVED

DEC 11 2009

DEPARTMENT OF JUSTICE  
PORTLAND LEGAL

Re: University of Oregon Foundation  
Antoinette S. Stanton Institutional Fund Modification

Dear Susan:

I am enclosing for your review a proposed Agreement Modifying Institutional Fund in the Antoinette S. Stanton Memorial Scholarship Fund. The Fund was established with \$5,000 in 1969. The donor required that preference be given to unmarried students, which is no longer possible under current law. Additionally, the Fund was for the benefit of students of home economics. That department no longer exists at the University. Therefore, the Foundation proposes to modify the Fund to provide scholarship support for undergraduates majoring in family and human services with consideration of academic merit and financial need. The value of this fund is over \$25,000, and we will not be able to use the small, old fund statute. Court approval of the modification will be necessary since the original donor is not available to consent.

If the Modification Agreement meets with your approval, please sign where indicated and return the originals to us in the enclosed envelope. If you have questions or need additional information please do not hesitate to let me know.

Very truly yours,

Laurie A. Nelson  
nelson@gleaveslaw.com

LAN:gdm  
Enclosures

cc: Gary Livesay (w/o encls.)  
Paul Weinhold (w/o encls.)  
Thomas P.E. Herrmann (w/o encls.)  
Jon V. Buerstatte (w/o encls.)

Phone:  
(541) 686-8833  
Fax:  
(541) 345-2034

975 Oak Street  
Suite 800  
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97401-3156

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Eugene, Oregon  
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Frederick A. Batson  
Jon V. Buerstatte  
Patricia L. Chapman\*\*  
Joshua A. Clark  
Michael T. Faulconer\*\*  
Howard F. Feinman  
Thomas P. E. Herrmann\*  
Dan Webb Howard\*\*  
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Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman  
Jane M. Yates

\*Also admitted  
in Washington

\*\*Also admitted  
in California

## AGREEMENT MODIFYING INSTITUTIONAL FUND

### **PARTIES:**

University of Oregon Foundation (A.K.A. University of Oregon Development Fund) (the "Foundation")

University of Oregon, College of Education

### **RECITALS:**

- A. The Parties desire to modify the Antoinette S. Stanton Memorial Scholarship Institutional Fund Agreement, dated February 1969 (the "Institutional Fund"), a copy of which is attached hereto as Exhibit "A."
- B. The Parties, Oregon Attorney General, and Circuit Court constitute all persons and entities whose signatures are required for this Agreement to be effective pursuant to ORS Chapter 130.

### **AGREEMENT:**

NOW, THEREFORE, in consideration of the foregoing recitals that are by this reference expressly made a part hereof, and in consideration of the terms hereinafter contained, the Parties agree as follows:

1. Modification of Institutional Fund

On the Effective Date, the Institutional Fund shall be modified as set forth in Exhibit "B" attached hereto and by this reference incorporated herein.

2. Effective Date

This Agreement shall be effective on the date that all Parties and the Oregon Attorney General have each signed this Agreement and, if required by law, this Agreement has been approved by the Circuit Court of the State of Oregon for Lane County.

3. Number, Gender and Captions

As used herein, the singular shall include the plural and the plural the singular, as the context requires. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this Agreement.

4. Counterparts

This Agreement has been prepared and may be executed in multiple counterparts, each of which shall constitute an original. Each party may execute a separate counterpart, all of which when assembled shall constitute this Agreement, fully executed.



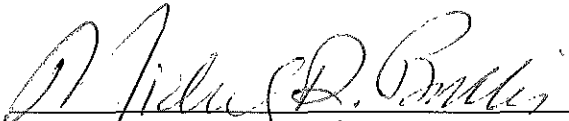
5. Original Agreement

The Institutional Fund, as amended, and each term and provision thereof shall remain in full force and effect, except as herein modified, amended or restated.


6. Entire Agreement

This Agreement and the exhibit hereto constitute the final written expression of all terms of the Institutional Fund and when read together they constitute the complete and exclusive statement of those terms.

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on the date set opposite their respective signatures below.

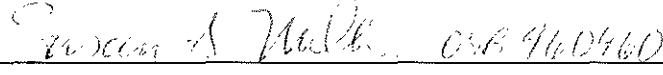
Signature:  9/15/09  
Michael D. Bullis, Dean, College of Education  
University of Oregon Date

Signature:  9/25/09  
Michael Redding, VP for University Advancement  
University of Oregon Date

Signature:  9-29-09  
Gary F. Livesay, Chief Operating Officer  
University of Oregon Foundation Date

ORS 130.200 provides that, in certain instances, in order for an agreement modifying charitable funds held in trust subject to the enforcement or supervisory powers of the state or the Attorney General under ORS 128.610 to 128.750 to be effective, the Attorney General for the State of Oregon must consent to the agreement. The Institutional Fund is an agreement that may be subject to that requirement. The foregoing Agreement Modifying Institutional Fund is hereby consented to.

ATTORNEY GENERAL

By  12/11/09  
Susan A. Miller, Assistant Attorney General Date

February 5, 1969

Board of Directors  
University of Oregon Development Fund  
P. O. Box 3346  
Eugene, Oregon 97403

Gentlemen:

Enclosed is a check in the amount of \$5,000.00 which is a gift to the University of Oregon Development Fund to establish the Antoinette Shumway Stanton Memorial Scholarship account. It is my desire that the income from this fund shall be used to provide one or more scholarships annually, on the basis of need and ability, to students of the University of Oregon who are enrolled in one or more courses in Home Economics. Preference should be given to unmarried students. Selection of recipients is to be determined by the Chairman of the Home Economics Department.

If at any time the income from this fund is no longer needed for the purpose I have indicated, then the income may be used for such other scholarship purposes as the Board of Directors of the Development Fund may determine.

Sincerely yours,

*Edgar A. Stanton*

Edgar A. Stanton

**Exhibit A**



UNIVERSITY OF OREGON  
FOUNDATION

## Modification of Fund Agreement

### Antoinette S. Stanton Memorial Scholarship

#### Modification of Purpose

Whereas the parties entered into a prior Agreement in February 1969; and

Whereas it is illegal to discriminate in the awarding of scholarships based on marital status; and

Whereas there no longer exists a formal or informal home economics course of study at the university;

Therefore it is the parties' intent and agreement that the Foundation shall modify the purpose to become as follows:

To provide scholarship support to undergraduate students enrolled in the College of Education at the University of Oregon. The selection of recipients will be based on the following criteria: undergraduate majoring in family and human services; academic merit; and financial need. The scholarships may be used for all educational expenses including tuition, fees, books, miscellaneous supplies, room, and board. Recipients shall be selected by a scholarship committee for the College of Education, under the oversight of the Dean of the College of Education or her/his designee.

All other terms and conditions of the previous agreement remain in effect.

Signature: Michael D. Bullis  
Michael D. Bullis, Dean, College of Education  
University of Oregon

9/15/09  
Date

Signature: Michael C. Redding  
Michael Redding, VP for University Advancement  
University of Oregon

9/25/09  
Date

Signature: Gary F. Livesay  
Gary F. Livesay, Chief Operating Officer  
University of Oregon Foundation

9.29.09  
Date

**Exhibit B**



July 9, 2009

Ms. Susan A. Miller  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue, Suite 410  
Portland, OR 97201

Re: University of Oregon Endowment Fund Modification  
Robert W. and Bernice Ingalls Staton Scholarship Endowment Fund and  
the Staton Family Quasi Endowment Fund

Dear Susan:

I am pleased to report that Judge Holland signed the General Judgment for Modification of Endowment on July 8, 2009, in the Robert W. and Bernice Ingalls Staton Scholarship Endowment Fund and the Staton Family Quasi Endowment Fund modification case. I am enclosing a copy of that General Judgment for your records.

Very truly yours,

Lauric A. Nelson  
[nelson@gleaveslaw.com](mailto:nelson@gleaveslaw.com)

LAN/jek  
Enclosures

cc: Gary Livesay (w/o encls.)  
Jon V. Buerstatte (w/o encls.)

Phone:  
(541) 686-8833  
Fax:  
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Suite 800  
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Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman  
Jane M. Yates

\*Also admitted  
in Washington

\*\*Also admitted  
in California

2009

FILED

2009 JUL -8 PM 3:23

CIRCUIT COURT OF OREGON  
FOR LANE COUNTY

BY 

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

In the Matter of the Robert W. and Bernice  
Ingalls Staton Scholarship Endowment Fund  
and the Staton Family Quasi Endowment Fund,

Case No.52-09-13556

GENERAL JUDGMENT FOR  
MODIFICATION OF ENDOWMENT  
FUND

University of Oregon Foundation,  
Petitioner.

This matter having come before the court on the Petition of Petitioner University of Oregon Foundation, an Oregon nonprofit corporation, by and through its Chief Operating Officer, Gary F. Livesay, for the modification of the Robert W. and Bernice Ingalls Staton Scholarship Endowment Fund and the Staton Family Quasi Endowment Fund,, and it appearing to the court from the records and files herein that:

1.

Service was made and perfected by regular mail to the persons entitled to notice as follows:

<u>Name</u>	<u>Date</u>
Susan A. Miller, Assistant Attorney General, State of Oregon	June 29, 2009
Randolph Geller, Deputy General Counsel, University of Oregon	June 29, 2009

///

2.

Notice as required by Oregon law has been waived by all persons entitled thereto.

3.

Petitioner has obtained the consent of the Attorney General to the modification as required by Oregon law. The Consent and Waiver of Assistant Attorney General Susan A. Miller is filed herewith.

4.

Venue is properly in this court and no other court in this state has acquired jurisdiction in this matter.

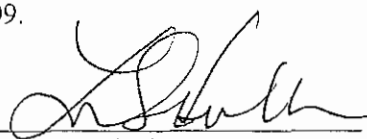
5.

Modification is not inconsistent with a material purpose of the endowment funds as originally established, and the name change is in accordance with the probable intention of the donors.

NOW, THEREFORE, it is hereby adjudged that a general judgment is entered as follows:

The Robert W. and Bernice Ingalls Staton Scholarship Endowment Fund and the Staton Family Quasi Endowment Fund shall be modified as set forth in Exhibit B of Exhibits 1 and 2, respectively, attached to the Petition filed herein. The Robert W. and Bernice Ingalls Staton Scholarship Endowment Fund shall retain its current name, and the Staton Family Quasi Endowment Fund shall henceforth be known as the Robert W. and Bernice Ingalls Staton Scholarship Quasi Endowment Fund.

DATED this 8 day of July, 2009.

  
Circuit Court Judge

PETITIONER  
University of Oregon Foundation  
360 E. 10<sup>th</sup> Avenue, Suite 202  
Eugene, Oregon 97401-3273

ATTORNEYS FOR PETITIONER  
Jon V. Buerstatte, OSB # 822070  
Gleaves Swearingen Potter & Scott LLP  
P.O. Box 1147  
Eugene, Oregon 97440-1147  
(541) 686-8833  
(541) 345-2034 (Fax)  
Email: buerstatte@gleaveslaw.com

## CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing General Judgment for Modification of Endowment Fund on the following persons on June 29, 2009, by depositing same in the United States Post Office at Eugene, Oregon, enclosed in a sealed envelope, with postage paid to the address noted below:

Randolph Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Susan A. Miller  
Assistant Attorney General  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue Suite 410  
Portland, OR 97201

DATED: June 29, 2009.



Jon V. Buerstatte OSB # 822070  
Of Attorneys for Petitioner

1  
2  
3  
4 IN THE CIRCUIT COURT OF THE STATE OF OREGON  
5 FOR LANE COUNTY

6 In the Matter of the Robert W. and Bernice  
7 Ingalls Staton Scholarship Endowment Fund  
8 and the Staton Family Quasi Endowment Fund,

Case No. 52-09-13556

9  
10 ACCEPTANCE OF SERVICE  
(Attorney General)

11 University of Oregon Foundation,  
12 Petitioner.

13 I, Susan A. Miller, Assistant Attorney General for the State of Oregon, Civil Enforcement  
14 Division, Charitable Activities, do hereby accept personal and legal service of a true copy of the  
15 Petition for Modification of Endowment Fund and Notice of Filing of Petition for Modification  
16 of Endowment Fund filed in the above-entitled matter, certified to be such by Jon V. Buerstatte,  
17 lawyer for Petitioner.

18 DATED this 1st day of July, 2009.

19 Susan A. Miller  
20 SUSAN A. MILLER OSB # 960960  
21 Assistant Attorney General for the State of Oregon

22 STATE OF OREGON )  
23 ) ss:  
24 County of Multnomah )

25 On this 1st day of July, 2009, the foregoing instrument was personally  
26 acknowledged before me by Susan A. Miller, Assistant Attorney General, State of Oregon.



27 Dayna Marsha  
28 Notary Public for Oregon  
29 My commission expires: 3/22/12



1  
2  
3  
4  
5 IN THE CIRCUIT COURT OF THE STATE OF OREGON  
6 FOR LANE COUNTY  
7

8 In the Matter of the Robert W. and Bernice  
9 Ingalls Staton Scholarship Endowment Fund  
10 and the Staton Family Quasi Endowment Fund,  
11 University of Oregon Foundation,  
Petitioner.

Case No. 52-09-13556

12 CONSENT AND WAIVER  
13 OF ATTORNEY GENERAL

14 I, Susan A. Miller, Assistant Attorney General for the State of Oregon, Civil Enforcement  
15 Division, Charitable Activities, have read the Petition for Modification of Endowment Fund  
16 herein. I approve the contents thereof, waive receipt of any required statutory notice and the right  
17 to object to the modification, and consent to the immediate entry of a judgment as requested in  
18 the Petition.

19 DATED this 1st day of July, 2009.

20 

21 Susan A. Miller OSB# 960960  
22 Assistant Attorney General for the State of Oregon  
23  
24  
25  
26



June 29, 2009

Susan A. Miller  
Assistant Attorney General  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue Suite 410  
Portland, OR 97201

Re: University of Oregon Foundation  
Robert W. and Bernice Ingalls Staton Scholarship Endowment Fund and  
the Staton Family Quasi Endowment Fund

Dear Susan:

I am enclosing for your review certified true copies of the Petition for Modification of Endowment Fund, the Notice of Filing of Petition for Modification of Endowment Fund, and proposed General Judgment for Modification of Endowment Fund in the Robert W. and Bernice Ingalls Staton Scholarship Endowment Fund and the Staton Family Quasi Endowment Fund endowment modification which we have filed on behalf of the University of Oregon Foundation.

If the documents meet with your approval, we would appreciate your signing and returning to us in the enclosed return envelope the Acceptance of Service and Consent and Waiver. We will then file the Acceptances and Consents received from you and from Randy Geller with the court and submit the General Judgment for the judge's signature.

Thank you for your assistance in this matter.

Very truly yours,

Jon V. Buerstatte  
buerstatte@gleaveslaw.com

JVB:gdm  
Enclosures

cc: Gary Livesay (w/o encls.)  
Randy Geller (w/o encls.)

Phone:  
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Douglas R. Schultz  
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Joshua K. Smith  
James W. Spickerman  
Jane M. Yates

\*Also admitted  
in Washington

\*\*Also admitted  
in California



June 29, 2009

Randy Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Re: University of Oregon Foundation  
Robert W. and Bernice Ingalls Staton Scholarship Endowment Fund and  
the Staton Family Quasi Endowment Fund

Dear Randy:

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If the documents meet with your approval, we would appreciate your signing and returning to us in the enclosed return envelope the Acceptance of Service and Consent and Waiver. We will then file the Acceptances and Consents received from you and from Susan Miller with the court and submit the General Judgment for the judge's signature.

Thank you for your assistance in this matter.

Very truly yours,

Jon V. Buerstatte  
buerstatte@gleaveslaw.com

JVB:gdm  
Enclosures

cc: Gary Livesay (w/o encls.)  
Susan Miller (w/o encls.) ✓

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Joshua K. Smith  
James W. Spickerman  
Jane M. Yates

\*Also admitted  
in Washington

\*\*Also admitted  
in California

CERTIFIED TRUE COPY

*[Handwritten signature]*

FILED  
JUN 24 PM 4:11  
CIRCUIT COURT OF OREGON  
FOR LANE COUNTY  
*[Handwritten signature]*

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

In the Matter of the Robert W. and Bernice  
Ingalls Staton Scholarship Endowment Fund  
and the Staton Family Quasi Endowment Fund

Case No. 52-09-13556

PETITION FOR MODIFICATION OF  
ENDOWMENT FUND

University of Oregon Foundation, Petitioner.

UNIVERSITY OF OREGON FOUNDATION, an Oregon nonprofit corporation, by and  
through its Chief Operating Officer Gary F. Livesay, petitioner, represents to and petitions the  
court as follows:

1. Attorney General Consent. The Attorney General's consent to the  
modifications requested herein is required under ORS 128.328 and 130.200(2). Petitioner has  
received the Attorney General's consent to the modifications (see page 2 of Exhibits 1 and 2) and  
will seek a signed consent for filing in this proceeding.

2. Historical Background of Funds. In 2005, members of the Staton family  
established two endowment funds. One fund is known as the Robert W. and Bernice Ingalls  
Staton Scholarship Endowment (hereinafter referred to as the "Staton Scholarship Endowment  
#1"). A copy of the Agreement establishing the fund is attached and incorporated herein as  
Exhibit A to Exhibit 1. The purpose of the fund was to provide scholarships to specified

1 University of Oregon students. This fund was established as a permanent endowment.

2 The second fund is known as the Staton Family Quasi Endowment (for clarity's sake,  
3 hereinafter referred to as the "Staton Family Quasi Endowment #2"). A copy of the Agreement  
4 establishing the fund is attached hereto and incorporated herein as Exhibit A to Exhibit 2. The  
5 purpose of this fund was to provide a current source of funding for the Staton Scholarship  
6 Endowment #1 mentioned in the paragraph above.

7 3. Reason for Modifications. Funding of the Staton Scholarship Endowment #1  
8 has been lower than anticipated. For this reason, Petitioner wishes to modify the endowment to  
9 vary annual awards based on funding levels and, additionally, to clarify the factors to be  
10 considered in making awards.

11 The original purpose of the Staton Family Quasi Endowment #2 was to provide current  
12 funding for the above Staton Scholarship Endowment #1, a separate endowment. Over time, this  
13 has created administrative and recordkeeping challenges for Petitioner. Therefore, Petitioner  
14 wishes to modify the purpose of the Staton Family Quasi Endowment #2 so that the purpose  
15 duplicates the purpose of the Staton Scholarship Endowment #1. Thus, scholarship  
16 disbursements will be made from the Staton Family Quasi Endowment #2 itself rather than  
17 passing from the Staton Family Quasi Endowment #2 to the Staton Scholarship Endowment #1  
18 and then being disbursed. Additionally, Petitioner wishes to modify the name of the Staton  
19 Family Quasi Endowment #2 to contain the name of the parents of the Statons. Thus, the fund  
20 would be known as the Robert W. and Bernice Ingalls Staton Scholarship Quasi Endowment  
21 Fund.

22 4. Statutory Basis for Modifications (UPMIFA). Modification of the  
23 Staton Scholarship Endowment #1 is permitted by ORS 128.328(2). Funding has been less than  
24 anticipated initially, and the modification will further the purposes of the fund by ensuring that  
25 depletion of the fund will not occur while still meeting the donors' purpose of providing  
26 scholarships. Additionally, clarification of the factors for rewarding scholarships will assist in

1 the management of the fund. Both of these modifications are in accordance with the donors'  
2 probable intention because they improve the management of the fund and support the donors'  
3 charitable intention of providing scholarships.

4 Modification of the Staton Family Quasi Endowment #2 is permitted by ORS 128.328(3)  
5 because the original charitable purpose of using another fund as a conduit for distributing funds  
6 from this fund has become impracticable. The modification is consistent with the charitable  
7 purposes of the donors as expressed in the original endowment agreement because the new  
8 charitable purpose will be the same as that of the other fund. Modification merely eliminates an  
9 unnecessary step in completing the charitable purpose. The change in name will more accurately  
10 identify the family members to be honored, similarly to the name of the Staton Scholarship  
11 Endowment #1.

12 5. Statutory Basis for Modifications (UTC). ORS 130.205 permits the  
13 modification of a charitable trust if modification will further the purposes of the trust in accord  
14 with the settlors' probable intent when modification is requested by reason of circumstances not  
15 anticipated by the settlors. In the Staton Scholarship Endowment #1, funding levels were lower  
16 than anticipated. Modification will further the purposes of the trust in accord with the settlors'  
17 probable intent by allowing the fund to vary annual awards in accordance with funding levels,  
18 fulfilling the settlors' wish to make scholarships available for students. Additionally,  
19 clarification of the factors for determining which students are to receive awards will aid in the  
20 administration of the fund.

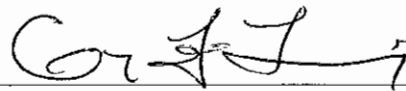
21 ORS 130.210 permits the modification of the Staton Family Quasi Endowment #2  
22 because the current distribution practice is impracticable and having the charitable purpose  
23 match the charitable purpose of the Staton Scholarship Endowment #1 will be consistent with  
24 the settlors' charitable purposes. Modification of the fund name will more accurately describe  
25 the persons who were intended to be honored by the charitable gift.

26 6. Venue. Venue for this matter lies in Lane County because the endowment

1 funds are administered in Lane County, Oregon.

2 WHEREFORE, petitioner prays for a general judgment approving the modification of the  
3 two Staton Endowments as set forth in Exhibit B of Exhibits 1 and 2 attached hereto and  
4 incorporated herein.

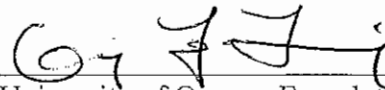
5  
6 Dated this 22 day of June, 2009.

7  
8 

9 University of Oregon Foundation  
10 By: Gary F. Livesay  
Chief Operating Officer, Petitioner

11 I, GARY F. LIVESAY, HEREBY DECLARE THAT THE ABOVE STATEMENT  
12 IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I  
13 UNDERSTAND IT IS MADE FOR USE AS EVIDENCE IN COURT AND IS SUBJECT  
TO PENALTY FOR PERJURY.

14  
15 Dated: June 22, 2009.

16  
17 

18 University of Oregon Foundation  
19 By: Gary F. Livesay  
Chief Operating Officer, Petitioner

20 PETITIONER  
21 University of Oregon Foundation  
22 360 E. 10<sup>th</sup> Avenue, Suite 202  
23 Eugene, Oregon 97401-3273

24 ATTORNEYS FOR PETITIONER  
25 Jon V. Buerstatte, OSB # 822070  
26 Gleaves Swearingen Potter & Scott LLP  
P.O. Box 1147  
Eugene, Oregon 97440-1147  
(541) 686-8833  
(541) 345-2034 (Fax)  
Email: buerstatte@gleaveslaw.com

**AGREEMENT MODIFYING ENDOWMENT FUND**

**PARTIES:**

University of Oregon, Student Financial Aid and Scholarships

University of Oregon, University Advancement

University of Oregon Foundation (A.K.A. University of Oregon Development Fund) (the "Foundation")

**RECITALS:**

- A. The Parties desire to modify the Robert W. and Bernice Ingalls Staton Scholarship Endowment, dated October, 2005 (the "Endowment Fund"), a copy of which is attached hereto as Exhibit "A."
- B. The Parties and the Oregon Attorney General constitute all persons and entities whose signatures are required for this Agreement to be effective pursuant to ORS Chapter 130.

**AGREEMENT:**

NOW, THEREFORE, in consideration of the foregoing recitals that are by this reference expressly made a part hereof, and in consideration of the terms hereinafter contained, the Parties agree as follows:

1. Modification of Endowment Fund

On the Effective Date, the Endowment Fund shall be modified as set forth in Exhibit "B" attached hereto and by this reference incorporated herein.

2. Effective Date

This Agreement shall be effective on the date that all Parties and the Oregon Attorney General have each signed this Agreement and this Agreement has been approved by the Circuit Court of the State of Oregon for Lane County.

3. Number, Gender and Captions

As used herein, the singular shall include the plural and the plural the singular, as the context requires. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this Agreement.

4. Counterparts

This Agreement has been prepared and may be executed in multiple counterparts, each of which shall constitute an original. Each party may execute a separate counterpart, all of which when assembled shall constitute this Agreement, fully executed.



5. Original Agreement

The Endowment Fund, as amended, and each term and provision thereof shall remain in full force and effect, except as herein modified, amended or restated.

6. Entire Agreement

This Agreement and the exhibit hereto constitute the final written expression of all terms of the Endowment Fund and when read together they constitute the complete and exclusive statement of those terms.

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on the date set opposite their respective signatures below.

Signature: Elizabeth Bickford 3-24-09  
Elizabeth Bickford, Director Date  
Student Financial Aid and Scholarships  
University of Oregon

Signature: Michael Redding 2-17-09  
Michael Redding, VP for University Advancement Date  
University of Oregon

Signature: Gary F. Livesay 3-25-09  
Gary F. Livesay, Chief Operating Officer Date  
University of Oregon Foundation

ORS 130.200 provides that, in certain instances, in order for an agreement modifying charitable funds held in trust subject to the enforcement or supervisory powers of the state or the Attorney General under ORS 128.610 to 128.750 to be effective, the Attorney General for the State of Oregon must consent to the agreement. The Endowment Fund is an agreement that may be subject to that requirement. The foregoing Agreement Modifying Endowment Fund is hereby consented to.

ATTORNEY GENERAL

By Susan A Miller 6/10/09  
Susan A Miller, Assistant Attorney General Date



## *Endowment Fund Agreement*

### *Robert W. and Bernice Ingalls Staton Scholarship Endowment*

Whereas the University of Oregon Foundation (the Foundation) has received or anticipates receiving contributions given with the intent of establishing an endowment to provide support for scholarships for students who demonstrate financial need at the University of Oregon (the University).

Therefore the Foundation shall establish Robert W. and Bernice Ingalls Staton Scholarship Fund (the Fund) as a permanent endowment. So much of the net income and net appreciation of the Fund as the Foundation may deem prudent shall be utilized for the purposes set forth in this Agreement. Since 2001 the Robert W. and Bernice Ingalls Staton Foundation has provided current funding for 100 Robert W. and Bernice Ingalls Staton scholarships at the University of Oregon. It is anticipated that future funding for these scholarships will be provided by the Fund. The number of scholarships that can be awarded will be dependent on the amount of funds available.

#### *Purpose*

The purpose of the Fund is to provide scholarships for students with demonstrated financial need at the University of Oregon. The scholarships will be known as the Robert W. and Bernice Ingalls Staton Scholarships (Scholarships) and the scholarship recipients will be known as Staton Scholars. The Scholarships will be awarded to eligible incoming freshman and transfer students. Every effort will be made annually to maintain an equal distribution of Scholarships between freshman, sophomore, junior and senior classes. Students who currently hold a Scholarship and who meet specific criteria will be automatically renewed for the next academic year.

To be eligible for a Scholarship, a student must meet the following criteria:

- incoming freshman or transfer student from a two-year Oregon community college
- resident of Oregon
- graduate of an Oregon high school (except Lane Community College [LCC] Staton Scholars who transfer to the University of Oregon are not required to be Oregon high school graduates)
- able to demonstrate financial need as determined by the Free Application for Federal Student Aid (FAFSA)
- meet university admission requirements
- enrolled as a full-time student at the University of Oregon

Students receiving a scholarship from the Department of Intercollegiate Athletics are not eligible.

A maximum of five (5) Scholarships will be reserved for transfer students from LCC who received a Staton Scholarship while at LCC. In a given year, circumstances might render the number of LCC transfer students to be less than five (5). In this case, the funds will be

**Exhibit A**

awarded to incoming freshmen who meet the eligibility requirements of the Scholarship.

The Office of Student Financial Aid and Scholarships (OSFAS) will select the Scholarship recipients. In the case of comparably qualified students, preference should be given to those with a declared major within the College of Education, the School of Music, the Department of Art, or the discipline area of the Humanities.

The Scholarships are renewable, provided the Staton Scholar remains in good academic standing and continues to meet all criteria. For students admitted as a freshman, the Scholarship is renewable for a maximum of three additional years. For students admitted as a sophomore, the Scholarship is renewable for a maximum of two additional years. For students admitted as a junior, the Scholarship is renewable for a maximum of one additional year. For students admitted as a senior, the Scholarship is not renewable. OSFAS may temporarily waive the requirements set forth in this paragraph if, in the opinion of OSFAS, the student's failure to meet the criteria was either excusable or beyond the student's control. If there are adequate funds to do so, and at the discretion of OSFAS, additional funds may be awarded to current Scholarship recipients whose major requires them to complete a fifth year of studies. For the purpose of this agreement, students pursuing the following licenses or degrees will be considered for an additional year of support: Fifth year Master of Education in Graduate Elementary Teaching, Integrated Teaching, or Middle/Secondary Education; Bachelor of Fine Arts; BA/BS in Architecture.

Although it is the intent of the donors that 100 Scholarships be awarded annually, the University will work collaboratively with the Staton Family Foundation Board to review and modify as needed the number of Scholarships and the dollar amount awarded.

***Administrative Provisions***

1. A reasonable fee of not more than 1% may be charged by and paid to the Foundation annually to cover the cost of administrative and fundraising expenses incurred on behalf of the Fund. This fee will be waived in any year the endowment fails to make a full distribution of earnings as set by the UO Foundation Board of Trustees.
2. Any distribution made for current-use purposes not utilized in a given year may either be retained by OSFAS for expenditure in a future year or reinvested in the Fund, as determined by OSFAS. No distribution shall be made from the Fund until the principal and all disbursements from the Staton Family Quasi-Endowment Fund have been expended in accordance with its stated purpose or the residual of the Staton Family Quasi-Endowment has been transferred into the Fund.
3. For investment purposes, all or any part of the Fund may be merged with the other investment assets of the Foundation and invested at the discretion of the Board of Trustees of the Foundation.

4. Additions to the Fund in the form of property acceptable to the Foundation may be made at any time and shall thereafter be subject in all respects to the terms, provisions, and conditions of this Agreement.
5. The Fund hereby created shall be and is expressly declared to be a perpetual endowment. However, if at some future time a change of circumstances should render the designated purpose of the Fund no longer practical, then, and only then, the Board of Trustees of the Foundation, in consultation with OFSAS, shall use so much of the net income and the net appreciation of the Fund as it may deem prudent to further the objectives and purposes of the University of Oregon with retention of the Fund name and giving due consideration to the special interests expressed above.
6. The Fund shall be managed in accordance with the Uniform Management of Institutional Funds Act as adopted by the State of Oregon.

In witness whereof, the parties to this Agreement have subscribed their names hereto:

9-19-05  
DATE

23 Sept. 2005  
DATE

24 Sept 2005  
DATE

Richard C. Stach

Robert Dennis Stator

Frank Stator Villagru

**APPROVED BY:**

Sept 30, 2005  
DATE

10-3-05  
DATE

6 October 2005  
DATE

Elizabeth Bickford  
Elizabeth Bickford  
Director of Student Financial Aid  
University of Oregon

Allan Price  
Allan Price  
Vice President, University Advancement  
University of Oregon

Karen A. Kreft  
Karen A. Kreft  
President & CEO  
University of Oregon Foundation



## **Modification of Fund Agreement**

### **Robert W. and Bernice Ingalls Staton Scholarship Endowment**

#### **Modification of Purpose**

Whereas the parties entered into a prior Agreement in September 2005; and

Whereas funding levels achieved vary from those anticipated, there is a preference for percentages rather than specific numbers of annual awards annual; and

Whereas the administration of the fund was difficult due to the multiple factors for consideration, and a summary version was preferred;

Therefore it is the parties' intent and agreement that the Foundation shall modify the purpose to become as follows:

The purpose of the Fund is to provide scholarships for students who are financially needy at the University of Oregon. Staton Scholarships will be awarded to eligible incoming freshman and LCC Staton Scholarship recipient transfer students. No more than 1/5 of all Staton Scholars will be LCC transfer students.

To be eligible for a Staton Scholarship, a student must meet the following criteria:

- incoming freshman or LCC Staton Scholarship recipient transferring to the UO
- resident of Oregon and graduate of an Oregon high school (Lane Community College Staton Scholars transferring to the University of Oregon are not required to be Oregon high school graduates)
- have demonstrated financial need, as determined by the UO Office of Student Financial Aid and Scholarships
- meet regular university admission requirements
- enrolled as a full-time student

Recipients cannot also receive a scholarship from the Department of Intercollegiate Athletics.

Scholarships are renewable for a maximum of twelve (12) academic quarters (freshman) or six (6) academic quarters (transfer), provided the student remains in good academic standing and continues to meet all criteria. Should a student fail to meet the eligibility criteria and requirements, s/he may petition to the OSFAS for reinstatement of the Staton Scholarship. Approval will be based on current circumstances and future plans for academic success.

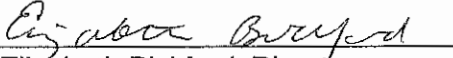
Recipients will be selected and award amounts will be determined by the OSFAS. Whenever possible, the scholarship award should cover approximately 80% of the total cost of tuition of fees. In the case of comparably qualified students, preference

## **Exhibit B**

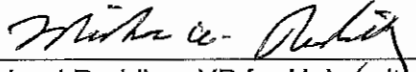
should be given to those with a declared major within the College of Education,  
School of Music, Department of Art, or discipline area of the Humanities.

All other terms and conditions of the previous agreement remain in effect.

In witness whereof, the parties to this Agreement have subscribed their names hereto:

  
Elizabeth Bickford, Director  
Student Financial Aid and Scholarships  
University of Oregon

3-24-09  
Date

  
Michael Redding, VP for University Advancement  
University of Oregon

2/17/09  
Date

  
Gary F. Livesay, Chief Operating Officer  
University of Oregon Foundation

3-25-09  
Date

**Exhibit B**

**AGREEMENT MODIFYING ENDOWMENT FUND**

**PARTIES:**

University of Oregon, Student Financial Aid and Scholarships  
University of Oregon, University Advancement  
University of Oregon Foundation (A.K.A. University of Oregon Development Fund) (the "Foundation")

**RECITALS:**

- A. The Parties desire to modify the Staton Family Quasi-Endowment, dated October, 2005 (the "Endowment Fund"), a copy of which is attached hereto as Exhibit "A."
- B. The Parties and the Oregon Attorney General constitute all persons and entities whose signatures are required for this Agreement to be effective pursuant to ORS Chapter 130.

**AGREEMENT:**

NOW, THEREFORE, in consideration of the foregoing recitals that are by this reference expressly made a part hereof, and in consideration of the terms hereinafter contained, the Parties agree as follows:

1. Modification of Endowment Fund

On the Effective Date, the Endowment Fund shall be modified as set forth in Exhibit "B" attached hereto and by this reference incorporated herein.

2. Effective Date

This Agreement shall be effective on the date that all Parties and the Oregon Attorney General have each signed this Agreement and this Agreement has been approved by the Circuit Court of the State of Oregon for Lane County.

3. Number, Gender and Captions

As used herein, the singular shall include the plural and the plural the singular, as the context requires. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this Agreement.

4. Counterparts

This Agreement has been prepared and may be executed in multiple counterparts, each of which shall constitute an original. Each party may execute a separate counterpart, all of which when assembled shall constitute this Agreement, fully executed.

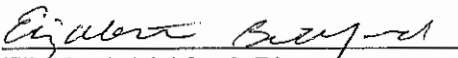
5. Original Agreement

The Endowment Fund, as amended, and each term and provision thereof shall remain in full force and effect, except as herein modified, amended or restated.

6. Entire Agreement

This Agreement and the exhibit hereto constitute the final written expression of all terms of the Endowment Fund and when read together they constitute the complete and exclusive statement of those terms.

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on the date set opposite their respective signatures below.

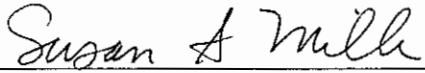
Signature:  3-24-09  
Elizabeth Bickford, Director  
Student Financial Aid and Scholarships  
University of Oregon  
Date

Signature:  2/17/09  
Michael Redding, VP for University Advancement  
University of Oregon  
Date

Signature:  3-25-09  
Gary F. Livesay, Chief Operating Officer  
University of Oregon Foundation  
Date

ORS 130.200 provides that, in certain instances, in order for an agreement modifying charitable funds held in trust subject to the enforcement or supervisory powers of the state or the Attorney General under ORS 128.610 to 128.750 to be effective, the Attorney General for the State of Oregon must consent to the agreement. The Endowment Fund is an agreement that may be subject to that requirement. The foregoing Agreement Modifying Endowment Fund is hereby consented to.

ATTORNEY GENERAL

By  6/10/09  
Susan A Miller, Assistant Attorney General  
Date





## *Quasi-Endowment Fund Agreement*

### *Staton Family Fund*

Whereas the University of Oregon Foundation (the Foundation) has received or anticipates receiving contributions given with the intent of establishing a quasi-endowment to provide support for Robert W. and Bernice Ingalls Staton Scholarships at the University of Oregon (the University).

Therefore the Foundation shall establish the Staton Family Fund (the Fund) as a quasi-endowment. The net income, net appreciation, and principal of the Fund shall be utilized for the purposes set forth in this Agreement. Since 2001 the Robert W. and Bernice Ingalls Staton Foundation has provided current funding for 100 Robert W. and Bernice Ingalls Staton Scholarships (Scholarships). It is anticipated the Staton Family Fund will provide current funding for these Scholarships until the entire amount of the Fund has been depleted or the residual of the Fund has been transferred into the Robert W. and Bernice Ingalls Staton Scholarship Endowment Fund.

### *Purpose*

The purpose of the Fund is to provide current funding for the Robert W. and Bernice Ingalls Staton Scholarships.

### *Administrative Provisions*

1. A reasonable fee may be charged by and paid to the Foundation annually to cover the cost of administrative and fundraising expenses incurred on behalf of the Fund.
2. Any distribution made for current-use purposes not utilized in a given year may either be retained by the Office of Student Financial Aid and Scholarships (OSFAS) for expenditure in a future year or reinvested in the Fund, as determined by OSFAS.
3. For investment purposes, all or any part of the Fund may be merged with the other investment assets of the Foundation and invested at the discretion of the Board of Trustees of the Foundation.
4. Additions to the Fund in the form of property acceptable to the Foundation may be made at any time and shall thereafter be subject in all respects to the terms, provisions, and conditions of this Agreement.
5. While any principal balance remains, the use of the Fund hereby created shall be in compliance with the purpose stated above. However, if at some future time a change of circumstances should render the designated purpose of the Fund no longer practical, then, and only then, the Board of Trustees of the Foundation, in consultation with OSFAS, shall use so much of the net income, the net appreciation, or remaining principal of the Fund as it may deem prudent to further

the objectives and purposes of the University of Oregon with retention of the Fund name and giving due consideration to the special interests expressed above.

6. The Fund shall be managed in accordance with the Uniform Management of Institutional Funds Act as adopted by the State of Oregon.

In witness whereof, the parties to this Agreement have subscribed their names hereto:

9-19-05  
DATE

Richard C. Stah

23 Sept. 2005  
DATE

Robert Dennis Stator

26 Sept 2005  
DATE

Amelia Vallejo

**APPROVED BY:**

Sept 30, 2005  
DATE

Elizabeth Bickford  
Elizabeth Bickford  
Director, Student Financial Aid  
University of Oregon

10-3-05  
DATE

Adlan Price  
Adlan Price  
Vice President, University Advancement  
University of Oregon

6 October 2005  
DATE

Karen A. Kreft  
Karen A. Kreft  
President & CEO  
University of Oregon Foundation



## **Modification of Fund Agreement**

### **Robert W. and Bernice Ingalls Staton Scholarship Quasi-Endowment** Formerly known as the Staton Family Fund Quasi-Endowment

#### **Modification of Name**

Whereas the parties entered into a prior Agreement in September 2005; and

Whereas the Staton Family Fund Quasi-Endowment does not specifically name the parents of the Staton family, which was the intent;

Therefore it is the parties' intent and agreement that the Foundation shall modify the name to become as follows:

Robert W. and Bernice Ingalls Staton Scholarship Quasi-Endowment fund.

#### **Modification of Purpose**

Further, whereas the intention was for parallel funds, rather than sequential, so both funds need detailed purpose statements;

Therefore it is the parties' intent and agreement that the Foundation shall modify the purpose to become as follows:

The purpose of the Fund is to provide scholarships for students who are financially needy at the University of Oregon. Staton Scholarships will be awarded to eligible incoming freshman and LCC Staton Scholarship recipient transfer students. No more than 1/5 of all Staton Scholars will be LCC transfer students.

To be eligible for a Staton Scholarship, a student must meet the following criteria:

- incoming freshman or LCC Staton Scholarship recipient transferring to the UO
- resident of Oregon and graduate of an Oregon high school (Lane Community College Staton Scholars transferring to the University of Oregon are not required to be Oregon high school graduates)
- have demonstrated financial need, as determined by the UO Office of Student Financial Aid and Scholarships
- meet regular university admission requirements
- enrolled as a full-time student

Recipients cannot also receive a scholarship from the Department of Intercollegiate Athletics.

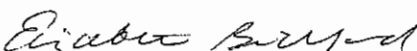
Scholarships are renewable for a maximum of twelve (12) academic quarters (freshman) or six (6) academic quarters (transfer), provided the student remains in good academic standing and continues to meet all criteria. Should a student fail to

meet the eligibility criteria and requirements, s/he may petition to the OSFAS for reinstatement of the Staton Scholarship. Approval will be based on current circumstances and future plans for academic success.

Recipients will be selected and award amounts will be determined by the OSFAS. Whenever possible, the scholarship award should cover approximately 80% of the total cost of tuition of fees. In the case of comparably qualified students, preference should be given to those with a declared major within the College of Education, School of Music, Department of Art, or discipline area of the Humanities.

All other terms and conditions of the previous agreement remain in effect.


In witness whereof, the parties to this Agreement have subscribed their names hereto:

  
Elizabeth Bickford, Director  
Student Financial Aid and Scholarships  
University of Oregon

3-24-09  
Date

  
Michael Redding, VP for University Advancement  
University of Oregon

2/17/09  
Date

  
Gary F. Livesay, Chief Operating Officer  
University of Oregon Foundation

3-25-09  
Date

## Exhibit B

CERTIFIED TRUE COPY

*[Handwritten signature]*

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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF LANE

In the Matter of the Robert W. and Bernice  
Ingalls Staton Scholarship Endowment Fund  
and the Staton Family Quasi Endowment Fund,  
  
University of Oregon Foundation,  
Petitioner.

Case No. 52-09-13556

NOTICE OF FILING OF PETITION  
FOR MODIFICATION OF  
ENDOWMENT FUND

To: Susan A. Miller, Assistant Attorney General for the State of Oregon, Civil  
Enforcement Division, Charitable Activities, and Randolph Geller, Deputy General Counsel for  
the University of Oregon.

You are hereby notified that the attached document was filed by the undersigned in the  
above entitled court on the 24th day of June, 2009. Unless you file objections to the petition  
within 120 days after that date, the petition will be granted and the resulting judgment will be  
binding on all persons interested in the trust.

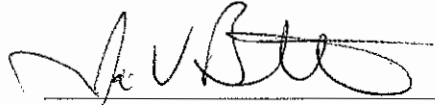
If you file objections within the 120 day period, the court will fix a time and place for a  
hearing. At least 10 days before the date of that hearing, you must serve a copy of your  
objections and give notice of the time and place of the hearing to all persons interested in the

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1 trust. See ORS 130.200.

2 DATED this 29th day of June, 2009.

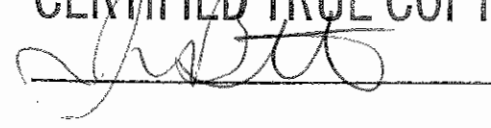
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4 Jon V. Buerstatte OSB # 822070  
Of Attorneys for Petitioner

5 PETITIONER  
6 University of Oregon Foundation  
7 360 E. 10<sup>th</sup> Avenue, Suite 202  
8 Eugene, OR 97401-3273

9 ATTORNEY FOR PETITIONER  
10 Jon V. Buerstatte  
11 OSB # 822070  
12 Gleaves Swearingen Potter & Scott LLP  
13 975 Oak Street, Suite 800  
14 Eugene, OR 97401  
15 541-345-2034 (fax no.)  
16 buerstatte@gleaveslaw.com

CERTIFIED TRUE COPY



IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

In the Matter of the Robert W. and Bernice  
Ingalls Staton Scholarship Endowment Fund  
and the Staton Family Quasi Endowment Fund,

Case No.52-09-13556

GENERAL JUDGMENT FOR  
MODIFICATION OF ENDOWMENT  
FUND

University of Oregon Foundation,  
Petitioner.

This matter having come before the court on the Petition of Petitioner University of Oregon Foundation, an Oregon nonprofit corporation, by and through its Chief Operating Officer, Gary F. Livesay, for the modification of the Robert W. and Bernice Ingalls Staton Scholarship Endowment Fund and the Staton Family Quasi Endowment Fund,, and it appearing to the court from the records and files herein that:

1.

Service was made and perfected by regular mail to the persons entitled to notice as follows:

<u>Name</u>	<u>Date</u>
Susan A. Miller, Assistant Attorney General, State of Oregon	June 29, 2009

Randolph Geller, Deputy General Counsel, University of Oregon	June 29, 2009
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2.

Notice as required by Oregon law has been waived by all persons entitled thereto.

3.

Petitioner has obtained the consent of the Attorney General to the modification as required by Oregon law. The Consent and Waiver of Assistant Attorney General Susan A. Miller is filed herewith.

4.

Venue is properly in this court and no other court in this state has acquired jurisdiction in this matter.

5.

Modification is not inconsistent with a material purpose of the endowment funds as originally established, and the name change is in accordance with the probable intention of the donors.

NOW, THEREFORE, it is hereby adjudged that a general judgment is entered as follows:

The Robert W. and Bernice Ingalls Staton Scholarship Endowment Fund and the Staton Family Quasi Endowment Fund shall be modified as set forth in Exhibit B of Exhibits 1 and 2, respectively, attached to the Petition filed herein. The Robert W. and Bernice Ingalls Staton Scholarship Endowment Fund shall retain its current name, and the Staton Family Quasi Endowment Fund shall henceforth be known as the Robert W. and Bernice Ingalls Staton Scholarship Quasi Endowment Fund.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Circuit Court Judge

PETITIONER  
University of Oregon Foundation  
360 E. 10<sup>th</sup> Avenue, Suite 202  
Eugene, Oregon 97401-3273

ATTORNEYS FOR PETITIONER  
Jon V. Buerstatte, OSB # 822070  
Gleaves Swearingen Potter & Scott LLP  
P.O. Box 1147  
Eugene, Oregon 97440-1147  
(541) 686-8833  
(541) 345-2034 (Fax)  
Email: buerstatte@gleaveslaw.com



## CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing General Judgment for Modification of Endowment Fund on the following persons on June 29, 2009, by depositing same in the United States Post Office at Eugene, Oregon, enclosed in a sealed envelope, with postage paid to the address noted below:

Randolph Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Susan A. Miller  
Assistant Attorney General  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue Suite 410  
Portland, OR 97201

DATED: June 29, 2009.



Jon V. Buerstatte OSB # 822070  
Of Attorneys for Petitioner

10/1/09

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

In the Matter of the Robert W. and Bernice  
Ingalls Staton Scholarship Endowment Fund  
and the Staton Family Quasi Endowment Fund,

Case No. 52-09-13556

ACCEPTANCE OF SERVICE  
(Deputy General Counsel)

University of Oregon Foundation,  
Petitioner.

I, Randolph Geller, Deputy General Counsel, University of Oregon, do hereby accept personal and legal service of a true copy of the Petition for Modification of Endowment Fund and Notice of Filing of Petition for Modification of Endowment Fund filed in the above-entitled matter, certified to be such by Jon V. Buerstatte, lawyer for Petitioner.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Randolph Geller, OSB #030610  
University of Oregon

STATE OF OREGON            )  
  ) ss:  
County of Lane                )

On this \_\_\_\_ day of \_\_\_\_\_, 2009, the foregoing instrument was personally acknowledged before me by Randolph Geller, Deputy General Counsel.

\_\_\_\_\_  
Notary Public for Oregon  
My commission expires: \_\_\_\_\_

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5 IN THE CIRCUIT COURT OF THE STATE OF OREGON  
6 FOR LANE COUNTY  
7

8 In the Matter of Robert W. and Bernice Ingalls  
9 Staton Scholarship Endowment Fund and the  
10 Staton Family Quasi Endowment Fund,  
11 University of Oregon Foundation,  
Petitioner.

Case No. 52-09-13556

CONSENT AND WAIVER  
OF DEPUTY GENERAL COUNSEL

12 I, Randolph Geller, Deputy General Counsel, University of Oregon, have read the  
13 Petition for Modification of Endowment Fund herein. I approve the contents thereof, waive  
14 receipt of any required statutory notice and the right to object to the modification, and consent to  
15 the immediate entry of a judgment as requested in the Petition.

16 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2009.  
17  
18

19 \_\_\_\_\_  
20 Randolph Geller, OSB # 030610  
21 Deputy General Counsel  
22 University of Oregon  
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**AGREEMENT MODIFYING ENDOWMENT FUND**

**PARTIES:**

University of Oregon Foundation (A.K.A. University of Oregon Development Fund) (the "Foundation")

University of Oregon

John W. and Julie Dixon, Donors

**RECITALS:**

- A. The Parties desire to modify the Rock 'N' J Chair in History Endowment Fund Agreement, dated December 2004 (the "Endowment Fund"), a copy of which is attached hereto as Exhibit "A."
- B. The Parties and the Oregon Attorney General constitute all persons and entities whose signatures are required for this Agreement to be effective pursuant to ORS Chapter 130.

**AGREEMENT:**

NOW, THEREFORE, in consideration of the foregoing recitals that are by this reference expressly made a part hereof, and in consideration of the terms hereinafter contained, the Parties agree as follows:

1. Modification of Endowment Fund

On the Effective Date, the Endowment Fund shall be modified as set forth in Exhibit "B" attached hereto and by this reference incorporated herein.

2. Effective Date

This Agreement shall be effective on the date that all Parties and the Oregon Attorney General have each signed this Agreement and, if required by law, this Agreement has been approved by the Circuit Court of the State of Oregon for Lane County.

3. Tax Consequences

Donor accepts sole responsibility for tax consequences, if any, that result from the aforesaid modification of the Endowment Fund.

4. Number, Gender and Captions

As used herein, the singular shall include the plural and the plural the singular, as the context requires. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this Agreement.

5. Counterparts

This Agreement has been prepared and may be executed in multiple counterparts, each of which shall constitute an original. Each party may execute a separate counterpart, all of which when assembled shall constitute this Agreement, fully executed.

6. Original Agreement

The Endowment Fund, as amended, and each term and provision thereof shall remain in full force and effect, except as herein modified, amended or restated.

7. Entire Agreement

This Agreement and the exhibit hereto constitute the final written expression of all terms of the Endowment Fund and when read together they constitute the complete and exclusive statement of those terms.

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on the date set opposite their respective signatures below.

Signature: <u>John W. Dixon</u> John W. Dixon, Donor	<u>2/9/09</u> Date
Signature: <u>Julie Dixon</u> Julie Dixon, Donor	<u>2/9/09</u> Date
Signature: <u>Michael Redding</u> Michael Redding, VP for University Advancement University of Oregon	<u>4/15/09</u> Date
Signature: <u>Gary F. Livesay</u> Gary F. Livesay, Chief Operating Officer University of Oregon Foundation	<u>4-16-09</u> Date

ORS 130.200 provides that, in certain instances, in order for an agreement modifying charitable funds held in trust subject to the enforcement or supervisory powers of the state or the Attorney General under ORS 128.610 to 128.750 to be effective, the Attorney General for the State of Oregon must consent to the agreement. The Endowment Fund is an agreement that may be subject to that requirement. The foregoing Agreement Modifying Endowment Fund is hereby consented to.

ATTORNEY GENERAL

By Susan A. Miller 5/18/09  
Susan A. Miller, Assistant Attorney General Date



## Endowment Fund Agreement

### *The Rock 'N' J Chair in History Endowment Fund*

Whereas the University of Oregon Foundation (the Foundation) has received or anticipates receiving contributions given with the intent of establishing an endowment to provide support for an endowed chair within the Department of History at the University of Oregon (the University),

Therefore the Foundation shall establish *The Rock 'N' J Chair in History Endowment Fund* (the Fund) as a permanent endowment. So much of the net income and net appreciation of the Fund as the Foundation may deem prudent shall be utilized for the purposes set forth in this Agreement.

#### **Purpose**

The purpose of the Fund is to establish an endowed chair in the Department of History to focus on the study of history from Lewis and Clark and the opening of the West.

#### **Administrative Provisions**

1. A one-time fee equivalent to 3% of the original gift value will be charged to this endowed gift. In addition, a reasonable fee may be charged by and paid to the Foundation annually to cover the cost of administrative and fundraising expenses incurred on behalf of the Fund.
2. Any distribution made for current-use purposes not utilized in a given year may either be retained by the department head for expenditure in a future year or reinvested in the Fund, as determined by the department head.
3. For investment purposes, all or any part of the Fund may be merged with the other investment assets of the Foundation and invested at the discretion of the Board of Trustees of the Foundation.
4. Additions to the Fund in the form of property acceptable to the Foundation may be made at any time and shall thereafter be subject in all respects to the terms, provisions, and conditions of this Agreement.
5. The Fund hereby created shall be and is expressly declared to be a perpetual endowment. However, if at some future time a change of circumstances should render the designated purpose of the Fund no longer practical, then, and only then, the Board of Trustees of the

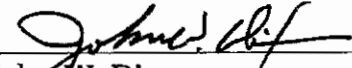
### **Exhibit A**

Foundation, in consultation with the Department of History, shall use so much of the net income and the net appreciation of the Fund as it may deem prudent to further the objectives and purposes of the University of Oregon with retention of the Fund name and giving due consideration to the special interests expressed above.

6. The Fund shall be managed in accordance with the Uniform Management of Institutional Funds Act as adopted by the State of Oregon.

In witness whereof, the parties to this Agreement have subscribed their names hereto:

11-28-04  
DATE


  
\_\_\_\_\_  
John W. Dixon

11-28-04  
DATE

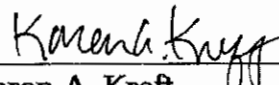
  
\_\_\_\_\_  
Julie Dixon

**APPROVED BY:**

11/29/04  
DATE

  
\_\_\_\_\_  
Allan Price  
Vice President University Advancement  
University of Oregon

2 December 2004  
DATE

  
\_\_\_\_\_  
Karen A. Krefl  
Executive Director  
University of Oregon Foundation

**Exhibit A**



**Modification of Fund Agreement**

**Julie and Rocky Dixon Chair in U.S. Western History Endowment Fund**  
Formerly known as the Rock 'N' J Chair in History Endowment Fund

**Modification of Name**

Whereas the parties entered into a prior Agreement in December 2004; and

Whereas the original fund was named for their ranch rather than for the donors;

Therefore it is the parties' intent and agreement that the Foundation shall modify the name to become as follows:

The Julie and Rocky Dixon Chair in U.S. Western History Endowment Fund.

**Modification of Purpose**

Whereas the parties entered into a prior Agreement in December 2004; and

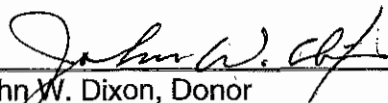
Whereas the scope of the chair was too narrowly defined to be effectively used by the department;

Therefore it is the parties' intent and agreement that the Foundation shall modify the purpose to become as follows:


The purpose of the Fund is to support an endowed chair in the Department of History to focus on the history of the U.S. American West.

All other terms and conditions of the previous agreement remain in effect.

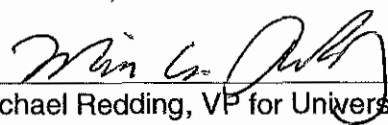
In witness whereof, the parties to this Agreement have subscribed their names hereto:

  
\_\_\_\_\_  
John W. Dixon, Donor

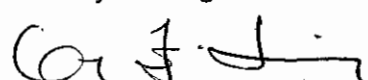
2/9/09  
Date

  
\_\_\_\_\_  
Julie Dixon, Donor

2/2/09  
Date

  
\_\_\_\_\_  
Michael Redding, VP for University Advancement  
University of Oregon

4/15/09  
Date

  
\_\_\_\_\_  
Gary F. Livesay, Chief Operating Officer  
University of Oregon Foundation

4-16-09  
Date

**Exhibit B**





May 12, 2009

Ms. Susan A. Miller  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue, Suite 410  
Portland, Oregon 97201

**Re: University of Oregon Foundation  
Rock'n J Chair in History Endowment Fund**

Dear Susan:

I am enclosing for your review a proposed endowment modification agreement modifying the Rock'n J Chair in History Endowment Fund. As you will see, this modification involves a change in name from the name of the donors' ranch to the name of the donors. Additionally, the purpose would be modified to cover a broader scope of American history. Both donors consent to the modification, so no court proceeding would be necessary in this case.

If the forms meet with your approval, we would appreciate your signing where indicated and returning them to us in the enclosed envelope. If you have questions or need additional information, please do not hesitate to call.

Very truly yours,

Laurie A. Nelson  
nelson@gleaveslaw.com

LAN:gdm  
Enclosures

cc: Gary Livesay (w/o encls.)  
Randy Geller (w/encls.)  
Jon V. Buerstatte (w/o encls.)

Phone:  
(541) 686-8833  
Fax:  
(541) 345-2034

975 Oak Street  
Suite 800  
Eugene, Oregon  
97401-3156

Mailing Address:  
P.O. Box 1147  
Eugene, Oregon  
97440-1147

Email:  
info@gleaveslaw.com  
Web-Site:  
www.gleaveslaw.com

Frederick A. Batson  
Jon V. Buerstatte  
Patricia L. Chapman\*\*  
Joshua A. Clark  
Daniel P. Ellison\*\*\*  
Michael T. Faulconer\*\*  
Howard F. Feinman  
Thomas P. E. Herrmann\*  
Dan Webb Howard\*\*  
Cassie K. Kellogg  
Stephen O. Lane  
Valeri L. Love  
William H. Martin\*  
Walter W. Miller  
Laura T. Z. Montgomery\*  
Laurie A. Nelson  
Ian T. Richardson  
Martha J. Rodman  
Harvey W. Rogers  
Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman  
Jane M. Yates

\*Also admitted  
in Washington

\*\*Also admitted  
in California

\*\*\*Also admitted  
in Utah

*Original documents  
5/13/09*

**AGREEMENT MODIFYING ENDOWMENT FUND**

**PARTIES:**

University of Oregon Foundation (A.K.A. University of Oregon Development Fund) (the "Foundation")

University of Oregon

Oliver and Robin Collins, Donors

**RECITALS:**

- A. The Parties desire to modify the Oliver and Robin Collins Presidential Scholarship Endowment Fund Agreement, dated December 1998 (the "Endowment Fund"), a copy of which is attached hereto as Exhibit "A."
- B. The Parties and the Oregon Attorney General constitute all persons and entities whose signatures are required for this Agreement to be effective pursuant to ORS Chapter 130.

**AGREEMENT:**

NOW, THEREFORE, in consideration of the foregoing recitals that are by this reference expressly made a part hereof, and in consideration of the terms hereinafter contained, the Parties agree as follows:

1. Modification of Endowment Fund

On the Effective Date, the Endowment Fund shall be modified as set forth in Exhibit "B" attached hereto and by this reference incorporated herein.

2. Effective Date

This Agreement shall be effective on the date that all Parties and the Oregon Attorney General have each signed this Agreement and, if required by law, this Agreement has been approved by the Circuit Court of the State of Oregon for Lane County.

3. Tax Consequences

Donor accepts sole responsibility for tax consequences, if any, that result from the aforesaid modification of the Endowment Fund.

4. Number, Gender and Captions

As used herein, the singular shall include the plural and the plural the singular, as the context requires. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this Agreement.

5. Counterparts

This Agreement has been prepared and may be executed in multiple counterparts, each of which shall constitute an original. Each party may execute a separate counterpart, all of which when assembled shall constitute this Agreement, fully executed.

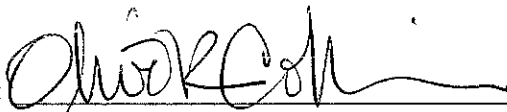
6. Original Agreement

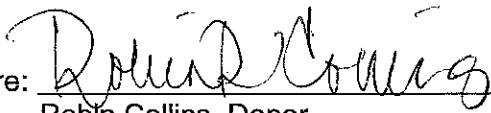
The Endowment Fund, as amended, and each term and provision thereof shall remain in full force and effect, except as herein modified, amended or restated.

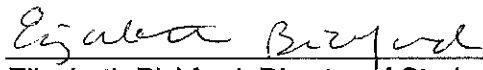
7. Entire Agreement

This Agreement and the exhibit hereto constitute the final written expression of all terms of the Endowment Fund and when read together they constitute the complete and exclusive statement of those terms.

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on the date set opposite their respective signatures below.

Signature:  2.2.09  
Oliver Collins, Donor Date

Signature:  2/2/09  
Robin Collins, Donor Date

Signature:  3-30-2009  
Elizabeth Bickford, Director of Student Financial Aid Date  
University of Oregon

Signature:  4-13-09  
Michael Redding, VP for University Advancement Date  
University of Oregon

Signature:  4-15-09  
Gary F. Livesay, Chief Operating Officer Date  
University of Oregon Foundation

ORS 130.200 provides that, in certain instances, in order for an agreement modifying charitable funds held in trust subject to the enforcement or supervisory powers of the state or the Attorney General under ORS 128.610 to 128.750 to be effective, the Attorney General for the State of Oregon must consent to the agreement. The Endowment Fund is an agreement that may be

subject to that requirement. The foregoing Agreement Modifying Endowment Fund is hereby consented to.

ATTORNEY GENERAL

By Susan A. Miller 5/18/09  
Susan A. Miller, Assistant Attorney General Date

UNIVERSITY OF OREGON FOUNDATION

Endowment Fund Agreement

The Oliver and Robin Collins Presidential Scholarship Fund

Whereas the University of Oregon Foundation has received contributions of stock, cash, and/or other assets from Oliver and Robin Collins, given with the intent of establishing at least a \$100,000 endowment to provide support for The Oliver and Robin Collins Presidential Scholarship Fund at the University of Oregon (the University)

Therefore

The University of Oregon Foundation (the Foundation) shall establish The Oliver and Robin Collins Presidential Scholarship Fund (the Fund), as a permanent endowment. The net income and appreciation on this investment will accumulate until such time as at least \$100,000 has accumulated in the fund. At that point, the net income and so much of the appreciation of the Fund as the Foundation may deem prudent shall be utilized annually for the purposes heretofore set forth in this agreement:

Scholarships shall be provided for athletes who qualify as Presidential Scholars based on academic merit, extra-curricular activity, community leadership and a written essay.\* The University Scholarship Selection Committee, comprised of faculty and students, will award the scholarships each year with oversight from the Student Financial Aid Office based on recommendations from the Athletic Department *(students who qualify for one of the officially sanctioned UO intercollegiate teams)* OK

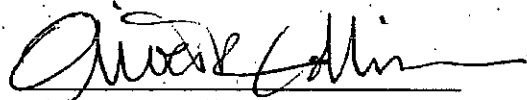
- 1) Any distribution made for current use purposes not utilized in a given year may be either retained for expenditure in a future year or added to the principal of the Fund, as determined by the Director of Student Financial Aid after consultation with the Foundation to be in the best interest of the Fund. For its services in holding and managing the Fund, a reasonable fee may be charged by and paid to the Foundation to cover the cost of administrative and fundraising expenses incurred on behalf of this endowment fund.
- 2) For investment purposes all, or any part of, the Fund may be merged with the general investment assets of the Foundation and invested at the discretion of the Board of Trustees of the University of Oregon Foundation.
- 3) Additions to the Fund in the form of property acceptable to the Foundation may be made at any time, and shall thereafter be subject in all respects to the terms, provisions and conditions of this agreement.

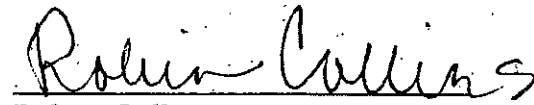
\* *If no student athlete meets Pres. Scholarship requirement then the scholarship will be granted to any student who meets Pres. Schol. requirements.* OK

- 4) The endowment fund hereby created shall be and is expressly declared to be perpetual. However, if at some future time a change of circumstances should render the designated purpose of the Fund no longer practical, then, and only then, the Board of Trustees of the Foundation in agreement with the Provost shall use all, or any part of, the net income and so much of the appreciation of the fund as it may deem prudent, to further the objectives and purposes of the University of Oregon with retention of the named fund and giving due consideration to the special interests expressed above.
- 5) The endowment fund shall be managed in accordance with the Uniform Management of Institutional Funds Act as adopted by the State of Oregon.

IN WITNESS WHERE OF, the parties to this agreement have subscribed their names hereto:

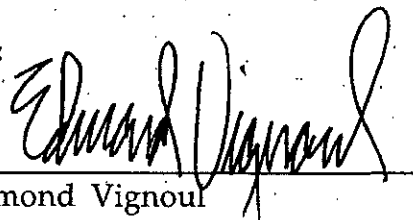
DATED THIS 17<sup>th</sup> DAY OF  
December 1998

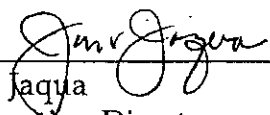
  
Oliver R. Collins

  
Robin Collins

APPROVED THIS 31 DAY OF  
December 1998

BY:

  
Edmond Vignoul  
Director  
Office of Student Financial Aid  
University of Oregon

  
Jon Jaqua  
Executive Director  
University of Oregon Foundation



### Modification of Fund Agreement

#### Oliver and Robin Collins Family Scholarship

Formerly known as the Oliver and Robin Collins Presidential Scholarship

#### Modification of Name

Whereas the parties entered into a prior Agreement in December 1998; and  
Whereas the endowment was established for student athletes who qualify as Presidential Scholars, and, historically, student athletes have not received Presidential Scholarships;  
Therefore it is the parties' intent and agreement that the Foundation shall modify the name to become as follows:

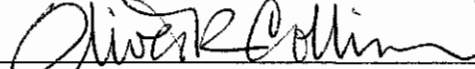
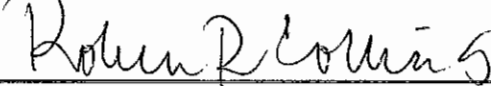
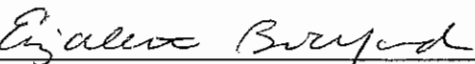
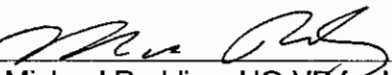

The Oliver and Robin Collins Family Scholarship endowment fund.

#### Modification of Purpose

Further, therefore it is the parties' intent and agreement that the Foundation shall modify the selection criteria for the scholarship to become as follows:

Student-athletes with a high school GPA of at least 3.50, who have participated for at least one year in a high-school extracurricular activity other than athletics and who maintain a minimum GPA of 3.00 while enrolled at the University of Oregon. The student-athletes should be from Arizona, California, Nevada, Oregon, or Washington. If there are no student-athlete candidates from the states mentioned above, then consideration should be given to student-athletes from other states who meet the GPA and extracurricular requirements.

All other terms and conditions of the previous agreement remain in effect.

 _____ Oliver Collins, Donor	<u>2-16-09</u> Date
 _____ Robin Collins, Donor	<u>2/16/09</u> Date
 _____ Elizabeth Bickford, UO Dir. of Student Financial Aid	<u>3-26-2009</u> Date
 _____ Michael Redding, UO VP for University Advancement	<u>4-13-09</u> Date
 _____ Gary F. Livesay, Foundation Chief Operating Officer	<u>4-15-09</u> Date

**Exhibit B**



May 12, 2009

Ms. Susan A. Miller  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue, Suite 410  
Portland, Oregon 97201

**Re: University of Oregon Foundation  
Oliver and Robin Collins Presidential Scholarship Endowment Fund**

Dear Susan:

I am enclosing for your review a proposed endowment modification agreement modifying the Oliver and Robin Collins Presidential Scholarship Endowment Fund. As you will see, the donors initially intended to provide scholarships for student athletes who were also presidential scholars. Under the terms of the proposed modification, the name of the fund would be changed to the Oliver and Robin Collins Family Scholarship, and the selection criteria would be broadened by permitting awards to be made to student athletes who maintain a high GPA but are not presidential scholars. Because the donors have consented to the modification, no court proceeding would be necessary.

If you approve the forms, we would appreciate your signing where indicated and returning the forms to us in the enclosed envelope. If you have questions or need additional information, please do not hesitate to call.

Very truly yours,

Laurie A. Nelson  
nelson@gleaveslaw.com

LAN:gdm  
Enclosures

cc: Gary Livesay (w/o encls.)  
Randy Geller (w/encls.)  
Jon V. Buerstatte (w/o encls.)

Phone:  
(541) 686-8833  
Fax:  
(541) 345-2034

975 Oak Street  
Suite 800  
Eugene, Oregon  
97401-3156

Mailing Address:  
P.O. Box 1147  
Eugene, Oregon  
97440-1147

Email:  
info@gleaveslaw.com  
Web-Site:  
www.gleaveslaw.com

Frederick A. Batson  
Jon V. Buerstatte  
Patricia L. Chapman\*\*  
Joshua A. Clark  
Daniel P. Ellison\*\*\*  
Michael T. Faulconer\*\*  
Howard E. Feinman  
Thomas P. E. Hermann\*  
Dan Webb Howard\*\*  
Cassie K. Kellogg  
Stephen O. Lane  
Valeri L. Love  
William H. Martin\*  
Walter W. Miller  
Laura T. Z. Montgomery\*  
Laurie A. Nelson  
Ian T. Richardson  
Martha J. Rodman  
Harvey W. Rogers  
Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman  
Jane M. Yates

\*Also admitted  
in Washington

\*\*Also admitted  
in California

\*\*\*Also admitted  
in Utah

*Handwritten notes and signatures at the bottom of the page.*



**AGREEMENT MODIFYING ENDOWMENT FUND**

**PARTIES:**

University of Oregon, Student Financial Aid and Scholarships  
University of Oregon, University Advancement  
University of Oregon Foundation (A.K.A. University of Oregon Development Fund) (the "Foundation")

**RECITALS:**

- A. The Parties desire to modify the Staton Family Quasi-Endowment, dated October, 2005 (the "Endowment Fund"), a copy of which is attached hereto as Exhibit "A."
- B. The Parties and the Oregon Attorney General constitute all persons and entities whose signatures are required for this Agreement to be effective pursuant to ORS Chapter 130.

**AGREEMENT:**

NOW, THEREFORE, in consideration of the foregoing recitals that are by this reference expressly made a part hereof, and in consideration of the terms hereinafter contained, the Parties agree as follows:

1. Modification of Endowment Fund

On the Effective Date, the Endowment Fund shall be modified as set forth in Exhibit "B" attached hereto and by this reference incorporated herein.

2. Effective Date

This Agreement shall be effective on the date that all Parties and the Oregon Attorney General have each signed this Agreement and this Agreement has been approved by the Circuit Court of the State of Oregon for Lane County.

3. Number, Gender and Captions

As used herein, the singular shall include the plural and the plural the singular, as the context requires. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this Agreement.

4. Counterparts

This Agreement has been prepared and may be executed in multiple counterparts, each of which shall constitute an original. Each party may execute a separate counterpart, all of which when assembled shall constitute this Agreement, fully executed.

5. Original Agreement

The Endowment Fund, as amended, and each term and provision thereof shall remain in full force and effect, except as herein modified, amended or restated.

6. Entire Agreement

This Agreement and the exhibit hereto constitute the final written expression of all terms of the Endowment Fund and when read together they constitute the complete and exclusive statement of those terms.

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on the date set opposite their respective signatures below.

Signature: Elizabeth Bickford 3-24-09  
Elizabeth Bickford, Director  
Student Financial Aid and Scholarships  
University of Oregon  
Date

Signature: Michael W. Redding 2-17-09  
Michael Redding, VP for University Advancement  
University of Oregon  
Date

Signature: Gary F. Livesay 3-25-09  
Gary F. Livesay, Chief Operating Officer  
University of Oregon Foundation  
Date

ORS 130.200 provides that, in certain instances, in order for an agreement modifying charitable funds held in trust subject to the enforcement or supervisory powers of the state or the Attorney General under ORS 128.610 to 128.750 to be effective, the Attorney General for the State of Oregon must consent to the agreement. The Endowment Fund is an agreement that may be subject to that requirement. The foregoing Agreement Modifying Endowment Fund is hereby consented to.

ATTORNEY GENERAL

By Susan A Miller 6/10/09  
Susan A Miller, Assistant Attorney General  
Date



## *Quasi-Endowment Fund Agreement*

### *Staton Family Fund*

Whereas the University of Oregon Foundation (the Foundation) has received or anticipates receiving contributions given with the intent of establishing a quasi-endowment to provide support for Robert W. and Bernice Ingalls Staton Scholarships at the University of Oregon (the University).

Therefore the Foundation shall establish the Staton Family Fund (the Fund) as a quasi-endowment. The net income, net appreciation, and principal of the Fund shall be utilized for the purposes set forth in this Agreement. Since 2001 the Robert W. and Bernice Ingalls Staton Foundation has provided current funding for 100 Robert W. and Bernice Ingalls Staton Scholarships (Scholarships). It is anticipated the Staton Family Fund will provide current funding for these Scholarships until the entire amount of the Fund has been depleted or the residual of the Fund has been transferred into the Robert W. and Bernice Ingalls Staton Scholarship Endowment Fund.

### *Purpose*

The purpose of the Fund is to provide current funding for the Robert W. and Bernice Ingalls Staton Scholarships.

### *Administrative Provisions*

1. A reasonable fee may be charged by and paid to the Foundation annually to cover the cost of administrative and fundraising expenses incurred on behalf of the Fund.
2. Any distribution made for current-use purposes not utilized in a given year may either be retained by the Office of Student Financial Aid and Scholarships (OSFAS) for expenditure in a future year or reinvested in the Fund, as determined by OSFAS.
3. For investment purposes, all or any part of the Fund may be merged with the other investment assets of the Foundation and invested at the discretion of the Board of Trustees of the Foundation.
4. Additions to the Fund in the form of property acceptable to the Foundation may be made at any time and shall thereafter be subject in all respects to the terms, provisions, and conditions of this Agreement.
5. While any principal balance remains, the use of the Fund hereby created shall be in compliance with the purpose stated above. However, if at some future time a change of circumstances should render the designated purpose of the Fund no longer practical, then, and only then, the Board of Trustees of the Foundation, in consultation with OSFAS, shall use so much of the net income, the net appreciation, or remaining principal of the Fund as it may deem prudent to further

the objectives and purposes of the University of Oregon with retention of the Fund name and giving due consideration to the special interests expressed above.

6. The Fund shall be managed in accordance with the Uniform Management of Institutional Funds Act as adopted by the State of Oregon.

In witness whereof, the parties to this Agreement have subscribed their names hereto:

9-19-05  
DATE

Richard C. Stah

23 Sept. 2005  
DATE

Robert Dennis Stator

26 Sept 2005  
DATE

Amstatan Villagui

**APPROVED BY:**

Sept 30, 2005  
DATE

Elizabeth Bickford  
Elizabeth Bickford  
Director, Student Financial Aid  
University of Oregon

10-3-05  
DATE

Allan Price  
Allan Price  
Vice President, University Advancement  
University of Oregon

6 October 2005  
DATE

Karen A. Kreft  
Karen A. Kreft  
President & CEO  
University of Oregon Foundation



UNIVERSITY OF OREGON  
FOUNDATION

## **Modification of Fund Agreement**

### **Robert W. and Bernice Ingalls Staton Scholarship Quasi-Endowment** Formerly known as the Staton Family Fund Quasi-Endowment

#### **Modification of Name**

Whereas the parties entered into a prior Agreement in September 2005; and

Whereas the Staton Family Fund Quasi-Endowment does not specifically name the parents of the Staton family, which was the intent;

Therefore it is the parties' intent and agreement that the Foundation shall modify the name to become as follows:

Robert W. and Bernice Ingalls Staton Scholarship Quasi-Endowment fund.

#### **Modification of Purpose**

Further, whereas the intention was for parallel funds, rather than sequential, so both funds need detailed purpose statements;

Therefore it is the parties' intent and agreement that the Foundation shall modify the purpose to become as follows:

The purpose of the Fund is to provide scholarships for students who are financially needy at the University of Oregon. Staton Scholarships will be awarded to eligible incoming freshman and LCC Staton Scholarship recipient transfer students. No more than 1/5 of all Staton Scholars will be LCC transfer students.

To be eligible for a Staton Scholarship, a student must meet the following criteria:

- incoming freshman or LCC Staton Scholarship recipient transferring to the UO
- resident of Oregon and graduate of an Oregon high school (Lane Community College Staton Scholars transferring to the University of Oregon are not required to be Oregon high school graduates)
- have demonstrated financial need, as determined by the UO Office of Student Financial Aid and Scholarships
- meet regular university admission requirements
- enrolled as a full-time student

Recipients cannot also receive a scholarship from the Department of Intercollegiate Athletics.

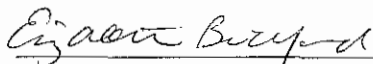
Scholarships are renewable for a maximum of twelve (12) academic quarters (freshman) or six (6) academic quarters (transfer), provided the student remains in good academic standing and continues to meet all criteria. Should a student fail to

meet the eligibility criteria and requirements, s/he may petition to the OSFAS for reinstatement of the Staton Scholarship. Approval will be based on current circumstances and future plans for academic success.

Recipients will be selected and award amounts will be determined by the OSFAS. Whenever possible, the scholarship award should cover approximately 80% of the total cost of tuition of fees. In the case of comparably qualified students, preference should be given to those with a declared major within the College of Education, School of Music, Department of Art, or discipline area of the Humanities.

All other terms and conditions of the previous agreement remain in effect.

In witness whereof, the parties to this Agreement have subscribed their names hereto:



Elizabeth Bickford, Director  
Student Financial Aid and Scholarships  
University of Oregon

3-24-09

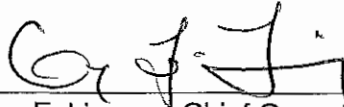
Date



Michael Redding, VP for University Advancement  
University of Oregon

2/17/09

Date



Gary F. Livesay, Chief Operating Officer  
University of Oregon Foundation

3-25-09

Date

**Exhibit B**

**AGREEMENT MODIFYING ENDOWMENT FUND**

**PARTIES:**

University of Oregon, Student Financial Aid and Scholarships  
University of Oregon, University Advancement  
University of Oregon Foundation (A.K.A. University of Oregon Development Fund) (the "Foundation")

**RECITALS:**

- A. The Parties desire to modify the Robert W. and Bernice Ingalls Staton Scholarship Endowment, dated October, 2005 (the "Endowment Fund"), a copy of which is attached hereto as Exhibit "A."
- B. The Parties and the Oregon Attorney General constitute all persons and entities whose signatures are required for this Agreement to be effective pursuant to ORS Chapter 130.

**AGREEMENT:**

NOW, THEREFORE, in consideration of the foregoing recitals that are by this reference expressly made a part hereof, and in consideration of the terms hereinafter contained, the Parties agree as follows:

1. Modification of Endowment Fund

On the Effective Date, the Endowment Fund shall be modified as set forth in Exhibit "B" attached hereto and by this reference incorporated herein.

2. Effective Date

This Agreement shall be effective on the date that all Parties and the Oregon Attorney General have each signed this Agreement and this Agreement has been approved by the Circuit Court of the State of Oregon for Lane County.

3. Number, Gender and Captions

As used herein, the singular shall include the plural and the plural the singular, as the context requires. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this Agreement.

4. Counterparts

This Agreement has been prepared and may be executed in multiple counterparts, each of which shall constitute an original. Each party may execute a separate counterpart, all of which when assembled shall constitute this Agreement, fully executed.

5. Original Agreement

The Endowment Fund, as amended, and each term and provision thereof shall remain in full force and effect, except as herein modified, amended or restated.

6. Entire Agreement

This Agreement and the exhibit hereto constitute the final written expression of all terms of the Endowment Fund and when read together they constitute the complete and exclusive statement of those terms.

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on the date set opposite their respective signatures below.

Signature: Elizabeth Bickford 3-24-09  
Elizabeth Bickford, Director  
Student Financial Aid and Scholarships  
University of Oregon  
Date

Signature: Michael Redding 2/17/09  
Michael Redding, VP for University Advancement  
University of Oregon  
Date

Signature: Gary F. Livesay 3-25-09  
Gary F. Livesay, Chief Operating Officer  
University of Oregon Foundation  
Date

ORS 130.200 provides that, in certain instances, in order for an agreement modifying charitable funds held in trust subject to the enforcement or supervisory powers of the state or the Attorney General under ORS 128.610 to 128.750 to be effective, the Attorney General for the State of Oregon must consent to the agreement. The Endowment Fund is an agreement that may be subject to that requirement. The foregoing Agreement Modifying Endowment Fund is hereby consented to.

ATTORNEY GENERAL

By Susan A Miller 6/10/09  
Susan A Miller, Assistant Attorney General  
Date





## *Endowment Fund Agreement*

### *Robert W. and Bernice Ingalls Staton Scholarship Endowment*

Whereas the University of Oregon Foundation (the Foundation) has received or anticipates receiving contributions given with the intent of establishing an endowment to provide support for scholarships for students who demonstrate financial need at the University of Oregon (the University).

Therefore the Foundation shall establish Robert W. and Bernice Ingalls Staton Scholarship Fund (the Fund) as a permanent endowment. So much of the net income and net appreciation of the Fund as the Foundation may deem prudent shall be utilized for the purposes set forth in this Agreement. Since 2001 the Robert W. and Bernice Ingalls Staton Foundation has provided current funding for 100 Robert W. and Bernice Ingalls Staton scholarships at the University of Oregon. It is anticipated that future funding for these scholarships will be provided by the Fund. The number of scholarships that can be awarded will be dependent on the amount of funds available.

### *Purpose*

The purpose of the Fund is to provide scholarships for students with demonstrated financial need at the University of Oregon. The scholarships will be known as the Robert W. and Bernice Ingalls Staton Scholarships (Scholarships) and the scholarship recipients will be known as Staton Scholars. The Scholarships will be awarded to eligible incoming freshman and transfer students. Every effort will be made annually to maintain an equal distribution of Scholarships between freshman, sophomore, junior and senior classes. Students who currently hold a Scholarship and who meet specific criteria will be automatically renewed for the next academic year.

To be eligible for a Scholarship, a student must meet the following criteria:

- incoming freshman or transfer student from a two-year Oregon community college
- resident of Oregon
- graduate of an Oregon high school (except Lane Community College [LCC] Staton Scholars who transfer to the University of Oregon are not required to be Oregon high school graduates)
- able to demonstrate financial need as determined by the Free Application for Federal Student Aid (FAFSA)
- meet university admission requirements
- enrolled as a full-time student at the University of Oregon

Students receiving a scholarship from the Department of Intercollegiate Athletics are not eligible.

A maximum of five (5) Scholarships will be reserved for transfer students from LCC who received a Staton Scholarship while at LCC. In a given year, circumstances might render the number of LCC transfer students to be less than five (5). In this case, the funds will be

**Exhibit A**

awarded to incoming freshmen who meet the eligibility requirements of the Scholarship.

The Office of Student Financial Aid and Scholarships (OSFAS) will select the Scholarship recipients. In the case of comparably qualified students, preference should be given to those with a declared major within the College of Education, the School of Music, the Department of Art, or the discipline area of the Humanities.

The Scholarships are renewable, provided the Staton Scholar remains in good academic standing and continues to meet all criteria. For students admitted as a freshman, the Scholarship is renewable for a maximum of three additional years. For students admitted as a sophomore, the Scholarship is renewable for a maximum of two additional years. For students admitted as a junior, the Scholarship is renewable for a maximum of one additional year. For students admitted as a senior, the Scholarship is not renewable. OSFAS may temporarily waive the requirements set forth in this paragraph if, in the opinion of OSFAS, the student's failure to meet the criteria was either excusable or beyond the student's control. If there are adequate funds to do so, and at the discretion of OSFAS, additional funds may be awarded to current Scholarship recipients whose major requires them to complete a fifth year of studies. For the purpose of this agreement, students pursuing the following licenses or degrees will be considered for an additional year of support: Fifth year Master of Education in Graduate Elementary Teaching, Integrated Teaching, or Middle/Secondary Education; Bachelor of Fine Arts; BA/BS in Architecture.

Although it is the intent of the donors that 100 Scholarships be awarded annually, the University will work collaboratively with the Staton Family Foundation Board to review and modify as needed the number of Scholarships and the dollar amount awarded.

***Administrative Provisions***

1. A reasonable fee of not more than 1% may be charged by and paid to the Foundation annually to cover the cost of administrative and fundraising expenses incurred on behalf of the Fund. This fee will be waived in any year the endowment fails to make a full distribution of earnings as set by the UO Foundation Board of Trustees.
2. Any distribution made for current-use purposes not utilized in a given year may either be retained by OSFAS for expenditure in a future year or reinvested in the Fund, as determined by OSFAS. No distribution shall be made from the Fund until the principal and all disbursements from the Staton Family Quasi-Endowment Fund have been expended in accordance with its stated purpose or the residual of the Staton Family Quasi-Endowment has been transferred into the Fund.
3. For investment purposes, all or any part of the Fund may be merged with the other investment assets of the Foundation and invested at the discretion of the Board of Trustees of the Foundation.

4. Additions to the Fund in the form of property acceptable to the Foundation may be made at any time and shall thereafter be subject in all respects to the terms, provisions, and conditions of this Agreement.
5. The Fund hereby created shall be and is expressly declared to be a perpetual endowment. However, if at some future time a change of circumstances should render the designated purpose of the Fund no longer practical, then, and only then, the Board of Trustees of the Foundation, in consultation with OFSAS, shall use so much of the net income and the net appreciation of the Fund as it may deem prudent to further the objectives and purposes of the University of Oregon with retention of the Fund name and giving due consideration to the special interests expressed above.
6. The Fund shall be managed in accordance with the Uniform Management of Institutional Funds Act as adopted by the State of Oregon.

In witness whereof, the parties to this Agreement have subscribed their names hereto:

9-19-05  
DATE

23 Sept. 2005  
DATE

26 Sept 2005  
DATE

Richard C. Stach

Robert Dennis Staton

Franklin VanLeyen

**APPROVED BY:**

Sept 30, 2005  
DATE

10-3-05  
DATE

6 October 2005  
DATE

Elizabeth Bickford  
Elizabeth Bickford  
Director of Student Financial Aid  
University of Oregon

Allan Price  
Allan Price  
Vice President, University Advancement  
University of Oregon

Karen A. Kreft  
Karen A. Kreft  
President & CEO  
University of Oregon Foundation



UNIVERSITY OF OREGON  
FOUNDATION

## **Modification of Fund Agreement**

### **Robert W. and Bernice Ingalls Staton Scholarship Endowment**

#### **Modification of Purpose**

Whereas the parties entered into a prior Agreement in September 2005; and

Whereas funding levels achieved vary from those anticipated, there is a preference for percentages rather than specific numbers of annual awards annual; and

Whereas the administration of the fund was difficult due to the multiple factors for consideration, and a summary version was preferred;

Therefore it is the parties' intent and agreement that the Foundation shall modify the purpose to become as follows:

The purpose of the Fund is to provide scholarships for students who are financially needy at the University of Oregon. Staton Scholarships will be awarded to eligible incoming freshman and LCC Staton Scholarship recipient transfer students. No more than 1/5 of all Staton Scholars will be LCC transfer students.

To be eligible for a Staton Scholarship, a student must meet the following criteria:

- incoming freshman or LCC Staton Scholarship recipient transferring to the UO
- resident of Oregon and graduate of an Oregon high school (Lane Community College Staton Scholars transferring to the University of Oregon are not required to be Oregon high school graduates)
- have demonstrated financial need, as determined by the UO Office of Student Financial Aid and Scholarships
- meet regular university admission requirements
- enrolled as a full-time student

Recipients cannot also receive a scholarship from the Department of Intercollegiate Athletics.

Scholarships are renewable for a maximum of twelve (12) academic quarters (freshman) or six (6) academic quarters (transfer), provided the student remains in good academic standing and continues to meet all criteria. Should a student fail to meet the eligibility criteria and requirements, s/he may petition to the OSFAS for reinstatement of the Staton Scholarship. Approval will be based on current circumstances and future plans for academic success.

Recipients will be selected and award amounts will be determined by the OSFAS. Whenever possible, the scholarship award should cover approximately 80% of the total cost of tuition of fees. In the case of comparably qualified students, preference

**Exhibit B**

should be given to those with a declared major within the College of Education, School of Music, Department of Art, or discipline area of the Humanities.

All other terms and conditions of the previous agreement remain in effect.

In witness whereof, the parties to this Agreement have subscribed their names hereto:

Elizabeth Bickford  
Elizabeth Bickford, Director  
Student Financial Aid and Scholarships  
University of Oregon

3-24-09  
Date

Michael D. Redding  
Michael Redding, VP for University Advancement  
University of Oregon

2/17/09  
Date

Gary F. Livesay  
Gary F. Livesay, Chief Operating Officer  
University of Oregon Foundation

3-25-09  
Date

**Exhibit B**



May 12, 2009

Ms. Susan A. Miller  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue, Suite 410  
Portland, Oregon 97201

**Re: University of Oregon Foundation  
Robert W. and Bernice Ingalls Staton Scholarship Endowment  
Staton Family Quasi Endowment**

Dear Susan:

I am enclosing for your review two proposed endowment modification agreements. Both funds were established by members of the Staton family. Because donor consent is not available, we will need to file court proceedings in both matters.

The first agreement concerns the Robert W. and Bernice Ingalls Staton Scholarship Endowment (#1). The modification would allow the fund to vary annual awards based on funding levels (which have been lower than initially anticipated). The modification also provides a clarification of the factors to be considered in making awards.

The second agreement concerns the Staton Family Quasi Endowment (#2). The parties wish to modify the name on this fund to add the full names of the parents of the Staton family. Additionally, the original stated purpose of this fund (#2) was to provide current funding for the scholarship fund (#1), a separate endowment fund. So, under the original agreements, #2 would pour into #1, and #1 would award the scholarships. The Foundation's present practice is not to do this, because having one fund pour into another poses administrative/recordkeeping challenges. Rather, the preference is to require that each fund have a direct charitable purpose tied to the charitable intent of a specific donor or donors to the individual fund. The proposed new purpose of this second fund (#2) would be simply to mirror the purpose of the scholarship fund (#1) as modified under the agreement above. Thus, under the agreements as revised, both #1 and #2 would award scholarships, with the difference between the two being that #1 remains an endowed fund in which the principal must be maintained, while all the funds in #2 remain currently available.

Phone:  
(541) 686-8833  
Fax:  
(541) 345-2034

975 Oak Street  
Suite 800  
Eugene, Oregon  
97401-3156

Mailing Address:  
P.O. Box 1147  
Eugene, Oregon  
97440-1147

Email:  
info@gleaveslaw.com  
Web-Site:  
www.gleaveslaw.com

Frederick A. Batson  
Jon V. Buerstatte  
Patricia L. Chapman\*\*  
Joshua A. Clark  
Daniel P. Ellison\*\*\*  
Michael T. Faulconer\*\*  
Howard E. Feinman  
Thomas P. E. Herrmann\*  
Dan Webb Howard\*\*  
Cassie K. Kellogg  
Stephen O. Lane  
Valeri L. Love  
William H. Martin\*  
Walter W. Miller  
Laura T. Z. Montgomery\*  
Laurie A. Nelson  
Ian T. Richardson  
Martha J. Rodman  
Harvey W. Rogers  
Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman  
Jane M. Yates

\*Also admitted  
in Washington

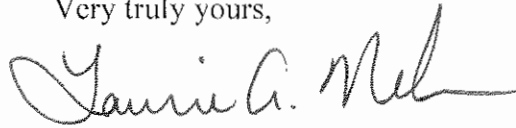
\*\*Also admitted  
in California

\*\*\*Also admitted  
in Utah

Ms. Susan Miller  
May 12, 2009  
Page - 2

If these proposed agreements meet with your approval, we would appreciate your signing where indicated and returning them to us in the enclosed envelope. We will then file the necessary court proceedings. If you have questions or need additional information, please do not hesitate to call.

Very truly yours,

A handwritten signature in cursive script that reads "Laurie A. Nelson". The signature is written in black ink and is positioned above the typed name and email address.

Laurie A. Nelson  
nelson@gleaveslaw.com

LAN:gdm  
Enclosures

cc: Gary Livesay (w/o encls.)  
Randy Geller (w/encls.)  
Jon V. Buerstatte (w/o encls.)



December 9, 2009

Ms. Susan Miller  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue, # 410  
Portland, Oregon 97201

Re: University of Oregon Foundation  
Charles A. and Jackie Swenson Endowment Fund Modification

Dear Susan:

I am enclosing for your review a proposed Agreement Modifying Institutional Fund in the Charles A. and Jackie Swenson Endowed Scholarship Fund. The Fund was established in 2007. The main purpose of the Fund was to provide academic support for students from Singapore. If no qualified student from Singapore applied, the scholarship would be made available to qualified students from other ASEAN countries. The parties now wish to expand eligibility for the scholarship and provide that students from Singapore will be given preference, followed by students from Hong Kong, followed by students from any other ASEAN country. We have the consent of donor Richard Scow and do not plan to seek court approval for this modification.

If the Modification Agreement meets with your approval, please sign where indicated and return the originals to us in the enclosed envelope. If you have questions or need additional information please do not hesitate to let me know.

Very truly yours,

Laurie A. Nelson  
nelson@gleaveslaw.com

LAN:gdm  
Enclosures

cc: Gary Livesay (w/o encls.)  
Paul Weinhold (w/o encls.)  
Thomas P.F. Herrmann (w/o encls.)  
Jon V. Buerstatte (w/o encls.)

RECEIVED  
DEC 11 2009  
DEPARTMENT OF JUSTICE  
PORTLAND LEGAL

Phone:  
(541) 686-8833  
Fax:  
(541) 345-2034

975 Oak Street  
Suite 800  
Eugene, Oregon  
97401-3156

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Frederick A. Batson  
Jon V. Buerstatte  
Patricia L. Chapman\*\*  
Joshua A. Clark  
Michael T. Faulconer\*\*  
Howard F. Feinman  
Thomas P. E. Herrmann\*  
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William H. Martin\*  
Walter W. Miller  
Laura T. Z. Montgomery\*  
Thomas K. N. Moseman  
Laurie A. Nelson  
Kirk M. Reynolds  
Ian T. Richardson  
Martha J. Rodman  
Harvey W. Rogers  
Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman  
Jane M. Yates

\*Also admitted  
in Washington

\*\*Also admitted  
in California



## AGREEMENT MODIFYING INSTITUTIONAL FUND

### **PARTIES:**

University of Oregon Foundation (A.K.A. University of Oregon Development Fund) (the "Foundation")

University of Oregon, Office of International Affairs

Richard Seow, Donor

### **RECITALS:**

- A. The Parties desire to modify the Charles A. and Jackie Swenson Endowed Scholarship Institutional Fund Agreement, dated February 2007 (the "Institutional Fund"), a copy of which is attached hereto as Exhibit "A."
- B. The Parties and the Oregon Attorney General constitute all persons and entities whose signatures are required for this Agreement to be effective pursuant to ORS Chapter 130.

### **AGREEMENT:**

NOW, THEREFORE, in consideration of the foregoing recitals that are by this reference expressly made a part hereof, and in consideration of the terms hereinafter contained, the Parties agree as follows:

#### 1. Modification of Institutional Fund

On the Effective Date, the Institutional Fund shall be modified as set forth in Exhibit "B" attached hereto and by this reference incorporated herein.

#### 2. Effective Date

This Agreement shall be effective on the date that all Parties and the Oregon Attorney General have each signed this Agreement and, if required by law, this Agreement has been approved by the Circuit Court of the State of Oregon for Lane County.

#### 3. Tax Consequences

Donor accepts sole responsibility for tax consequences, if any, that result from the aforesaid modification of the Institutional Fund.

#### 4. Number, Gender and Captions

As used herein, the singular shall include the plural and the plural the singular, as the context requires. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this Agreement.

5. Counterparts

This Agreement has been prepared and may be executed in multiple counterparts, each of which shall constitute an original. Each party may execute a separate counterpart, all of which when assembled shall constitute this Agreement, fully executed.

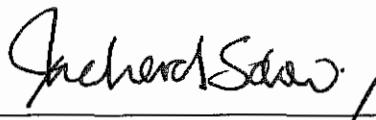
6. Original Agreement

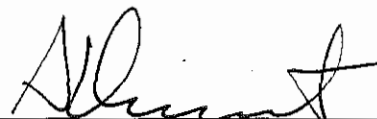
The Institutional Fund, as amended, and each term and provision thereof shall remain in full force and effect, except as herein modified, amended or restated.

7. Entire Agreement

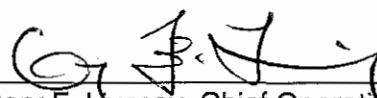
This Agreement and the exhibit hereto constitute the final written expression of all terms of the Institutional Fund and when read together they constitute the complete and exclusive statement of those terms.

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on the date set opposite their respective signatures below.

Signature:  Sept 22, 2009  
Richard Seow, Donor Date

Signature:  10/14/09  
Stephen Durrant, Vice Provost, International Affairs Date  
University of Oregon

Signature:  10/16/09  
Michael Redding, VP for University Advancement Date  
University of Oregon

Signature:  10-20-09  
Gary F. Livesay, Chief Operating Officer Date  
University of Oregon Foundation

ORS 130.200 provides that, in certain instances, in order for an agreement modifying charitable funds held in trust subject to the enforcement or supervisory powers of the state or the Attorney General under ORS 128.610 to 128.750 to be effective, the Attorney General for the State of

Oregon must consent to the agreement. The Institutional Fund is an agreement that may be subject to that requirement. The foregoing Agreement Modifying Institutional Fund is hereby consented to.

ATTORNEY GENERAL

By Susan A Miller OSB 960960 12/11/09  
Susan A Miller, Assistant Attorney General Date



UNIVERSITY OF OREGON  
FOUNDATION

## Endowment Fund Agreement

### Charles A. and Jackie Swenson Endowed Scholarship Fund

Whereas the University of Oregon Foundation (Foundation) has received or anticipates receiving contributions given with the intent of establishing an endowment to provide support for entering undergraduates from Singapore or to a qualified student from any ASEAN country at the University of Oregon (University).

Therefore the Foundation shall establish Swenson Endowed Scholarship (Fund) as a permanent endowment. So much of the net income and net appreciation of the Fund as the Foundation may deem prudent shall be utilized for the purposes set forth in this Agreement.

#### Purpose

The purpose of these contributions is to establish the Charles A. and Jackie Swenson Endowed Scholarship Fund. Recipients will be entering undergraduates from Singapore who meet all University of Oregon admissions requirements. The recipient may reapply annually and continue to receive the scholarship for up to four years providing that she/he maintains a 3.0 GPA.

Should no qualified students from Singapore apply for the Swenson Endowed Scholarship, the scholarship will be made available to a qualified student from any ASEAN country.

#### Administrative Provisions

1. A one-time fee equivalent to 3% of the original gift value will be charged to this endowed gift. In addition, a reasonable fee may be charged by and paid to the Foundation annually to cover the cost of administrative and fundraising expenses incurred on behalf of the Fund.
2. Any distribution made for current-use purposes not utilized in a given year may either be retained by the department head for expenditure in a future year or added to the principal of the Fund, as determined by the department head.
3. For investment purposes, all or any part of the Fund may be merged with the other investment assets of the Foundation and invested at the discretion of the Board of Trustees of the Foundation.
4. Additions to the Fund in the form of property acceptable to the Foundation may be made at any time and shall thereafter be subject in all respects to the terms, provisions, and conditions of this Agreement.
5. The Fund hereby created shall be and is expressly declared to be a perpetual endowment. However, if at some future time a change of circumstances should render the designated purpose of the Fund no longer practical, then, and only then, the

## Exhibit A

Board of Trustees of the Foundation in consultation with the Office of International Programs shall use so much of the net income and the net appreciation of the Fund as it may deem prudent to further the objectives and purposes of the University of Oregon with retention of the Fund name and giving due consideration to the special interests expressed above.

6. The Fund shall be managed in accordance with the Uniform Management of Institutional Funds Act as adopted by the State of Oregon.

In witness whereof, the parties to this Agreement have subscribed their names hereto:

Feb 15<sup>th</sup> 2007  
DATE

Richard Seow  
Richard Seow

**APPROVED BY:**

Feb. 25, 2007  
DATE

Chunsheng Zhang  
Chunsheng Zhang  
Vice Provost Int'l Affairs/Outreach  
Office of International Programs  
University of Oregon

2-28-07  
DATE

G. F. Livesay  
Gary F. Livesay  
Chief Operating Officer  
University of Oregon Foundation

**Exhibit A**

Board of Trustees of the Foundation in consultation with the Office of International Programs shall use so much of the net income and the net appreciation of the Fund as it may deem prudent to further the objectives and purposes of the University of Oregon with retention of the Fund name and giving due consideration to the special interests expressed above.

6. The Fund shall be managed in accordance with the Uniform Management of Institutional Funds Act as adopted by the State of Oregon.

In witness whereof, the parties to this Agreement have subscribed their names hereto:

Feb 15<sup>th</sup> 2007  
DATE

Richard Seow  
Richard Seow

APPROVED BY:

Feb. 25, 2007  
DATE

Chunsheng Zhang  
Chunsheng Zhang  
Vice Provost Int'l Affairs/Outreach  
Office of International Programs  
University of Oregon

2-28-07  
DATE

Gary F. Livesay  
Gary F. Livesay  
Chief Operating Officer  
University of Oregon Foundation

**Exhibit A**



ADVISORY  
COUNCIL

December 9, 2009

RECEIVED

DEC 11 2009

DEPARTMENT OF JUSTICE  
PORTLAND LEGAL

Ms. Susan Miller  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue, # 410  
Portland, Oregon 97201

Re: University of Oregon Foundation  
Stine Graduate Teaching Fellowship Fund Modification

Dear Susan:

I am enclosing for your review a proposed Agreement Modifying Institutional Fund in the Stine Graduate Teaching Follow Fund. This Fund was established in 2002, with a pledge for payments totaling \$27,500 over four years. The original purpose was to support a graduate teaching fellow in the University of Oregon Libraries. Now the parties wish to rename the Fund and broaden the purpose to provide for both graduate and undergraduate awards. Both original donors have signed the Modification Agreement, so we will not need court approval for this modification.

If the Modification Agreement meets with your approval, please sign where indicated and return the originals to us in the enclosed envelope. If you have questions or need additional information please do not hesitate to let me know.

Very truly yours,

Laurie A. Nelson  
nelson@gleaveslaw.com

LAN:gdm  
Enclosures

cc: Gary Livesay (w/o encls.)  
Paul Weinhold (w/o encls.)  
Thomas P.F. Herrmann (w/o encls.)  
Jon V. Buerstatte (w/o encls.)

Phone:  
(541) 686-8833  
Fax:  
(541) 345-2034

975 Oak Street  
Suite 800  
Eugene, Oregon  
97401-3156

Mailing Address:  
P.O. Box 1147  
Eugene, Oregon  
97440-1147

Email:  
info@gleaveslaw.com  
Web-Site:  
www.gleaveslaw.com

Frederick A. Batson  
Jon V. Buerstatte  
Patricia L. Chapman\*\*  
Joshua A. Clark  
Michael T. Faulconer\*\*  
Howard F. Feinman  
Thomas P. E. Herrmann\*  
Dan Webb Howard\*\*  
Cassie K. Kellogg  
Stephen O. Lane  
Valeri L. Love  
William H. Martin\*  
Walter W. Miller  
Laura T. Z. Montgomery\*  
Thomas K. N. Moseman  
Laurie A. Nelson  
Kirk M. Reynolds  
Ian T. Richardson  
Martha J. Rodman  
Harvey W. Rogers  
Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman  
Jane M. Yates

\*Also admitted  
in Washington

\*\*Also admitted  
in California

**AGREEMENT MODIFYING INSTITUTIONAL FUND**

**PARTIES:**

University of Oregon Foundation (A.K.A. University of Oregon Development Fund) (the "Foundation")

University of Oregon, University Libraries

Jon Stine, Donor

Lisa Stine, Donor

**RECITALS:**

- A. The Parties desire to modify the Stine Graduate Teaching Fellow Institutional Fund Agreement, dated February 2002 (the "Institutional Fund"), a copy of which is attached hereto as Exhibit "A."
- B. The Parties and the Oregon Attorney General constitute all persons and entities whose signatures are required for this Agreement to be effective pursuant to ORS Chapter 130.

**AGREEMENT:**

NOW, THEREFORE, in consideration of the foregoing recitals that are by this reference expressly made a part hereof, and in consideration of the terms hereinafter contained, the Parties agree as follows:

1. Modification of Institutional Fund

On the Effective Date, the Institutional Fund shall be modified as set forth in Exhibit "B" attached hereto and by this reference incorporated herein.

2. Effective Date

This Agreement shall be effective on the date that all Parties and the Oregon Attorney General have each signed this Agreement and, if required by law, this Agreement has been approved by the Circuit Court of the State of Oregon for Lane County.

3. Tax Consequences

Donor accepts sole responsibility for tax consequences, if any, that result from the aforesaid modification of the Institutional Fund.

4. Number, Gender and Captions

As used herein, the singular shall include the plural and the plural the singular, as the context requires. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this Agreement.



5. Counterparts

This Agreement has been prepared and may be executed in multiple counterparts, each of which shall constitute an original. Each party may execute a separate counterpart, all of which when assembled shall constitute this Agreement, fully executed.

6. Original Agreement

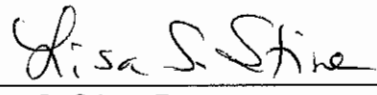
The Institutional Fund, as amended, and each term and provision thereof shall remain in full force and effect, except as herein modified, amended or restated.


7. Entire Agreement

This Agreement and the exhibit hereto constitute the final written expression of all terms of the Institutional Fund and when read together they constitute the complete and exclusive statement of those terms.

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on the date set opposite their respective signatures below.

Signature:  25 September 2009  
Jon C. Stine, Donor Date

Signature:  9-25-09  
Lisa S. Stine, Donor Date

Signature:  Oct 9, 2009  
Deborah Carver, Dean  
University Libraries  
University of Oregon Date

Signature:  10/16/09  
Michael Redding, VP for University Advancement  
University of Oregon Date

Signature:  10-20-09  
Gary F. Livesay, Chief Operating Officer  
University of Oregon Foundation Date

ORS 130.200 provides that, in certain instances, in order for an agreement modifying charitable funds held in trust subject to the enforcement or supervisory powers of the state or the Attorney General under ORS 128.610 to 128.750 to be effective, the Attorney General for the State of

Oregon must consent to the agreement. The Institutional Fund is an agreement that may be subject to that requirement. The foregoing Agreement Modifying Institutional Fund is hereby consented to.

ATTORNEY GENERAL

By Susan A Miller OSB 960960 : 12/11/09

Susan A. Miller, Assistant Attorney General Date



# Letter of Intent

I/we Jon and Lisa Stine pledge to contribute \$ 27,500  
or the following property or securities \_\_\_\_\_

\_\_\_\_\_ to the UO Foundation to benefit the University of Oregon.

This pledge will be fulfilled in the following manner:

Please check the appropriate box.

Annual installments of \$ 5,500 each.

Quarterly installments of \$ \_\_\_\_\_ each.

The first payment will be made by March, 2002  
MONTH YEAR

Additional payments will be made by March of each  
MONTH MONTH  
succeeding year, ending in 2006  
YEAR

This gift is to be used for the following purpose:

To support a Graduate Teaching Fellow in the UO Libraries.

Please print your name(s) as you wish to be listed as contributors to the UO.

Jon C. and Lisa S. Stine - or -

Jon and Lisa Stine

9 February 2002  
DATE

Jon C. Stine  
DONOR'S SIGNATURE

9 February 2002  
DATE

Lisa S. Stine  
DONOR'S SIGNATURE

Feb 21, 2002  
DATE

NOA  
UNIVERSITY OFFICER'S SIGNATURE

25 February 2002  
DATE

Karena Kuyt  
FOUNDATION OFFICER'S SIGNATURE

PO Box 3346  
Eugene, OR  
97403-0346

ph 541-346-2015  
fax 541-346-1680

**Exhibit A**

Please make checks payable to UO Foundation. Thank you

Property of the University of Oregon Foundation.  
**CONFIDENTIAL**  
Any reproduction, dissemination or disclosure is prohibited.



UNIVERSITY OF OREGON  
FOUNDATION

**Modification of Fund Agreement**

**Jon and Lisa Stine Library Fund**

Formerly known as the Stine Graduate Teaching Fellow Fund

**Modification of Name and Purpose**

Whereas the parties entered into a prior Agreement in February 2002; and

Whereas the library needs support for both graduate and undergraduate awards;

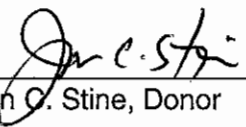
Therefore it is the parties' intent and agreement that the Foundation shall modify the name to become as follows:

The Jon and Lisa Stine Library Fund fund.

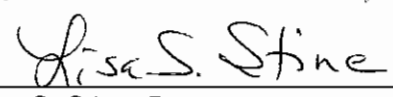
Further, it is the parties' intent and agreement that the Foundation shall modify the purpose to become as follows:

To support a Graduate Teaching Fellow or the Undergraduate Research Awards Program.

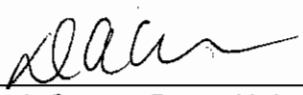
All other terms and conditions of the previous agreement remain in effect.

Signature:   
Jon C. Stine, Donor

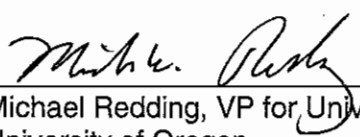
25 September  
Date

Signature:   
Lisa S. Stine, Donor

9-25-09  
Date

Signature:   
Deborah Carver, Dean, University Libraries  
University of Oregon

Oct 9, 2009  
Date

Signature:   
Michael Redding, VP for University Advancement  
University of Oregon

10/16/09  
Date

Signature:   
Gary F. Livesay, Chief Operating Officer  
University of Oregon Foundation

10-20-09  
Date

**Exhibit B**



December 9, 2009

Ms. Susan Miller  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue, # 410  
Portland, Oregon 97201

Re: University of Oregon Foundation  
Annual Program Music School Support Institutional Fund Modification

Dear Susan:

I am enclosing for your review a proposed Agreement Modifying Institutional Fund in the Annual Program Music School Support Fund. This Fund was initially established in 1980 with the purpose "to receive and administer annual [music school] program donations designated to help meet costs of a key item in the UO Foundation's 1980 budget." The current value of the Fund is less than \$8,000, and the Fund is over 20 years old. The parties wish to change the purpose, which they would like to be "to receive and administer contributions for a current academic account for use by the Department of Music as directed by the chair person of that department, and subject to any specific donor directions." We believe that the AG's consent is the only consent necessary for this change, because the Fund falls within the requirements of the small, old fund statute.

If the Modification Agreement meets with your approval, please sign where indicated and return the originals to us in the enclosed envelope. If you have questions or need additional information please do not hesitate to let me know.

Very truly yours,

Laurie A. Nelson  
nelson@gleaveslaw.com

LAN:gdm  
Enclosures

cc: Gary Livesay (w/o encls.)  
Paul Weinhold (w/o encls.)  
Thomas P.E. Herrmann (w/o encls.)  
Jon V. Buerstatte (w/o encls.)

RECEIVED  
DEC 11 2009  
DEPARTMENT OF JUSTICE  
PORTLAND LEGAL

Phone:  
(541) 686-8833  
Fax:  
(541) 345-2034

975 Oak Street  
Suite 800  
Eugene, Oregon  
97401-3156

Mailing Address:  
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Laura T. Z. Montgomery\*  
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Ian T. Richardson  
Martha J. Rodman  
Harvey W. Rogers  
Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman  
Jane M. Yates

\*Also admitted  
in Washington

\*\*Also admitted  
in California

**AGREEMENT MODIFYING INSTITUTIONAL FUND**

**PARTIES:**

University of Oregon Foundation (A.K.A. University of Oregon Development Fund) (the "Foundation")

University of Oregon, School of Music and Dance

**RECITALS:**

- A. The Parties desire to modify the Annual Program Music School Support Institutional Fund Agreement, dated March 1980 (the "Institutional Fund"), a copy of which is attached hereto as Exhibit "A."
- B. The Parties, Oregon Attorney General, and Circuit Court constitute all persons and entities whose signatures are required for this Agreement to be effective pursuant to ORS Chapter 130.

**AGREEMENT:**

NOW, THEREFORE, in consideration of the foregoing recitals that are by this reference expressly made a part hereof, and in consideration of the terms hereinafter contained, the Parties agree as follows:

1. Modification of Institutional Fund

On the Effective Date, the Institutional Fund shall be modified as set forth in Exhibit "B" attached hereto and by this reference incorporated herein.

2. Effective Date

This Agreement shall be effective on the date that all Parties and the Oregon Attorney General have each signed this Agreement and, if required by law, this Agreement has been approved by the Circuit Court of the State of Oregon for Lane County.

3. Number, Gender and Captions

As used herein, the singular shall include the plural and the plural the singular, as the context requires. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this Agreement.

4. Counterparts

This Agreement has been prepared and may be executed in multiple counterparts, each of which shall constitute an original. Each party may execute a separate counterpart, all of which when assembled shall constitute this Agreement, fully executed.

5. Original Agreement

The Institutional Fund, as amended, and each term and provision thereof shall remain in full force and effect, except as herein modified, amended or restated.

6. Entire Agreement

This Agreement and the exhibit hereto constitute the final written expression of all terms of the Institutional Fund and when read together they constitute the complete and exclusive statement of those terms.

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on the date set opposite their respective signatures below.

Signature: Brad Foley 9/9/2009  
Brad Foley, Dean  
School of Music & Dance  
University of Oregon  
Date

Signature: Michael Redding 9/25/09  
Michael Redding, VP for University Advancement  
University of Oregon  
Date

Signature: Gary F. Livesay 9-29-09  
Gary F. Livesay, Chief Operating Officer  
University of Oregon Foundation  
Date

ORS 130.200 provides that, in certain instances, in order for an agreement modifying charitable funds held in trust subject to the enforcement or supervisory powers of the state or the Attorney General under ORS 128.610 to 128.750 to be effective, the Attorney General for the State of Oregon must consent to the agreement. The Institutional Fund is an agreement that may be subject to that requirement. The foregoing Agreement Modifying Institutional Fund is hereby consented to.

ATTORNEY GENERAL

By Susan A. Miller OSB 960960 12/11/09  
Susan A. Miller, Assistant Attorney General Date

UNIVERSITY OF OREGON FOUNDATION

Request for New Account

February 14, 1980

Date

Type of Account (General Use) Expendable General

Account Number 710-603 Estimated Amount Not Known

Account Title Annual Program Music School Support

Specific Purpose (s) To receive and administer annual program donations designated to help meet costs of a key item in the UO Foundation's 1980 budget

Person(s) Authorized to Expend Executive Director of UO Foundation currently

Douglas M Wilson

Donor s Name(s) Various

Remarks

Foundation Approval

Distribution

Robert B Winger  
Controller

2/21/80  
Date

Director of Business Affairs  
University of Oregon

\_\_\_\_\_  
(Initials)

Douglas M Wilson  
Director

3/3/80  
Date

Assistant Business Manager

\_\_\_\_\_  
(Initials)

RE Blund  
Treasurer

3-6-80  
Date

Data Processing

\_\_\_\_\_  
(Initials)

Accounting (File)

**Exhibit A**





UNIVERSITY OF OREGON  
FOUNDATION

## Modification of Fund Agreement

### Annual Program Music School Support Fund

#### Modification of Purpose

Whereas a departmental support fund was established in 1980 with the purpose listed only as "to receive and administer annual [Music School] program donations designated to help meet costs of a key item in the UO Foundation's 1980 budget"; and

Whereas the original purpose language was fixed in time rather than having broad, ongoing application; and

Whereas the present value of the fund is less than \$8,000;

Therefore it is the parties' intent and agreement that the Foundation shall modify the purpose to become as follows:

To receive and administer contributions for a current academic account for use by the Department of Music as directed by the Chairperson of the department, and subject to any specific donor directions.

All other terms and conditions of the previous agreement remain in effect.

Signature: Brad Foley  
Brad Foley, Dean School of Music and Dance  
University of Oregon

9/9/2009  
Date

Signature: Michael Redding  
Michael Redding, VP for University Advancement  
University of Oregon

9/25/09  
Date

Signature: Gary F. Livesay  
Gary F. Livesay, Chief Operating Officer  
University of Oregon Foundation

9-29-09  
Date

**Exhibit B**



October 12, 2009 **RECEIVED**

OCT 15 2009

DEPARTMENT OF JUSTICE  
PORTLAND LEGAL

Ms. Susan A. Miller  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue, Suite 410  
Portland, OR 97201

Re: University of Oregon Foundation  
Walter R. Moberly III Memorial Award Endowment Fund

Dear Susan:

I am pleased to report that Judge Holland signed the General Judgment for Modification of Institutional Fund on October 9, 2009, in the Walter R. Moberly III Memorial Award Endowment Fund modification case. I am enclosing a copy of that General Judgment for your records.

Very truly yours,

Laurie A. Nelson  
[nelson@gleaveslaw.com](mailto:nelson@gleaveslaw.com)

LAN/gdm  
Enclosures

cc: Gary Livesay (w/o encls.)  
Jon V. Buerstatte (w/o encls.)  
Paul Weinhold (w/ encls.)  
Tom Herrmann (w/ encls.)

Phone:  
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Thomas P. E. Herrmann\*  
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Martha J. Rodman  
Harvey W. Rogers  
Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman  
Jane M. Yates

\*Also admitted  
in Washington

\*\*Also admitted  
in California

FILED

2009 OCT -9 PM 1:47

CIRCUIT COURT OF  
FOR LANE COUNTY

BY \_\_\_\_\_ 

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

In the Matter of the Walter R. Moberly III Memorial  
Award Endowment Fund

Gary F. Livesay, Petitioner.

Case No. 52-09-02746

GENERAL JUDGMENT FOR  
MODIFICATION OF ENDOWMENT  
FUND

This matter having come before the court on the Petition of Petitioner Gary F. Livesay for the modification of the Walter R. Moberly III Memorial Award Endowment Fund, and it appearing to the court from the records and files herein that:

1.

Venue is properly in this court and no other court in this state has acquired jurisdiction in this matter.

2.

The modification of the restriction on the number and quantity of awards is consistent with the material purpose of the Fund and the charitable purposes of the donor.

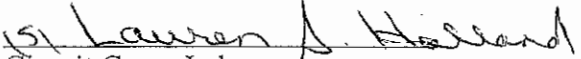
3.

Notice as required by Oregon law has been waived by all persons entitled thereto.

NOW, THEREFORE, a general judgment is hereby entered as follows:

1 The Walter R. Moberly III Memorial Award Endowment Fund shall be modified as set forth in  
2 Exhibit B of Exhibit 1 attached to the Petition filed herein.

3  
4 DATED this 9 day of October, 2009.

5  
6   
7 Circuit Court Judge

8  
9 PETITIONER  
10 Gary F. Livesay  
11 Chief Operating Officer  
12 University of Oregon Foundation  
13 360 E. 10<sup>th</sup> Avenue, Suite 202  
14 Eugene, Oregon 97401-3273

15  
16 ATTORNEYS FOR PETITIONER  
17 Jon V. Buerstatte, OSB # 822070  
18 Gleaves Swearingen Potter & Scott LLP  
19 P.O. Box 1147  
20 Eugene, Oregon 97440-1147  
21 (541) 686-8833  
22 (541) 345-2034 (Fax)  
23 Email: buerstatte@gleaveslaw.com  
24  
25  
26

## CERTIFICATE OF SERVICE

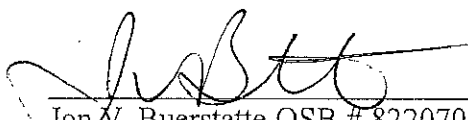
I hereby certify that I served the foregoing General Judgment for Modification of Endowment Fund on the following persons on February 17, 2009, by depositing same in the United States Post Office at Eugene, Oregon, enclosed in a sealed envelope, with postage paid to the address noted below:

Craig Young, Director  
Oregon Institute of Marine Biology  
c/o Randolph Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Michael Redding  
Vice President for University Advancement  
c/o Randolph Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Susan A. Miller  
Assistant Attorney General  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue Suite 410  
Portland, OR 97201

DATED: February 17, 2009.

  
\_\_\_\_\_  
Jon V. Buerstatte OSB # 822070  
Of Attorneys for Petitioner

## AGREEMENT MODIFYING INSTITUTIONAL FUND

### PARTIES:

University of Oregon Foundation (A.K.A. University of Oregon Development Fund) (the "Foundation")

University of Oregon, College of Education

### RECITALS:

- A. The Parties desire to modify the Antoinette S. Stanton Memorial Scholarship Institutional Fund Agreement, dated February 1969 (the "Institutional Fund"), a copy of which is attached hereto as Exhibit "A."
- B. The Parties, Oregon Attorney General, and Circuit Court constitute all persons and entities whose signatures are required for this Agreement to be effective pursuant to ORS Chapter 130.

### AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing recitals that are by this reference expressly made a part hereof, and in consideration of the terms hereinafter contained, the Parties agree as follows:

#### 1. Modification of Institutional Fund

On the Effective Date, the Institutional Fund shall be modified as set forth in Exhibit "B" attached hereto and by this reference incorporated herein.

#### 2. Effective Date

This Agreement shall be effective on the date that all Parties and the Oregon Attorney General have each signed this Agreement and, if required by law, this Agreement has been approved by the Circuit Court of the State of Oregon for Lane County.

#### 3. Number, Gender and Captions

As used herein, the singular shall include the plural and the plural the singular, as the context requires. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this Agreement.

#### 4. Counterparts

This Agreement has been prepared and may be executed in multiple counterparts, each of which shall constitute an original. Each party may execute a separate counterpart, all of which when assembled shall constitute this Agreement, fully executed.

5. Original Agreement

The Institutional Fund, as amended, and each term and provision thereof shall remain in full force and effect, except as herein modified, amended or restated.

6. Entire Agreement

This Agreement and the exhibit hereto constitute the final written expression of all terms of the Institutional Fund and when read together they constitute the complete and exclusive statement of those terms.

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on the date set opposite their respective signatures below.

Signature: Michael D. Bullis \_\_\_\_\_ Date \_\_\_\_\_  
Michael D. Bullis, Dean, College of Education  
University of Oregon

Signature: Michael Redding \_\_\_\_\_ Date 9/25/09  
Michael Redding, VP for University Advancement  
University of Oregon

Signature: Gary F. Livesay \_\_\_\_\_ Date 9-24-09  
Gary F. Livesay, Chief Operating Officer  
University of Oregon Foundation

ORS 130.200 provides that, in certain instances, in order for an agreement modifying charitable funds held in trust subject to the enforcement or supervisory powers of the state or the Attorney General under ORS 128.610 to 128.750 to be effective, the Attorney General for the State of Oregon must consent to the agreement. The Institutional Fund is an agreement that may be subject to that requirement. The foregoing Agreement Modifying Institutional Fund is hereby consented to.

ATTORNEY GENERAL

By Susan A. Miller OSB 960960 \_\_\_\_\_ Date 12/11/09  
Susan A. Miller, Assistant Attorney General Date

February 5, 1969

Board of Directors  
University of Oregon Development Fund  
P. O. Box 3346  
Eugene, Oregon 97403

Gentlemen:

Enclosed is a check in the amount of \$5,000.00 which is a gift to the University of Oregon Development Fund to establish the Antoinette Shumway Stanton Memorial Scholarship account. It is my desire that the income from this fund shall be used to provide one or more scholarships annually, on the basis of need and ability, to students of the University of Oregon who are enrolled in one or more courses in Home Economics. Preference should be given to unmarried students. Selection of recipients is to be determined by the Chairman of the Home Economics Department.

If at any time the income from this fund is no longer needed for the purpose I have indicated, then the income may be used for such other scholarship purposes as the Board of Directors of the Development Fund may determine.

Sincerely yours,

*Edgar A. Stanton*

Edgar A. Stanton

**Exhibit A**





UNIVERSITY OF OREGON  
FOUNDATION

**Modification of Fund Agreement**

**Antoinette S. Stanton Memorial Scholarship**

**Modification of Purpose**

Whereas the parties entered into a prior Agreement in February 1969; and

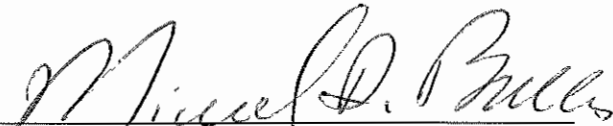
Whereas it is illegal to discriminate in the awarding of scholarships based on marital status; and

Whereas there no longer exists a formal or informal home economics course of study at the university;

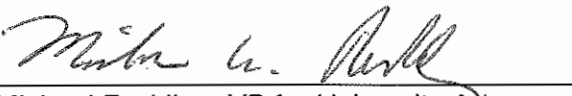
Therefore it is the parties' intent and agreement that the Foundation shall modify the purpose to become as follows:

To provide scholarship support to undergraduate students enrolled in the College of Education at the University of Oregon. The selection of recipients will be based on the following criteria: undergraduate majoring in family and human services; academic merit; and financial need. The scholarships may be used for all educational expenses including tuition, fees, books, miscellaneous supplies, room, and board. Recipients shall be selected by a scholarship committee for the College of Education, under the oversight of the Dean of the College of Education or her/his designee.

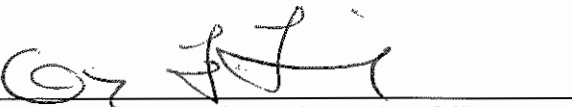
All other terms and conditions of the previous agreement remain in effect.

Signature:   
Michael D. Bullis, Dean, College of Education  
University of Oregon

9/15/09  
Date

Signature:   
Michael Redding, VP for University Advancement  
University of Oregon

9/28/09  
Date

Signature:   
Gary F. Livesay, Chief Operating Officer  
University of Oregon Foundation

9-28-09  
Date

**Exhibit B**

AMENDMENT TO TRUST AGREEMENT

*Mailed  
Attorney  
Nelson 11/3*

This Amendment to Trust Agreement is made this 31  
day of December, 1987, by and between CLARENCE  
PECKHAM DUNBAR of Louisville, Kentucky, hereinafter called the  
Grantor, and the UNITED KENTUCKY BANK (formerly the LOUISVILLE  
TRUST COMPANY) of Louisville, Kentucky, hereinafter called  
"Trustee", and by them with the CITIZENS FIDELITY BANK AND TRUST  
COMPANY of Louisville, Kentucky, hereinafter called the  
Successor Trustee.

RECITALS:

The Grantor and the Trustee entered into a Trust  
Agreement (the "Trust Agreement") dated the 27th day of  
February, 1974 and amended by Amendment to Trust Agreement on  
September 5, 1974.

The Grantor reserved the right to amend the Trust  
Agreement in Article VII thereof and now desires to do so and  
the Trustee is willing that such amendment be made.

IT IS THEREFORE AGREED:

1. The UNITED KENTUCKY BANK of Louisville, Kentucky,  
is hereby removed as Trustee and released from any and all  
liability in connection therewith, other than the obligation to  
turn over to the Successor Trustee any assets and policies of  
life insurance in its possession, and CITIZENS FIDELITY BANK AND  
TRUST COMPANY of Louisville, Kentucky, is hereby appointed as  
Successor Trustee, and accepts such appointment, and shall be  
referred to after the execution of this instrument as the  
Trustee.

2. Subsection 1 of Section A of Article I of the Trust  
Agreement, as amended, is hereby amended so that such  
subsection, as amended, shall read:

"1. a. (i) If the Grantor's death occurs prior to  
January 1, 1982 and, if the Grantor's wife, LUCILLE MARTIN  
DUNBAR, hereinafter referred to as the "Grantor's Wife" or the

**Exhibit A**

"Grantor's Spouse", survives the Grantor, the Trustee, as of the date of the Grantor's death, shall divide the trust property (including any property devised, bequeathed or transferred to the Trustee by the Grantor, and any proceeds of insurance on the Grantor's life received by the Trustee) into separate trusts, the first to be called "Trust A", which shall be an amount equal in value to the maximum allowable marital deduction as finally determined for federal estate tax purposes in the Grantor's estate, diminished by the value for federal estate tax purposes of all other items in the Grantor's gross estate which pass or have passed to or for the benefit of the Grantor's Spouse under the Grantor's will or otherwise in such manner as to qualify for and be allowed as a marital deduction in the Grantor's estate, provided, however, that such amount shall be reduced by an amount, if any, needed to increase the Grantor's taxable estate to the largest amount that will not result in a federal estate tax being imposed in the Grantor's estate, after allowing for the unified credit against the federal estate tax, and any other allowable credits.

(ii) If the Grantor's death occurs after December 31, 1981 and, if the Grantor's Spouse survives the Grantor, the Trustee, as of the date of the Grantor's death, shall divide the trust property (including any property devised, bequeathed or transferred to the Trustee by the Grantor, and any proceeds of insurance on the Grantor's life received by the Trustee) into separate trusts, the first to be called "Trust A", which shall be an amount equal in value to the unlimited marital deduction as finally determined for federal estate tax purposes in the Grantor's estate, diminished by the value for federal estate tax purposes of all other items in the Grantor's gross estate which pass or have passed to or for the benefit of the Grantor's Spouse under the Grantor's will or otherwise in such manner as to qualify for and be allowed as a marital deduction in the Grantor's estate, provided, however, that such amount

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shall be reduced by an amount, if any, needed to increase the Grantor's taxable estate to the largest amount that will not result in a federal estate tax being imposed in the Grantor's estate, after allowing for the unified credit against the federal estate tax, and any other allowable credits.

b. The Trustee is authorized to estimate the amount of assets initially to be allocated between Trust A and Trust B, and may immediately invest such assets and distribute income and principal therefrom in accordance with the provisions of this agreement, and shall later, when final determination of the Grantor's estate is made, make such adjustments of both principal and income as may be necessary to correctly divide the trust assets in accordance with the terms of this agreement.

c. All proceeds from any qualified profit sharing plan, pension plan, individual retirement account, Keogh Plan, or other similar plan, to the extent that any such proceeds are exempt from federal estate tax, shall be allotted to Trust B.

d. Whenever used in this Article, the words, "marital deduction," "unlimited marital deduction," "gross estate," "adjusted gross estate," "unified credit," and "pass" shall have the same meaning as said words have under the provisions of the federal Internal Revenue Code applicable to the Grantor's estate."

3. Article I of the Trust Agreement, as amended, is hereby amended by the addition of a new Section 6 which shall read as follows:

"6. In the event that the trust estate of Trust A shall at any time contain any property which the Grantor's Spouse shall determine to be not productive of a reasonable rate of income, such Spouse is hereby authorized to require the Trustee to convert such property into such other assets as will be productive of a reasonable rate of income, by an instrument in writing signed by such Spouse and delivered to the Trustee,

and within a reasonable time after receipt of such written instrument, the Trustee shall convert such property into such other assets as will be productive of a reasonable rate of income."

4. Section D of Article I, as amended, is hereby amended so that such Section, as amended, shall read as follows:

"D. 1. Three-Sixths to the UNIVERSITY OF OREGON FOUNDATION, Eugene, Oregon, as an endowment fund, the income to be used for scholarships for boys and girls to be called the CLARENCE PECKHAM DUNBAR and LUCILLE MARTIN DUNBAR SCHOLARSHIPS. Clarence P. Dunbar, B.S., M.S., M.B.A. was educated at Louisiana State University, the University of Oregon, the Harvard Business School, and the Harvard Law School. Lucille M. Dunbar is a graduate of the Springfield Public Library Training School, Springfield, Massachusetts, and of the "College Of Hard Knocks and Experience". They have published some twenty-eight papers and articles on a wide variety of subjects during their useful working life. Clarence P. Dunbar has held positions as an Assistant Chemist and Geologist; Paleontologist, Geologist and Petroleum Economist; Statistician; Research Associate; Budget Officer and Director of Classified Personnel; Director Bureau of Educational Research; Director Bureau of Institutional Research; Assistant to the President; Director of Personnel; and Chief Financial Officer. Lucille M. Dunbar has held positions as a Branch Librarian; Librarian for Department of Public Works and U.S. Engineers, Baton Rouge, Louisiana; Statistical Aide; and Manager of Print Shops at Louisiana State University and at the University of Louisville. Clarence P. Dunbar has been a Member of the American Association of Petroleum Geologists; the American Institute of Mining and Metallurgical Engineers; The American Statistical Association; the National Oil Scouts and Landmen's Association; and the College and University Personnel Association. Clarence P. Dunbar was especially talented in the art of Selecting, Developing and Promoting the Young Men and

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Women who worked in his Division. Clarence and Lucille Dunbar have spent almost forty years working for Louisiana State University and University of Louisville in responsible administrative positions from which they are now retired.

2. One-sixth to the UNIVERSITY OF OREGON FOUNDATION, Eugene, Oregon, as an endowment fund, the income to be used for scholarships for one boy and one girl to be called the HENRY V. HOWE SCHOLARSHIPS in honor of Dr. Henry Van Wagener Howe, of Baton Rouge, Louisiana, B.A., M.A., University of Oregon, Ph.D., Stanford University, Boyd Professor Emeritus of geology at Louisiana State University; founder of the LSU School of Geology (now Geosciences); president (1941), founding and life member of the Society of Economic Paleontologists and Mineralogists; honorary member of the American Association of Petroleum Geologists; Sidney Powers Gold Medalists (AAPG, 1960), life member of the Norsk Geologisk Forening; noted for his work in micropaleontology, especially fossil and Recent Ostracoda, and his extensive publications on the geology, stratigraphy and paleontology of Louisiana and the Gulf Coast who died September 27, 1973, at his home in Baton Rouge.

3. One-sixth, per capita, among the then living children, grandchildren and great-grandchildren of SAMUEL WALLACE DUNBAR and HENRIETTA PECKHAM DUNBAR.

4. One-sixth to LOUISIANA STATE UNIVERSITY, Baton Rouge, Louisiana, as an endowment fund, the income to be used for scholarships for one boy and one girl to be called the CLARENCE PECKHAM DUNBAR SCHOLARSHIPS, in honor of CORA MARTIN, deceased, formerly a Washington, Louisiana, school teacher, housekeeper for the Prescott Family and the original town social conscience and do-gooder; and also in honor of WILLIS B. PRESCOTT, now deceased, teacher, principal and Superintendent of Schools, St. Landry Parish, Louisiana, for approximately thirty-five years; and also in honor of MABEL STEPHENSON, now deceased, formerly a Washington, Louisiana, High School English

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teacher for approximately forty years and better known as "Aunty" to her many students. Such boy and such girl shall be selected by a committee composed of the Superintendent of Parish Schools, the Judge of the Parish, and the President of the Police Jury, all of St. Landry Parish, Opelousas, Louisiana. If any of such offices are eliminated the St. Landry Parish shall select a person to fill the vacancy on such Committee."

IN ALL OTHER RESPECTS such Trust Agreement, as originally executed, and as subsequently amended, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this instrument in duplicate the day and year first above written.

Witnesses to the Signature  
of the Grantor:

M. M. B. B.  
Constance L. B. B.

Clarence Peckham Dunbar  
CLARENCE PECKHAM DUNBAR, Grantor

CITIZENS FIDELITY BANK AND TRUST  
COMPANY, as Trustee

By: Donald Greenwell  
Trust Officer

UNITED KENTUCKY BANK OF LOUISVILLE,  
as Trustee

By: William S. Duff  
Trust Officer

**Exhibit A**

THIRD AMENDMENT TO TRUST AGREEMENT

This Third Amendment to Trust Agreement is made this 28th day of July, 1988, by and between CLARENCE PECKHAM DUNBAR of Louisville, Kentucky, hereinafter called the Grantor; and CITIZENS FIDELITY BANK & TRUST COMPANY of Louisville, Kentucky, hereinafter called the Trustee.

RECITALS:

The Grantor and the THE LOUISVILLE TRUST CO., of Louisville, Kentucky, as Trustee, entered into a Trust Agreement (the "Trust Agreement") dated the 27th day of February, 1974 and amended such by Amendment to Trust Agreement dated September 5, 1974 and again on December 31, 1981, wherein CITIZENS FIDELITY BANK & TRUST COMPANY of Louisville, Kentucky was substituted as Trustee.

The Grantor reserved the right to amend the Trust Agreement in Article VII thereof and now desires to do so and the Trustee is willing that such amendment be made.

IT IS THEREFORE AGREED:

subsection 3 of Section D of Article I of the Trust Agreement, as amended, is hereby amended so that such Subsection, as amended, shall read as follows:

"3. One-sixth in trust as a single trust for so long as the survivor of Donald Hayes Dunbar and Mary Alice Dunbar is living, and in the meantime the Trustee shall pay the net income of such trust in equal shares to such beneficiaries or apply it for their benefit, and when there is only one survivor the Trustee shall pay the entire net income of the trust to such survivor or apply it for such survivor's benefit. In addition, the Trustee shall use so much of the principal of such trust for the reasonable support, health and maintenance of either or both of such beneficiaries or the survivor of them as the Trustee determines to be required for those purposes without regard to equality of distribution. When there is no longer any survivor of such beneficiaries then surviving, the Trustee shall

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distribute such trust fund, as then constituted, to the then living issue of Donald Hayes Dunbar, per stirpes and in fee."

IN ALL OTHER RESPECTS, such Trust Agreement, as originally executed, and as subsequently amended, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this instrument in duplicate the day and year first above written.

Witnesses to the Signature  
of the Grantor:

Burr Sanatt Anderson

Samt R. Hill

Clarence Peckham Dunbar  
CLARENCE PECKHAM DUNBAR, Grantor

CITIZENS FIDELITY BANK & TRUST  
COMPANY, as Trustee

By: Kathy C. Thompson  
Trust Officer

**Exhibit A**

AMENDMENT TO TRUST AGREEMENT

This Amendment to Trust Agreement made this 5<sup>th</sup> day of September, 1974, by and between CLARENCE PERHAM DUNBAR, of Louisville, Kentucky, hereinafter called the Grantor, and THE LOUISVILLE TRUST COMPANY, of Louisville, Kentucky, hereinafter called the Trustee,

WHEREAS the parties entered into a Trust Agreement dated the 27th day of February, 1974, and

WHEREAS the Grantor reserved the right to amend such Trust Agreement in ARTICLE VII thereof and now desires to amend such Trust Agreement and the Trustee is willing that such amendment be made,

IT IS THEREFORE AGREED that subsection 1 of Section D of Article I is hereby amended so that such subsection, as amended, shall read:

"1. One-sixth to UNIVERSITY OF OREGON, EUGENE, OREGON, as an endowment fund, the income to be used for scholarships for one boy and one girl to be called the LUCILLE MARTIN DUNBAR SCHOLARSHIPS, in honor of Dr. Edwin Dudley Martin, deceased, formerly a Research Engineer with <sup>Thomas</sup> Charles A. Edison in the laboratory and also associated with the original task force working on nuclear fission on the atom and the atomic bomb in space underneath the University of Chicago Stadium, and later a Mining and Metallurgical Engineer and Research Director for Inland Steel Company, Chicago, Illinois; also in honor of Dr. Edwin Thomas Hodge, deceased, Teacher of Geology at University of Oregon, Economic and Engineering Geologist, and authority on Oregon geology along the Columbia River, John Day and DesChutes areas in Eastern Oregon and the high Cascade Mountains of Oregon; also in honor of Richard Joel Russell, deceased, Teacher of Geography, Geology, director and publisher of many geological research papers along Gulf Coast, Dean of Graduate School, Louisiana State University, and Director of Coastal Studies Institute at Louisiana State University and author of many papers on a world wide basis; and also in honor of Herman Peter

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Maierjurgan, Nehalem, Oregon, Lumberman, Geologist, Distinguished Oregon Conservationist, whose interest and direction contributed greatly to the Fish and Game and Wildlife Commission, and the Museum of Science and Industry, in Portland, and the Camp Hancock Committee for teaching young boys and girls about Fish, Game, Wild Life and the Environment in which they live, and his service and direction on the Oregon State Sanitary Authority and its successor, the Environmental Quality Commission. "

IN ALL OTHER RESPECTS such Trust Agreement as originally executed shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this instrument in duplicate the day and year first above written.

Clarence Peckham Dunbar  
CLARENCE PECKHAM DUNBAR, Grantor

THE LOUISVILLE TRUST COMPANY, Trustee

By Thomas G. Kline  
Trust Officer

WITNESSES:

William B. Peden  
Lottie L. Nichols

STATE OF KENTUCKY )  
                                  ) SS.  
COUNTY OF JEFFERSON )

The foregoing instrument was acknowledged before me this 5th day of September, 1974, by CLARENCE PECKHAM DUNBAR.

My Commission Expires November 12, 1974

My commission expires:

William B. Peden  
Notary Public

STATE OF KENTUCKY )  
                                  ) SS.  
COUNTY OF JEFFERSON )

The foregoing instrument was acknowledged before me this 9th day of September, 1974, by Thomas G. Kline as Trust Officer of The Louisville Trust Company, a Kentucky Corporation, on behalf of the corporation.

My commission expires:

Harold E. Moore  
Notary Public

This instrument was prepared by WILLIAM B. PEDEN, Attorney at Law, of Ewen, MacKenzie & Peden, P.S.C., 2100 Commonwealth Building, Louisville, Kentucky 40202.

William B. Peden  
WILLIAM B. PEDEN

**Exhibit A**

TRUST AGREEMENT

This Agreement made this February 27, 1974, by and between CLARENCE PECKHAM DUNBAR, of Louisville, Kentucky, hereinafter called the Grantor and THE LOUISVILLE TRUST COMPANY, of Louisville, Kentucky, hereinafter called the Trustee,

W I T N E S S E T H:

That the Grantor, in consideration of the premises and the covenants hereinafter contained, has delivered to the Trustee certain insurance policies on the Grantor's life listed in Schedule "A", attached hereto, receipt of which is acknowledged, and has named the Trustee as Beneficiary under said policies to receive the proceeds thereof. The Grantor may, at any time and from time to time with the consent of the Trustee, deposit with the Trustee other insurance policies on the Grantor's life in which the Trustee is named as Beneficiary; and the Trustee agrees to hold and administer such policies in accordance with the following terms and provisions:

ARTICLE I

DISPOSITION OF INCOME AND PRINCIPAL

After the Grantor's death, the Trustee shall hold and dispose of the trust property as follows:

A. 1. If the Grantor's wife, LUCILLE MARTIN DUNBAR, (hereinafter referred to as the "Grantor's wife" or the "Grantor's spouse") survives the Grantor, the Trustee shall as of the date of the Grantor's death divide the trust property (including any property devised, bequeathed or transferred to the Trustee by the Grantor, and any proceeds

of insurance on the Grantor's life received by the Trustee) into separate trusts, the first to be called "Trust A", which shall be an amount equal in value to one-half of the Grantor's adjusted gross estate as finally determined for federal estate tax purposes, diminished by the value for such purposes of all other items in the Grantor's gross estate which pass or have passed to or for the benefit of the Grantor's said wife under the Grantor's will or otherwise in such manner as to qualify for and be allowed as a marital deduction in the Grantor's estate.

The Trustee is authorized to estimate the amount of assets initially to be allocated between Trust A and Trust B, and may immediately invest such assets and distribute income and principal therefrom in accordance with the provisions of this agreement, and shall later, when final determination of the Grantor's estate is made, make such adjustments of both principal and income as may be necessary to correctly divide the trust assets in accordance with the terms of this agreement.

2. Only assets which qualify for the marital deduction shall be allotted to Trust A. To the extent, also, that other assets qualifying for the marital deduction are available Trust A shall not be satisfied by the distribution of: (a) assets with respect to which a credit for foreign taxes paid is allowable under the Internal Revenue Code; or (b) assets which may be subject to both income and estate taxes and which may be eligible for a credit or deduction, or (c) United States Treasury bonds eligible for redemption at par in payment of federal estate tax. The Trustee is specifically authorized to satisfy said share in money or in kind or partly in money and partly in kind; and

if wholly or partly in kind, to select and allot to Trust A, the specific asset or assets so selected; provided, however, that any assets transferred in kind to satisfy said share shall be valued for that purpose at their fair market values determined as of the date or dates of their transfer. Trust A shall carry with it (as income and not as corpus), its proportionate share of all net income received.

3. Trust B shall consist of the balance of the aforesaid property hereunder, including (as income and not as corpus), its proportionate share of all net income received.

4. In establishing and administering Trust A, the Trustee shall not exercise any discretionary power in any manner which would disqualify this trust for the marital deduction.

5. Upon the death of the Grantor, if the Grantor's spouse shall not survive the Grantor, the entire trust shall be held, administered and distributed as Trust B.

B. 1. The Trustee shall pay the entire net income of Trust A to the Grantor's wife or apply it for her benefit in quarterly or more frequent installments so long as she shall live.

2. The Trustee is authorized in the Trustee's sole and absolute discretion at any time and from time to time to distribute to the Grantor's wife or apply to her benefit from the corpus of Trust A (even to the point of completely exhausting the same) such amounts as the Trustee may deem advisable in the Trustee's absolute discretion, to

provide adequately for her maintenance, support and general welfare in the style to which she was accustomed at the time of the Grantor's death. In determining the amounts of corpus to be so disbursed, the Trustee may take into consideration any other income which the Grantor's wife may have from any other source, but not her capital resources, and the Trustee's discretion shall be conclusive as to the advisability of any such disbursements and shall not be subject to judicial review.

3. The Trustee shall also pay to the Grantor's wife during her life such portions, or all, of the principal of Trust A as she from time to time requests in writing, in fee.

4. Upon the death of the Grantor's wife, the corpus remaining in Trust A shall be distributed by the Trustee free of the trust, to or for the benefit of one or more persons or corporations, in such manner and in such proportions, whether outright, in trust or otherwise, as the Grantor's wife may by her last will and testament direct and appoint, including the right in said wife to appoint said property to her estate. Such power of appointment shall be exercisable by the Grantor's wife alone and in all events but shall be exercisable only by specific reference to said power in her last will and testament. The Trustee may rely upon an instrument admitted to probate in any jurisdiction as the last will of the Grantor's wife, but if it has no written notice of the existence of such a will within a period of three months after her death, it may be presumed that she died intestate and the Trustee shall be protected in acting in accordance with such presumption, but this protection to the Trustee shall not limit or qualify said

power of appointment or the right of any person to pursue the funds affected by the exercise thereof, irrespective of the place of probate or time of discovery of the will. To the extent that the Grantor's wife fails to exercise effectively the power of appointment herein conferred upon her, then upon her death, the property comprising the corpus of this trust, or any part thereof not effectively appointed, shall become a part of the corpus of Trust B created hereunder.

3. On the death of the Grantor's wife, the Trustee shall be authorized to withhold distribution of an amount of property, sufficient in the Trustee's judgment, to cover any liability that may be imposed on the Trustee for estate or other taxes of the Grantor's wife or of her estate until such liability is finally determined.

C. 1. The Trustee shall pay all the net income of Trust B to the Grantor's wife or apply it for her benefit in convenient installments as often as quarter-annually during her life.

2. The Trustee is authorized in the Trustee's sole and absolute discretion at any time and from time to time to distribute to the Grantor's wife or apply to her benefit from the corpus of Trust B (even to the point of completely exhausting the same) such amounts as the Trustee may deem advisable in the Trustee's absolute discretion, to provide for her maintenance and support, but excluding any time when any funds remain in Trust A. In determining the amounts of corpus to be so disbursed, the Trustee shall take into consideration any other income which the Grantor's wife may have from any other source, and also her capital resources other than household goods, residence, and personal effects, and the Trustee's discretion shall be conclusive as to the advisability of any such disbursement and shall not be subject to judicial review.



D. Upon the death of the Grantor's wife after the Grantor's death or upon the Grantor's death if the Grantor's wife shall not survive him, whichever event first occurs, the Trustee shall divide and distribute the trust estate of Trust B as then constituted, as follows:

1. One-sixth to NORTHWESTERN STATE UNIVERSITY OF LOUISIANA, Natchitoches, Louisiana, as an endowment fund, the income to be restricted for the use of girls' Varsity Sports Program.

2. One-sixth to the UNIVERSITY OF OREGON, Eugene, Oregon, as an endowment fund, the income to be used for scholarships for one boy and one girl to be called the HENRY V. HOWE SCHOLARSHIPS in honor of Dr. Henry Van Wagenen Howe, of Baton Rouge, Louisiana, B.A., M.A., University of Oregon, Ph.D. Stanford University, Boyd Professor Emeritus of geology at Louisiana State University; founder of the LSU School of Geology (now Geosciences); president (1941), founding and life member of the Society of Economic Paleontologists & Mineralogists; honorary member of the American Association of Petroleum Geologists; Sidney Powers Gold Medalists (AAPG, 1960), life member of the Norsk Geologisk Forening; noted for his work in micropaleontology, especially fossil and Recent Ostracoda, and his extensive publications on the geology, stratigraphy and paleontology of Louisiana and the Gulf Coast who died September 27, 1973, at his home in Baton Rouge.

3. One-Sixth to ST. LANDRY PARISH, Opelousas, Louisiana, as an endowment fund, the income to be used to provide for scholarships for one boy and one girl in the name of WALLACE DUNBAR and HENRIETTA PECKHAM DUNBAR, such boy and girl to be selected by a committee composed of the Superintendent of Parish Schools, the Judge of the Parish, and the

President of the Policy Jury. If any of such offices are eliminated the ST. LANDRY PARISH shall select a person to fill the vacancy on such Committee.

4. One-sixth to JOHN C. DUNBAR, of Bayou Maxie and Port Barre, Louisiana, if he is surviving at such time, otherwise this one-sixth shall be added to the one-sixth mentioned in subsection "3", immediately below.

3. One-sixth, per capita, among the then living children, grandchildren and great-grandchildren of SAMUEL WALLACE DUNBAR and HENRIETTA PECKHAM DUNBAR.

6. One-sixth to Louisiana State University, Baton Rouge, Louisiana, as an endowment fund, the income to be used for scholarships for one boy and one girl to be called the CLARENCE PECKHAM DUNBAR SCHOLARSHIPS, in honor of CORA MARTIN, deceased, formerly a Washington, Louisiana, school teacher, housekeeper for the Prescott Family and the original town social conscience and do-gooder; and also in honor of WILLIS E. PRESCOTT, now deceased, teacher, principal and Superintendent of Schools, St. Landry Parish, Louisiana, for approximately thirty-five years; and also in honor of HABEL STEPHENSON, now deceased, formerly a Washington, Louisiana, High School English teacher for approximately forty years, and better known as "Aunty" to her many students. Such boy and such girl shall be selected by a committee composed of the Superintendent of Parish Schools, the Judge of the Parish, and the President of the Police Jury, all of St. Landry Parish, Opelousas, Louisiana. If any of such offices are eliminated the St. Landry Parish shall select a person to fill the vacancy on such Committee.

ARTICLE II

RIGHT OF GRANTOR DURING LIFETIME TO FUND TRUST

A. 1. Subject to the willingness of the Trustee to accept any such assets, the Grantor or any other person shall have the right at any time and from time to time to add cash, securities or other property to the corpus of the trust estate created herein, by deed, gift or will; and all such additions shall be held, administered and distributed in accordance with the provisions of this Agreement.

2. During the life of the Grantor, all of such part of the net income and corpus of the trust as Grantor may direct shall be paid to the Grantor or to such person or persons as the Grantor may designate from time to time. Net income not so distributed shall be accumulated and added to the principal of the trust.

3. Should the Grantor become incapacitated and unable to act for the Grantor (which determination shall be made solely by the Trustee and in the Trustee's absolute and sole discretion), then the Trustee in the Trustee's absolute discretion shall use or expend so much of the income and corpus of the Trust for the Grantor's benefit, or for the benefit of Grantor's spouse as the Trustee may deem advisable from time to time for her health, support and maintenance.

B. 1. During the Grantor's lifetime, the Trustee shall follow the Grantor's written direction, if it is given, with regard to the management and control of the trust estate. If the Grantor gives no instructions as to the management and control of the Trust estate by the Trustee, the Trustee may act in accordance with the powers granted herein in Article IV.

2. When acting at the direction, or with the consent of the Grantor, the Trustee shall be relieved from any liability arising out of such action except such liability as may arise from the Trustee's own gross negligence or intentional misconduct.

C. Upon the death of the Grantor, the Trustee shall divide any funds then held under this Article in the same way as if they were insurance proceeds or other property under Article I.

### ARTICLE III

#### MAXIMUM DURATION OF TRUST

Notwithstanding anything herein to the contrary, the trusts under this instrument shall terminate not later than twenty-one years after the death of the last survivor of the Grantor, the Grantor's spouse, and the Grantor's descendants living on the date of this instrument, at the end of which period the Trustee shall distribute each remaining portion of the trust property to the beneficiary or beneficiaries, at that time, of the current income thereof, and if there is more than one beneficiary, in the proportions in which they are beneficiaries.

ARTICLE IV

POWERS OF TRUSTEE

With reference to the trust estate created herein and every part thereof, the Trustee shall have the following rights and powers without limitation and in addition to powers conferred by law:

A. The Trustee is specifically authorized and empowered to purchase from the estate of the Grantor, or the estate of the Grantor's spouse, any stock, bond, security or other property, real or personal, offered for sale by the Grantor's personal representative, or by the Grantor's spouse's personal representative, (even though either or both of such personal representatives may also be Trustee herein) irrespective of whether or not such security or property is eligible for investment by fiduciaries under any statute or law; and the Trustee shall incur no responsibility or liability for any loss resulting to the trust estate from any such purchase or from the retention of any asset so acquired.

B. To compromise, settle, or adjust any claim or demand by or against any trust and to agree to any rescission or modification of any contract or agreement.

C. To retain any security or other property received from Grantor's estate, so long as such retention appears advisable, to exchange any such security or property for other securities or properties and to retain such items received in exchange.

D. To sell, exchange, assign, transfer and convey any security or property, real or personal held in any trust fund, at public or private sale, at such time and at such reasonable price and upon such reasonable terms and conditions (including credit) as the Trustee may determine.

E. To invest and reinvest in such stocks, bonds Exhibit A and other securities and properties as a prudent Trustee may

deem advisable including stocks and unsecured obligations, undivided interests, interests in investment trusts, mutual funds, legal and discretionary common trust funds, leases, and property outside the Trustee's domicile, all without diversification as to kind or amount without being restricted in any way by any statute or court decision (now or hereafter existing) regulating or limiting investments by fiduciaries.

F. To sell or exercise any "rights" issued on any securities held in any trust fund hereunder.

G. To consider and treat as corpus all dividends payable in stock, all dividends in liquidation and all "rights" issued on securities; and to consider and treat as income all other dividends received.

H. To borrow money (from the Trustee individually or from others) upon such reasonable terms and conditions as the Trustee may determine and to mortgage and pledge trust assets as security for the repayment thereof.

I. To lease any real estate for such term, or terms and upon such reasonable conditions and rentals and in such manner as the Trustee may deem advisable, and any lease so made shall be valid and binding for the full term thereof even though same shall extend beyond the duration of the trust. To make repairs, replacements and improvements, structural or otherwise, to any such real estate. To subdivide real estate, to dedicate same to public use and to grant easements as the Trustee may deem proper.

J. Whenever required or permitted to divide and distribute any trust created hereunder, to make such division or distribution in money or in kind or partly in money and partly in kind; and to exercise all powers herein conferred, after the termination of any trust until the same is fully distributed.

K. To hold two or more trusts or other funds in

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one or more consolidated funds, in which the separate trusts or Funds shall have undivided interests.

L. To register and carry any property in the Trustee's own name or in the name of the Trustee's nominee or to hold it unregistered, but without thereby increasing or decreasing the Trustee's liability as fiduciary.

M. To pay premiums on policies of life insurance on the life of the Grantor where the proceeds of such policies are payable to the trust and to hold such policies as assets of the trust; to purchase life insurance on the life of the Grantor or any income beneficiary and to pay the premiums thereon and to hold such policies as assets of the trust, provided however that no income or principal of a trust qualifying for the marital deduction under the Internal Revenue Code shall be used for this purpose.

N. In determining whether or not the Grantor is incapacitated, the Trustee may rely upon the findings of the Grantor's personal physician, if any, and if none, the Trustee may rely upon the findings of the physician or physicians the Trustee may employ, and the Trustee shall not be liable to anyone for so acting.

O. If the residue of the Grantor's estate is not sufficient to pay the Grantor's debts, administration costs and estate and inheritance taxes, the Trustee may pay from Trust B to Grantor's Personal Representative such sums as such Personal Representative certifies to the Trustee as necessary to pay all or the balance of the Grantor's debts and administration costs. Further, in such event, the Trustee shall pay from Trust B such sums as such Personal Representative certifies to the Trustee as necessary to pay all or the balance of estate and inheritance taxes incurred by reason of the Grantor's death. No proceeds payable from

**Exhibit A**

qualified employee benefit plans shall be used for any purposes of this Section.

P. If at any time any beneficiary to whom the Trustee is directed in this instrument to pay any income is under legal disability or is incapacitated and such incapacity is certified to the Trustee by the beneficiary's regular physician, the Trustee may use such income for such beneficiary's support and comfort, provided, however, that this paragraph shall not apply to any Trust qualifying for the marital deduction under the Internal Revenue Code.

Q. The Trustee either may expend directly any income or principal which the Trustee is authorized in this instrument to use for any beneficiary hereunder, or may pay it over to such beneficiary or for such beneficiary's use to such beneficiary's parent or guardian, or to any person with whom such beneficiary is residing, without responsibility for its expenditure, provided, however, that this paragraph shall not apply to any trust qualifying for the marital deduction under the Internal Revenue Code.

#### ARTICLE V

##### RIGHTS AND DUTIES RELATING TO INSURANCE POLICIES

The Grantor shall pay all premiums, assessments and other charges necessary to keep said policies in force. The Trustee shall be under no duty or obligation to pay any such premiums or charges or to see that said policies are renewed or kept in force; and until the death of the Grantor, the Trustee shall not have any duty with respect to such policies (except to hold same in safekeeping).

In the event this trust is funded or partly funded prior to the Grantor's death, the Trustee shall be obligated to pay premiums on policies on which the Trustee has consented in writing to pay but only to the extent of funds in the



Trustee's possession at the time any such premiums become due.

The Grantor reserves the right and power to withdraw any policy or policies and to exercise, without the consent of the Trustee or any beneficiary hereunder, or under any of said policies, any and all options, elections, rights and privileges given to the Grantor under the terms of said policies or any of them, including the right to change the beneficiaries as often as the Grantor may elect to do so, to receive the dividends and make loans thereon, to convert the same into other forms of insurance, to collect the cash values thereof or to permit the same to lapse. If the Grantor shall exercise any such options, elections, rights or privileges, or shall alter, amend or revoke this agreement as hereinafter provided, the Trustee shall execute such releases and other papers as may be required therefor, without liability to anyone for so doing.

After the death of the Grantor when the policies hereunder shall become payable, the Trustee shall promptly furnish to the insurance companies, "proofs of loss", and shall collect and receive the proceeds of the policies; to that end, the Trustee shall have power to execute and deliver receipts and other instruments and to take such action as is appropriate for the collection thereof; provided, however, that if payment of any policy is contested, the Trustee shall be under no obligation to institute legal action for the collection thereof unless and until the Trustee has been indemnified to the Trustee's satisfaction for all costs including attorneys fees. In the event that the Trustee is not so indemnified, the Trustee shall deliver the policy (or policies) in question to the beneficiaries of this trust as hereinafter set forth as their interests may appear. The Trustee may out of the trust repay any advances made to the

**Exhibit A**

Trustee or reimburse the Trustee for any advances made by the Trustee for expenses incurred in collecting or attempting to collect any sum from any insurance company by suit or otherwise.

No insurance company under any policy of insurance deposited with the Trustee hereunder shall be responsible for the application or disposition of the proceeds of such policy by the Trustee. Payment to and receipt by the Trustee of such proceeds shall be a full discharge of the liability of such insurance company under such policy.

The Trustee in the Trustee's discretion, may accept any of the optional modes of payment provided in any of such policies where such modes of payment are permitted to the Trustee by the insurance companies.

#### ARTICLE VI

##### COMPENSATION OF TRUSTEE

As compensation for the Trustee's services hereunder, the Trustee shall receive the fees set forth in the Trustee's then current Schedule of Trust Fees.

#### ARTICLE VII

##### RIGHT OF GRANTOR TO AMEND OR REVOKE

The Grantor reserves the right and power to alter, amend or revoke this agreement, at any time and from time to time, either in whole or in part, without the consent of the Trustee or any beneficiary hereunder or under any of said policies, by written notice to the Trustee to that effect; provided, however, that the duties, responsibilities and rate or compensation of the Trustee shall not be altered or modified without the Trustee's written consent. Similarly the Trustee shall have the right to resign at any time upon thirty days' written notice to the Grantor in which event the Trustee shall deliver all policies and assets held to

the Grantor or in accordance with the Grantor's written directions.

ARTICLE VIII

LAW APPLICABLE

This Agreement shall be construed and regulated in all respects by the laws of the State of Kentucky.

ARTICLE IX

AUDIT

The Trustee shall be under no duty to examine, verify, question or audit the books, records or accounts or transactions of any Executor, Administrator, or other personal representative of the Grantor or of the Grantor's spouse, nor shall the Trustee have any responsibility for any act or omission of any such Executor, Administrator, or other personal representative.

ARTICLE X

RULE OF INTERPRETATION

Unless otherwise clearly indicated, words in the singular or plural shall include the plural and singular respectively, where they would so apply. Words in the masculine or neuter gender shall include the feminine, masculine or neuter gender where applicable.

ARTICLE XI

RIGHT TO REMOVE TRUSTEE

A. After the Grantor's death, the Grantor's spouse shall have the right to remove the acting Trustee and appoint a Successor Trustee, provided however such Successor Trustee must be a trust company or bank qualified to act as such, possessing trust powers and having a combined capital and surplus of not less than \$2,500,000.00. Such right of removal shall be continuing and shall be exercised by Grantor's spouse's serving the acting Trustee with written notice of the

**Exhibit A**

Trustee's removal, which notice shall specify the Successor Trustee and certify such Successor Trustee's willingness to serve as such.

B. Likewise, after the Grantor's death, the Trustee may resign at any time by giving written notice, specifying the effective date of resignation, to the Grantor's wife, in which case any corporation authorized under the laws of the United States or of any state to administer trusts may be appointed as Trustee by an instrument delivered to it and signed by the Grantor's wife. Such right of removal shall be continuing and shall be exercised by the Guardian of Grantor's minor children serving the acting Trustee with written notice of its removal, which notice shall specify the Successor Trustee and certify the Successor Trustee's willingness to serve as such.

C. Any Successor Trustee hereunder shall have all the title, powers and discretion of the Trustee succeeded, without the necessity of any conveyance or transfer.

#### ARTICLE XII

##### ADVISORY COMMITTEE

There is hereby created an Advisory Committee consisting of the Grantor's wife who shall consult and advise with the Trustee regarding all important matters affecting the purchase, sale, exchange, or other disposition of trust assets. There shall be no successor after her death or resignation.

Whenever any advice of the Advisory Committee is required hereunder, same may be given orally or in writing. For all actions taken in accordance with the directions or approval of the Advisory Committee, the Trustee shall have full and complete acquittance. No party dealing with the Trustee shall be required to ascertain whether or not the

direction or approval of the Advisory Committee has been obtained and all parties may deal with the Trustee as if the latter is possessed of full and complete independent power and authority.

ARTICLE XIII

PRESUMPTION OF SURVIVORSHIP

If the Grantor and the Grantor's spouse die under circumstances creating any doubt as to which of them survived the other, the Grantor's said spouse shall be presumed to have survived the Grantor and the trusts created herein shall be administered accordingly.

ARTICLE XIV

ACCEPTANCE OF TRUST

The Trustee hereby accepts the trust herein created.

IN WITNESS WHEREOF, the parties hereto have executed this instrument in duplicate the day and year first above written.

Clarence Peckham D'Nbar  
CLARENCE PECKHAM D'NBAR, Grantor

THE LOUISVILLE TRUST COMPANY, Trustee

By James T. Gair, Jr.  
Trust Officer

Witnesses:

Betty L. Nichols  
R. W. ...

STATE OF KENTUCKY )  
 ) SS.  
COUNTY OF JEFFERSON )

The foregoing instrument was acknowledged before me  
this 27 day of February, 1974, by CLARENCE PECKHAM  
DUNBAR.

My commission expires: My Commission Expires November 12, 1974

William B. Peden  
Notary Public, Jefferson Co., Ky.

STATE OF KENTUCKY )  
 ) SS.  
COUNTY OF JEFFERSON )

The foregoing instrument was acknowledged before me  
this 1st day of March, 1974, by James T. Krain Jr  
as Trust Officer of THE LOUISVILLE TRUST COMPANY, a Kentucky  
corporation, on behalf of the corporation.

My commission expires: Notary Public, State at Large, Ky.  
My Commission expires Nov. 10, 1977

Harold L. Moore  
Notary Public, Jefferson Co., Ky.

This instrument was prepared by WILLIAM B. PEDEM, Attorney  
at Law, of Ewen, MacKenzie & Peden, P.S.C., 2100 Commonwealth  
Building, Louisville, Kentucky 40202.

William B. Peden  
William B. Peden



ADMITTED  
IN OREGON

August 4, 2010

Susan A. Miller  
Assistant Attorney General  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue Suite 410  
Portland, OR 97201

Re: University of Oregon Foundation  
Miriam McFall Starlin Poetry Fund

Dear Susan:

I am enclosing for your review certified true copies of the Petition for Modification of Institutional Fund, the Notice of Filing of Petition for Modification of Institutional Fund, and proposed General Judgment for Modification of Institutional Fund in the Miriam McFall Starlin Poetry Fund institutional fund modification proceeding which we have filed on behalf of the University of Oregon Foundation.

If the documents meet with your approval, we would appreciate your signing and returning to us in the enclosed return envelope the Acceptance of Service and Consent and Waiver. We will then file the Acceptances and Consents received from you, from the donor, and from Randy Geller with the court and submit the General Judgment for the judge's signature.

Thank you for your assistance in this matter.

Very truly yours,

Jon V. Buerstatte  
buerstatte@gleaveslaw.com

JVB:gdm  
Enclosures

cc: Gary Livesay (w/o encls.)  
Randy Geller (w/o encls.)  
Paul Weinhold (w/ encls.)  
Tom Herrmann (w/ encls.)

Phone:  
(541) 686-8833  
Fax:  
(541) 345-2034

975 Oak Street  
Suite 800  
Eugene, Oregon  
97401-3156

Mailing Address:  
P.O. Box 1147  
Eugene, Oregon  
97440-1147

Email:  
info@gleaveslaw.com  
Web-Site:  
www.gleaveslaw.com

Frederick A. Batson  
Jon V. Buerstatte  
Patricia L. Chapman\*\*  
Joshua A. Clark  
Michael T. Faulconer\*\*  
Howard F. Feinman  
Thomas P. E. Herrmann\*  
Dan Webb Howard\*\*  
Cassie K. Kellogg  
Stephen O. Lane  
Valeri L. Love  
William H. Martin\*  
Walter W. Miller  
Laura T. Z. Montgomery\*  
Thomas K. N. Moseman  
Laurie A. Nelson  
Ian T. Richardson  
Martha J. Rodman  
Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman  
Jane M. Yates

\*Also admitted  
in Washington

\*\*Also admitted  
in California



August 4, 2010

Randy Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Re: University of Oregon Foundation  
Miriam McFall Starlin Poetry Fund

Dear Randy:

I am enclosing for your review certified true copies of the Petition for Modification of Institutional Fund, the Notice of Filing of Petition for Modification of Institutional Fund, and proposed General Judgment for Modification of Institutional Fund in the Miriam McFall Starlin Poetry Fund institutional fund modification proceeding which we have filed on behalf of the University of Oregon Foundation.

If the documents meet with your approval, we would appreciate your signing and returning to us in the enclosed return envelope the Acceptance of Service and Consent and Waiver. We will then file the Acceptances and Consents received from you, from the donor, and from Susan Miller with the court and submit the General Judgment for the judge's signature.

Thank you for your assistance in this matter.

Very truly yours,

Jon V. Buerstatte  
buerstatte@gleaveslaw.com

JVB:gdm  
Enclosures

cc: Gary Livesay (w/o encls.)  
Susan Miller (w/o encls.)  
Paul Weinhold (w/ encls.)  
Tom Herrmann (w/ encls.)

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Joshua K. Smith  
James W. Spickerman  
Jane M. Yates

\*Also admitted  
in Washington

\*\*Also admitted  
in California





August 9, 2010

Miriam M. Starlin  
c/o Randy Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Re: Modification of the Miriam McFall Starlin Poetry Fund

Dear Ms. Starlin:

As you will recall, back in September, 2009, you signed an Agreement Modifying Institutional Fund with regard to the Miriam McFall Starlin Poetry Fund. In addition to that document, Oregon law requires this modification to be approved by the Lane County Circuit Court. Therefore, we have filed on behalf of the University of Oregon Foundation the enclosed Petition for Modification of Endowment Fund.

Each person who signed the Agreement Modifying Endowment Fund is entitled to notice and an opportunity to object to the Petition for Modification of Endowment Fund. For that reason, we have enclosed for you certified true copies of the Petition for Modification of Endowment Fund, the Notice of Petition for Modification of Endowment Fund, and the proposed General Judgment Modifying Endowment Fund. As you can see at the end of the General Judgment, the name of the award will be changed to be the "Miriam McFall Starlin Poetry Award" rather than using the word "prize."

We would very much appreciate your reviewing these documents and signing the enclosed acceptance of service and consent and waiver if you approve of the documents. We have enclosed a return envelope for your convenience.

Please do not hesitate to call if you should have any questions about this matter. We are not permitted, however, to give you legal advice about this matter since we

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Joshua K. Smith  
James W. Spickerman  
Jane M. Yates

\*Also admitted  
in Washington

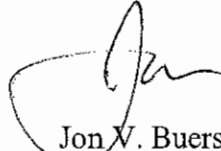
\*\*Also admitted  
in California

Miriam M. Starlin  
August 9, 2010  
Page - 2

represent the University of Oregon Foundation. If you would prefer to have your attorney speak with us about this matter, we would be pleased to speak with that person.

Best regards.

Very truly yours,



Jon V. Buerstatte  
buerstatte@gleaveslaw.com

JVB:gdm  
Enclosures

cc: Gary Livesay (w/o encls.)  
Susan Miller (w/o encls.) ✓  
Randy Geller (w/o encls.)  
Paul Weinhold (w/o encls.)  
Tom Herrmann (w/o encls.)

CERTIFIED TRUE COPY  
*[Signature]*

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF LANE

In the Matter of the Miriam McFall Starlin Poetry  
Fund,  
University of Oregon Foundation,  
Petitioner.

Case No. 52-10-15398

NOTICE OF FILING OF PETITION  
FOR MODIFICATION OF  
INSTITUTIONAL FUND

To: Susan A. Miller, Assistant Attorney General for the State of Oregon, Civil  
Enforcement Division, Charitable Activities, Randolph Geller, Deputy General Counsel for the  
University of Oregon and Miriam M. Starlin, Donor.

You are hereby notified that the attached document was filed by the undersigned in the  
above entitled court on the 14th day of July, 2010. Unless you file objections to the petition  
within 120 days after August 9, 2010, the petition will be granted and the resulting judgment will  
be binding on all persons interested in the trust.

///

///

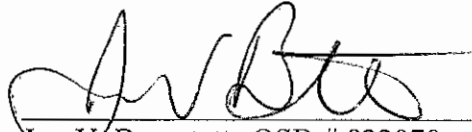
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1 If you file objections within the 120 day period, the court will fix a time and place for a  
2 hearing. At least 10 days before the date of that hearing, you must serve a copy of your  
3 objections and give notice of the time and place of the hearing to all persons interested in the  
4 trust. See ORS 130.200.

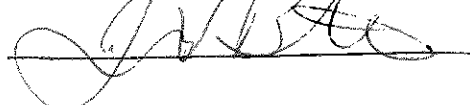
5 DATED this 9th day of August, 2010.

6   
7 Jon V. Buerstatte OSB # 822070  
8 Of Attorneys for Petitioner

9 PETITIONER  
10 University of Oregon Foundation  
11 360 E. 10<sup>th</sup> Avenue, Suite 202  
12 Eugene, OR 97401-3273

13 ATTORNEY FOR PETITIONER  
14 Jon V. Buerstatte  
15 OSB # 822070  
16 Gleaves Swearingen Potter & Scott LLP  
17 975 Oak Street, Suite 800  
18 Eugene, OR 97401  
19 541-345-2034 (fax no.)  
20 buerstatte@gleaveslaw.com

CERTIFIED TRUE COPY



FILED  
2010 JUL 14 PM 3:31  
CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

In the Matter of the Miriam McFall Starlin Poetry Fund  
  
University of Oregon Foundation,  
Petitioner.

Case No. 52-10-15398  
  
PETITION FOR MODIFICATION OF INSTITUTIONAL FUND

UNIVERSITY OF OREGON FOUNDATION, an Oregon nonprofit corporation, by and through its Chief Operating Officer, Gary F. Livesay, petitioner, represents to and petitions the court as follows:

1. Attorney General Consent. The Attorney General's consent to the modification requested herein is required by ORS 130.200(2) and ORS 128.328(2). Petitioner has received the Attorney General's consent to the modification (see page 2 of Exhibit 1) and will seek a signed Consent for filing in this proceeding.

2. Venue. Venue for this matter lies in Lane County because the institutional fund is administered in Lane County, Oregon.

3. Historical Background of Fund. In 1995, Miriam M. Starlin and Glenn Starlin established the Miriam McFall Starlin Poetry Prize with the University of Oregon Foundation.

1 The terms of the Agreement required the prize to be awarded to female University of Oregon  
2 graduate students in creative writing, with a concentration in poetry. See Exhibit A, attached  
3 hereto and incorporated herein.

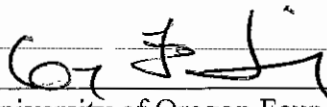
4 4. Reason for Modification. The University of Oregon wishes to remove the gender-  
5 based restriction on candidate selection, as set forth in Exhibit B, attached hereto and  
6 incorporated herein. Donor Miriam M. Starlin consents to this modification. In addition, Ms.  
7 Starlin requests that the award be renamed The Miriam McFall Starlin Poetry Award. Donor  
8 Glenn Starlin has passed away.

9 5. Statutory Basis for Modification (UPMIFA). ORS 128.328 permits the  
10 modification of a purpose restriction in a gift instrument upon application to the court. Attorney  
11 General consent is required.

12 6. Statutory Basis for Modification (UTC). ORS 130.200 permits the  
13 modification of a charitable trust where all beneficiaries consent and the change is not  
14 inconsistent with a material purpose of the trust. Again, Attorney General consent is required.

15  
16 WHEREFORE, petitioner prays for a general judgment approving the modification of the  
17 institutional fund as set forth in Exhibit B of Exhibit 1, attached hereto and incorporated herein  
18 and setting forth the new name of the fund's award as The Miriam McFall Starlin Poetry Award.

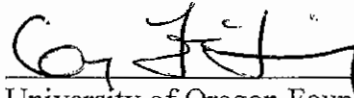
19  
20 Dated this 3 day of June, 2010.

21  
22   
23 \_\_\_\_\_  
24 University of Oregon Foundation  
25 By: Gary F. Livesay  
26 Chief Operating Officer, Petitioner

24 ///  
25 ///

1 I, GARY F. LIVESAY, HEREBY DECLARE THAT THE ABOVE STATEMENT  
2 IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I  
3 UNDERSTAND IT IS MADE FOR USE AS EVIDENCE IN COURT AND IS SUBJECT  
4 TO PENALTY FOR PERJURY.

5 Dated: June 3, 2010.

  
University of Oregon Foundation  
By: Gary F. Livesay  
Chief Operating Officer, Petitioner

8 PETITIONER  
9 University of Oregon Foundation  
10 360 E. 10<sup>th</sup> Avenue, Suite 202  
11 Eugene, Oregon 97401-3273

ATTORNEYS FOR PETITIONER  
Jon V. Buerstatte, OSB # 822070  
Gleaves Swearingen Potter & Scott LLP  
P.O. Box 1147  
Eugene, Oregon 97440-1147  
(541) 686-8833  
(541) 345-2034 (Fax)  
Email: buerstatte@gleaveslaw.com

**AGREEMENT MODIFYING INSTITUTIONAL FUND**

**PARTIES:**

University of Oregon Foundation (A.K.A. University of Oregon Development Fund) (the "Foundation")

University of Oregon, College of Arts and Sciences

**RECITALS:**

- A. The Parties desire to modify the Miriam McFall Starlin Poetry Endowment Fund Agreement, dated October 1995 (the "Institutional Fund"), a copy of which is attached hereto as Exhibit "A."
- B. The Parties, Oregon Attorney General, and Circuit Court constitute all persons and entities whose signatures are required for this Agreement to be effective pursuant to ORS Chapter 130.

**AGREEMENT:**

NOW, THEREFORE, in consideration of the foregoing recitals that are by this reference expressly made a part hereof, and in consideration of the terms hereinafter contained, the Parties agree as follows:

1. Modification of Institutional Fund

On the Effective Date, the Institutional Fund shall be modified as set forth in Exhibit "B" attached hereto and by this reference incorporated herein.

2. Effective Date

This Agreement shall be effective on the date that all Parties and the Oregon Attorney General have each signed this Agreement and, if required by law, this Agreement has been approved by the Circuit Court of the State of Oregon for Lane County.

3. Number, Gender and Captions

As used herein, the singular shall include the plural and the plural the singular, as the context requires. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this Agreement.

4. Counterparts

This Agreement has been prepared and may be executed in multiple counterparts, each of which shall constitute an original. Each party may execute a separate counterpart, all of which when assembled shall constitute this Agreement, fully executed.



5. Original Agreement

The Institutional Fund, as amended, and each term and provision thereof shall remain in full force and effect, except as herein modified, amended or restated.

6. Entire Agreement

This Agreement and the exhibit hereto constitute the final written expression of all terms of the Institutional Fund and when read together they constitute the complete and exclusive statement of those terms.

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on the date set opposite their respective signatures below.

Signature: Miriam M. Starlin Date: 9/14/09  
Miriam M. Starlin, Donor

Signature: Scott Coltrane Date: 9-24-09  
Scott Coltrane, Dean  
College of Arts and Sciences  
University of Oregon

Signature: Michael Redding Date: 9/29/09  
Michael Redding, VP for University Advancement  
University of Oregon

Signature: Gary F. Livesay Date: 10-1-09  
Gary F. Livesay, Chief Operating Officer  
University of Oregon Foundation

ORS 130.200 provides that, in certain instances, in order for an agreement modifying charitable funds held in trust subject to the enforcement or supervisory powers of the state or the Attorney General under ORS 128.610 to 128.750 to be effective, the Attorney General for the State of Oregon must consent to the agreement. The Institutional Fund is an agreement that may be subject to that requirement. The foregoing Agreement Modifying Institutional Fund is hereby consented to.

ATTORNEY GENERAL  
By Susan A Miller OSB 960960 Date: 2/5/10  
Susan A. Miller, Assistant Attorney General Date

**University of Oregon Foundation  
Endowment Fund Agreement  
The Miriam McFall Starlin Poetry Prize  
in Creative Writing  
in the  
College of Arts and Sciences**

Whereas, the University of Oregon Foundation shall receive cash contributions totalling \$25,000 from Glenn and Miriam Starlin, members of their family, and their friends, given with the intent of establishing an endowment to provide support for students enrolled in the Creative Writing Program at the University of Oregon,

Therefore, the University of Oregon Foundation (the Foundation) shall establish the **Miriam McFall Starlin Poetry Fund** (the Fund), as a permanent endowment. The net income and so much of the appreciation of the Fund as the Foundation may deem prudent shall be utilized annually for the purposes set forth in this agreement.

Article I

The Fund will provide an annual source of income to be used to award the *Miriam McFall Starlin Poetry Prize* to women enrolled as graduate students in Creative Writing, and whose concentration is in poetry. Recipients will be selected by the Director of the Creative Writing Program from among candidates who have shown a significant talent for poetry, and who evidence promise of additional outstanding achievement.

Article II

The Fund shall be entered on the books and records of the Foundation and shall be known, and always so designated, as **The Miriam McFall Starlin Poetry Fund**. Additions to the Fund in any form acceptable to the Foundation may be made at any time by any person or entity. Such additions shall thereafter be subject in all respects to the terms, provisions, and conditions of this Agreement. For its services in holding and managing the Fund, a reasonable fee may be charged by and paid to the Foundation to cover the cost of administrative expenses incurred on behalf of this endowment fund.

Article III

All or any part of the Fund may be invested separately or jointly as part of a common trust investment fund. The Fund shall be permanently endowed and only the net income thereof and so much of the principal appreciation as the Foundation may deem prudent shall be provided annually for the uses and purposes specified in this Agreement.

**Exhibit A**

Article IV

Any net income or expendable principal appreciation not utilized in any given year may either be retained for expenditure in a future year or added to the principal of the Fund, as determined by the Foundation, after consulting with the Creative Writing Program director, to best further purposes of the Fund.

Article V

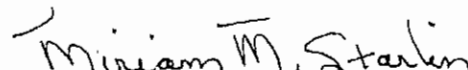
The endowment fund hereby created shall be and is expressly declared to be perpetual. However, if at some future time a change in circumstances should render the designated purposes of the Fund no longer practical, then and only then, the Board of Trustees of the Foundation, in concert with the Creative Writing Program director and the Dean of the College of Arts and Sciences shall use the net income and expendable principal appreciation, but not the principal of the Fund for the closest appropriate purposes, retaining the name of the fund, with due consideration to the Donors' special interest in supporting the work of graduate level women poets at the University.

IN WITNESS WHEREOF, the parties to this agreement have subscribed their names hereto:

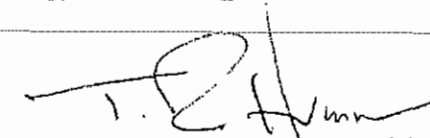
DATED THIS 26 DAY OF  
September, 1995

  
Glenn Starlin

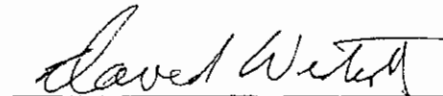
DATED THIS 26 DAY OF  
September, 1995

  
Miriam M. Starlin

APPROVED THIS 26<sup>th</sup> DAY OF Sept.  
1995

  
Terry Hummer  
Director  
Creative Writing Program

APPROVED THIS 9 DAY OF  
October, 1995

  
David Westcott  
Acting Executive Director  
University of Oregon Foundation

**Exhibit A**



UNIVERSITY OF OREGON  
FOUNDATION

**Modification of Fund Agreement**

**Miriam McFall Starlin Poetry Endowment Fund**

**Modification of Purpose**

Whereas the parties entered into a prior Agreement in October 1995; and

Whereas current law does not allow the university to award scholarships exclusively to one gender ;

Therefore it is the parties' intent and agreement that the Foundation shall modify the purpose to become as follows:

The Fund will provide an annual source of income to be used to award the Miriam McFall Starlin Poetry Prize to graduate students in Creative Writing whose concentration is in poetry. Recipients will be selected by the Director of the Creative Writing Program from among candidates who have shown a significant talent for poetry, and who evidence promise of additional outstanding achievement.

All other terms and conditions of the previous agreement remain in effect.

*\* If possible I would prefer the designation as an Award not Prize*

Signature: Miriam M. Starlin  
Miriam M. Starlin, Donor

9/16  
Date

Signature: Karen G. Ford  
Karen Ford, Director, Creative Writing Program  
University of Oregon

9-20-09  
Date

Signature: Michael Redding  
Michael Redding, VP for University Advancement  
University of Oregon

9/29/09  
Date

Signature: Gary F. Livesay  
Gary F. Livesay, Chief Operating Officer  
University of Oregon Foundation

10-5-09  
Date

**Exhibit B**

CERTIFIED TRUE COPY



IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

In the Matter of the Miriam McFall Starlin Poetry  
Fund,

Case No. 52-10-15398

University of Oregon Foundation,  
Petitioner.

GENERAL JUDGMENT FOR  
MODIFICATION OF  
INSTITUTIONAL FUND

This matter having come before the court on the Petition of Petitioner University of Oregon Foundation, an Oregon nonprofit corporation, by and through its Chief Operating Officer, Gary F. Livesay, for the modification of the Miriam McFall Starlin Poetry Fund, and it appearing to the court from the records and files herein that:

1.

Service was made and perfected by regular mail to the persons entitled to notice as follows:

<u>Name</u>	<u>Date</u>
Susan A. Miller, Assistant Attorney General, State of Oregon	August 9, 2010
Randolph Geller, Deputy General Counsel, University of Oregon	August 9, 2010
Miriam M. Starlin, Donor, c/o Randolph Geller Deputy General Counsel, University of Oregon	August 9, 2010
///	
///	

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2.

Notice as required by Oregon law has been waived by all persons entitled thereto.

3.

Petitioner has obtained the consent of the Attorney General to the modification as required by Oregon law. The Consent and Waiver of Assistant Attorney General Susan A. Miller is filed herewith.

4.

Venue is properly in this court and no other court in this state has acquired jurisdiction in this matter.

5.

ORS 128.328 permits the modification of a purpose restriction in a gift instrument upon application to the court. ORS 130.200(1) permits the modification of a charitable trust upon application to the court. Consent to the modification has been obtained from the surviving Donor, Miriam M. Starlin. Petitioner has also obtained the consent of Randolph Geller, Deputy General Counsel, University of Oregon, beneficiary herein.

NOW, THEREFORE, it is hereby adjudged that a general judgment is entered as follows:

The Miriam McFall Starlin Poetry Fund shall be modified as set forth in Exhibit B of the Agreement Modifying Institutional Fund attached to the Petition filed herein. The Fund's award shall henceforth be known as the Miriam McFall Starlin Poetry Award.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Circuit Court Judge

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PETITIONER  
University of Oregon Foundation  
360 E. 10<sup>th</sup> Avenue, Suite 202  
Eugene, Oregon 97401-3273

ATTORNEYS FOR PETITIONER  
Jon V. Buerstatte, OSB # 822070  
Gleaves Swearingen Potter & Scott LLP  
P.O. Box 1147  
Eugene, Oregon 97440-1147  
(541) 686-8833  
(541) 345-2034 (Fax)  
Email: [buerstatte@gleaveslaw.com](mailto:buerstatte@gleaveslaw.com)

## CERTIFICATE OF SERVICE


I hereby certify that I served the foregoing General Judgment for Modification of Institutional Fund on the following persons on August 9, 2010, by depositing same in the United States Post Office at Eugene, Oregon, enclosed in a sealed envelope, with postage paid to the address noted below:

Miriam M. Starlin  
c/o Randolph Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Randolph Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Susan A. Miller  
Assistant Attorney General  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue Suite 410  
Portland, OR 97201

DATED: August 9, 2010.

  
\_\_\_\_\_  
Jon V. Buerstatte OSB # 822070  
Of Attorneys for Petitioner



1  
2  
3  
4 IN THE CIRCUIT COURT OF THE STATE OF OREGON  
5 FOR LANE COUNTY

6 In the Matter of the Miriam McFall Starlin Poetry  
7 Fund

Case No. 52-10-15398

8 University of Oregon Foundation,  
9 Petitioner.

ACCEPTANCE OF SERVICE  
(Attorney General)

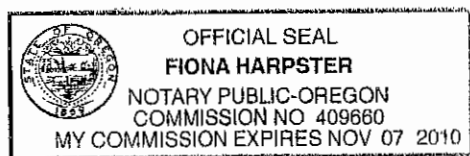
10 I, Susan A. Miller, Assistant Attorney General for the State of Oregon, Civil Enforcement  
11 Division, Charitable Activities, do hereby accept personal and legal service of a true copy of the  
12 Petition for Modification of Institutional Fund and Notice of Filing of Petition for Modification  
13 of Institutional Fund filed in the above-entitled matter, certified to be such by Jon V. Buerstatte,  
14 lawyer for Petitioner.  
15

16 DATED this 11 day of August, 2010.

17 Susan A Miller  
18 SUSAN A. MILLER OSB # 960960  
Assistant Attorney General for the State of Oregon

19 STATE OF OREGON )  
20 ) ss:  
County of Multnomah )

21 On this 11th day of August, 2010, the foregoing instrument was personally acknowledged  
22 before me by Susan A. Miller, Assistant Attorney General, State of Oregon.



Fiona Harpster  
Notary Public for Oregon  
My commission expires: 11.7.2010

1  
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5 IN THE CIRCUIT COURT OF THE STATE OF OREGON  
6 FOR LANE COUNTY  
7


8 In the Matter of the Miriam McFall Starlin Poetry  
9 Fund  
10 University of Oregon Foundation,  
Petitioner.

Case No. 52-10-15398

11 CONSENT AND WAIVER  
12 OF ATTORNEY GENERAL

13 I, Susan A. Miller, Assistant Attorney General for the State of Oregon, Civil Enforcement  
14 Division, Charitable Activities, have read the Petition for Modification of Institutional Fund  
15 herein. I approve the contents thereof, waive receipt of any required statutory notice and the right  
16 to object to the modification, and consent to the immediate entry of a judgment as requested in  
the Petition.

17 DATED this 11 day of August, 2010.

18   
19 \_\_\_\_\_  
20 Susan A. Miller OSB# 960960  
21 Assistant Attorney General for the State of Oregon



August 4, 2010

Susan A. Miller  
Assistant Attorney General  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue Suite 410  
Portland, OR 97201

Re: University of Oregon Foundation  
Thomas C. Stewart Business Professorship

Dear Susan:

I am enclosing for your review certified true copies of the Petition for Modification of Institutional Fund, the Notice of Filing of Petition for Modification of Institutional Fund, and proposed General Judgment for Modification of Institutional Fund in the Thomas C. Stewart Business Professorship institutional fund modification proceeding which we have filed on behalf of the University of Oregon Foundation.

If the documents meet with your approval, we would appreciate your signing and returning to us in the enclosed return envelope the Acceptance of Service and Consent and Waiver. We will then file the Acceptances and Consents received from you, from Thomas C. Stewart, and from Randy Geller with the court and submit the General Judgment for the judge's signature.

Thank you for your assistance in this matter.

Very truly yours,

Jon V. Buerstatte  
buerstatte@gleaveslaw.com

JVB:gdm  
Enclosures

cc: Gary Livesay (w/o encls.)  
Randy Geller (w/o encls.)  
Paul Weinhold (w/ encls.)  
Tom Herrmann (w/ encls.)

Phone:  
(541) 686-8833  
Fax:  
(541) 345-2034

975 Oak Street  
Suite 800  
Eugene, Oregon  
97401-3156

Mailing Address:  
P.O. Box 1147  
Eugene, Oregon  
97440-1147

Email:  
info@gleaveslaw.com  
Web-Site:  
www.gleaveslaw.com

Frederick A. Batson  
Jon V. Buerstatte  
Patricia L. Chapman\*\*  
Joshua A. Clark  
Michael T. Faulconer\*\*  
Howard F. Feinman  
Thomas P. E. Herrmann\*  
Dan Webb Howard\*\*  
Cassie K. Kellogg  
Stephen O. Lane  
Valeri L. Love  
William H. Martin\*  
Walter W. Miller  
Laura T. Z. Montgomery\*  
Thomas K. N. Moseman  
Laurie A. Nelson  
Ian T. Richardson  
Martha J. Rodman  
Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman  
Jane M. Yates

\*Also admitted  
in Washington

\*\*Also admitted  
in California

August 4, 2010

Randy Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Re: University of Oregon Foundation  
Thomas C. Stewart Business Professorship

Dear Randy:

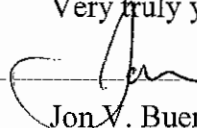
I am enclosing for your review certified true copies of the Petition for Modification of Institutional Fund, the Notice of Filing of Petition for Modification of Institutional Fund, and proposed General Judgment for Modification of Institutional Fund in the Thomas C. Stewart Business Professorship institutional fund modification proceeding which we have filed on behalf of the University of Oregon Foundation.

If the documents meet with your approval, we would appreciate your signing and returning to us in the enclosed return envelope the Acceptance of Service and Consent and Waiver. Additionally, we have enclosed for your review the documents for service upon Thomas C. Stewart Donor. We would appreciate your forwarding these document to Donor Relations so that that department may send the documents on to Mr. Stewart.

Once we receive the Acceptances and Consents from you, from Mr. Stewart, and from Susan Miller of the AG's office, we will file those with the court and submit the General Judgment for the judge's signature.

Thank you for your assistance in this matter.

Very truly yours,



Jon V. Buerstatte  
buerstatte@gleaveslaw.com

JVB:gdm  
Enclosures

cc: Gary Livesay (w/o encls.)  
Susan Miller (w/o encls.) ✓  
Paul Weinholt (w/ encls.)  
Tom Herrmann (w/ encls.)

Phone:  
(541) 686-8833  
Fax:  
(541) 345-2034

975 Oak Street  
Suite 800  
Eugene, Oregon  
97401-3156

Mailing Address:  
P.O. Box 1147  
Eugene, Oregon  
97440-1147

Email:  
info@gleaveslaw.com  
Web-Site:  
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Frederick A. Batson  
Jon V. Buerstatte  
Patricia L. Chapman\*\*  
Joshua A. Clark  
Michael T. Faulconer\*\*  
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Thomas P. E. Herrmann\*  
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William H. Martin\*  
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Laura T. Z. Montgomery\*  
Thomas K. N. Moseman  
Laurie A. Nelson  
Ian T. Richardson  
Martha J. Rodman  
Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman  
Jane M. Yates

\*Also admitted  
in Washington

\*\*Also admitted  
in California

Mr. Thomas C. Stewart  
August 9, 2010  
Page - 2

represent the University of Oregon Foundation. If you would prefer that we speak with your attorney about this matter, we would be pleased to do so.

Best regards.

Very truly yours,



Jon V. Buerstatte  
buerstatte@gleaveslaw.com

JVB:gdm  
Enclosures

cc: Gary Livesay (w/o encls.)  
Susan Miller (w/o encls.) ✓  
Randy Geller (w/o encls.)  
Paul Weinhold (w/o encls.)  
Tom Herrmann (w/o encls.)

CERTIFIED TRUE COPY

*[Handwritten signature]*

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF LANE

In the Matter of the Thomas C. Stewart  
Business Professorship,  
  
University of Oregon Foundation,  
Petitioner.

Case No. 52-10-15397

NOTICE OF FILING OF PETITION  
FOR MODIFICATION OF  
INSTITUTIONAL FUND

To: Susan A. Miller, Assistant Attorney General for the State of Oregon, Civil Enforcement Division, Charitable Activities, Thomas C. Stewart, Donor, and Randolph Geller, Deputy General Counsel for the University of Oregon.

You are hereby notified that the attached document was filed by the undersigned in the above entitled court on the 14th day of July, 2010. Unless you file objections to the petition within 120 days after August 9, 2010, the petition will be granted and the resulting judgment will be binding on all persons interested in the trust.

If you file objections within the 120 day period, the court will fix a time and place for a hearing. At least 10 days before the date of that hearing, you must serve a copy of your objections and give notice of the time and place of the hearing to all persons interested in the

///

///

1 trust. See ORS 130.200.

2 DATED this 9th day of August, 2010.

3 

4 Jon V. Buerstatte OSB # 822070  
Of Attorneys for Petitioner

5 PETITIONER  
6 University of Oregon Foundation  
7 360 E. 10<sup>th</sup> Avenue, Suite 202  
8 Eugene, OR 97401-3273

9 ATTORNEY FOR PETITIONER  
10 Jon V. Buerstatte  
11 OSB # 822070  
12 Gleaves Swearingen Potter & Scott LLP  
13 975 Oak Street, Suite 800  
14 Eugene, OR 97401  
15 541-345-2034 (fax no.)  
16 buerstatte@gleaveslaw.com

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CERTIFIED TRUE COPY

*[Handwritten Signature]*

FILED  
2010 JUL 14 PM 3:31  
CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

In the Matter of the Thomas C. Stewart Business  
Professorship

University of Oregon Foundation,  
Petitioner.

Case No. 52-10-15397

PETITION FOR MODIFICATION OF  
INSTITUTIONAL FUND

UNIVERSITY OF OREGON FOUNDATION, an Oregon nonprofit corporation, by and through its Chief Operating Officer, Gary F. Livesay, petitioner, represents to and petitions the court as follows:

1. Attorney General Consent. The Attorney General's consent to the modification requested herein is required by ORS 130.200(1) and ORS 128.328(1). Petitioner has received the Attorney General's consent to the modification (see page 2 of Exhibit 1) and will seek a signed Consent for filing in this proceeding.

2. Venue. Venue for this matter lies in Lane County because the institutional fund is administered in Lane County, Oregon.

3. Historical Background of Fund. In 1991, Donor Thomas C. Stewart established the Stewart Endowed Professorship to support retention of and support for the professional



1 development of a business faculty member. The award was for two years with an opportunity  
2 for renewal See Exhibit A, attached hereto and incorporated herein.


3 4. Reason for Modification. The parties have agreed to modify the purpose of the  
4 fund to more strategically award faculty excellence within the Lundquist College of Business.  
5 Awards will be made on an annual basis with a set stipend and potential additional award for  
6 professional development costs. Additionally, the name of the fund will be change to the  
7 Thomas C. Stewart Distinguished Faculty Fund. See Exhibit B, attached hereto and incorporated  
8 herein.

9 5. Statutory Basis for Modification (UPMIFA). ORS 128.328(1) permits the  
10 modification of a purpose restriction in a gift instrument when the donor consents. Mr. Stewart  
11 has consented to this modification (see page 2 of Exhibit 1 and page 2 of Exhibit B).

12 6. Statutory Basis for Modification (UTC). ORS 130.200(1) permits the  
13 modification of an irrevocable charitable trust with Attorney General approval where the settlor  
14 and all the beneficiaries consent. Mr. Stewart is the sole settlor/donor, and the beneficiary, the  
15 Lundquist College of Business (formerly the College of Business of Administration) of the  
16 Univesity of Oregon, also consents. As stated above, the Oregon Attorney General's office also  
17 consents.

18  
19 WHEREFORE, petitioner prays for a general judgment approving the modification of the  
20 institutional fund as set forth in Exhibit B of Exhibit 1, attached hereto and incorporated herein,  
21 and changing the name of the fund to the Thomas C. Stewart Distinguished Faculty Fund.

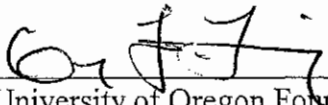
22  
23 Dated this 3 day of June, 2010.

24   
25 \_\_\_\_\_  
26 University of Oregon Foundation  
By: Gary F. Livesay  
Chief Operating Officer, Petitioner

///

1           **I, GARY F. LIVESAY, HEREBY DECLARE THAT THE ABOVE STATEMENT**  
2 **IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I**  
3 **UNDERSTAND IT IS MADE FOR USE AS EVIDENCE IN COURT AND IS SUBJECT**  
4 **TO PENALTY FOR PERJURY.**

5 Dated: June 3, 2010.

  
\_\_\_\_\_  
University of Oregon Foundation  
By: Gary F. Livesay  
Chief Operating Officer, Petitioner

8 PETITIONER  
9 University of Oregon Foundation  
10 360 E. 10<sup>th</sup> Avenue, Suite 202  
11 Eugene, Oregon 97401-3273

ATTORNEYS FOR PETITIONER  
Jon V. Buerstatte, OSB # 822070  
Gleaves Swearingen Potter & Scott LLP  
P.O. Box 1147  
Eugene, Oregon 97440-1147  
(541) 686-8833  
(541) 345-2034 (Fax)  
Email: buerstatte@gleaveslaw.com

**AGREEMENT MODIFYING INSTITUTIONAL FUND**

**PARTIES:**

University of Oregon Foundation (A.K.A. University of Oregon Development Fund) (the "Foundation")

University of Oregon

Thomas C. Stewart, Donor

**RECITALS:**

- A. The Parties desire to modify the Thomas C. Stewart Business Professorship, dated May, 1991 (the "Institutional Fund"), a copy of which is attached hereto as Exhibit "A."
- B. The Parties and the Oregon Attorney General constitute all persons and entities whose signatures are required for this Agreement to be effective pursuant to ORS Chapter 130.

**AGREEMENT:**

NOW, THEREFORE, in consideration of the foregoing recitals that are by this reference expressly made a part hereof, and in consideration of the terms hereinafter contained, the Parties agree as follows:

1. Modification of Institutional Fund

On the Effective Date, the Institutional Fund shall be modified as set forth in Exhibit "B" attached hereto and by this reference incorporated herein.

2. Effective Date

This Agreement shall be effective on the date that all Parties and the Oregon Attorney General have each signed this Agreement and, if required by law, this Agreement has been approved by the Circuit Court of the State of Oregon for Lane County.

3. Tax Consequences

Donor accepts sole responsibility for tax consequences, if any, that result from the aforesaid modification of the Institutional Fund.

4. Number, Gender and Captions

As used herein, the singular shall include the plural and the plural the singular, as the context requires. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this Agreement.

5. Counterparts

This Agreement has been prepared and may be executed in multiple counterparts, each of which shall constitute an original. Each party may execute a separate counterpart, all of which when assembled shall constitute this Agreement, fully executed.


6. Original Agreement

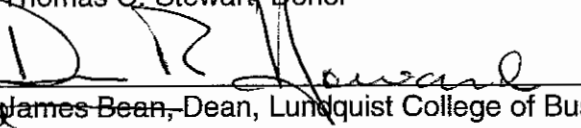
The Institutional Fund, as amended, and each term and provision thereof shall remain in full force and effect, except as herein modified, amended or restated.

7. Entire Agreement

This Agreement and the exhibit hereto constitute the final written expression of all terms of the Institutional Fund and when read together they constitute the complete and exclusive statement of those terms.

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on the date set opposite their respective signatures below.

Signature:  1 OCT 2009  
Thomas C. Stewart, Donor Date

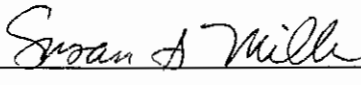
Signature:  3/4/10  
James Bean, Dean, Lundquist College of Business Date  
University of Oregon  
Dennis Howard

Signature:  2/26/10  
Michael Redding, VP for University Advancement Date  
University of Oregon

Signature:  9-12-09  
Gary F. Livesay, Chief Operating Officer Date  
University of Oregon Foundation

ORS 130.200 provides that, in certain instances, in order for an agreement modifying charitable funds held in trust subject to the enforcement or supervisory powers of the state or the Attorney General under ORS 128.610 to 128.750 to be effective, the Attorney General for the State of Oregon must consent to the agreement. The Institutional Fund is an agreement that may be subject to that requirement. The foregoing Agreement Modifying Institutional Fund is hereby consented to.

ATTORNEY GENERAL

By  OSB 960960 5/27/10  
Susan A. Miller, Assistant Attorney General Date



# UNIVERSITY OF OREGON

## UNIVERSITY OF OREGON FOUNDATION

### Endowment Fund Agreement

#### Thomas C. Stewart Business Professorship

I, Thomas C. Stewart (DONOR), hereby pledge the amount of \$250,000 to the University of Oregon Foundation (FOUNDATION) for the purpose of establishing an endowment to provide support for a Professorship within the College of Business Administration at the University of Oregon. The pledge will be paid by DONOR according to the following payment schedule:

- \* \$50,000 on or before May 15, 1991;
- \* \$50,000 on or before May 15 of each successive year from 1992 through 1995.
- \* Additional amounts at the discretion of Mr. Stewart may be provided after the completion of his \$250,000 pledge.

In the event that Thomas C. Stewart dies before the completion of the proposed payment schedule, future payments equal to the remaining balance of his pledge will not be provided by his estate.

The FOUNDATION shall establish the Stewart Endowed Professorship fund (the FUND), as a permanent endowment, and manage the payments provided by DONOR for the purposes specified below. It is assumed that the FUND will qualify for matching through the faculty endowment matching program established by the 1989 Oregon Legislature. At some future time, DONOR or his family may make payments to the FUND which are in addition to the amount currently pledged. These additional payments will be subject in all respects to the terms, provisions, and conditions of this agreement.

Therefore,

The following purposes and conditions will govern the management of the FUND by the FOUNDATION:

1. The FUND principal will be invested in a prudent manner so that the net income and an appropriate amount of FUND appreciation is used to support the intended purposes of the DONOR.

**Exhibit A**

UNIVERSITY OF OREGON FOUNDATION  
Endowment Fund Agreement  
Thomas C. Stewart Business Professorship

Page 2

2. Annual income and appreciation from the FUND will be used to support a business faculty member known as the Thomas C. Stewart Business Professor. The Stewart Professor will be chosen by the Dean of the College of Business Administration and the President of the MBA Association, with approval required by Mr. Thomas C. Stewart or his designee. The Stewart Professorship will be awarded to a faculty member known for his/her distinction as a business teacher and scholar and is intended to assist the College of Business Administration in the retention of an outstanding business faculty member.
3. From the FUND, the Stewart Professor will receive an annual salary supplement equal to 25% of his/her university-supplied academic year base salary. The Stewart Professor will also receive \$4,000 annually to support his/her professional development needs. The term of appointment of the Stewart Professor is two years with opportunity for renewal.
4. Any income not utilized in a given year may be either retained for expenditure in a future year or added to the principal of the FUND, as determined by the FOUNDATION, after consultation with the Dean, to be in the best interest of the FUND. For its services in holding and managing the FUND, the FOUNDATION will charge a fee consistent with the costs associated with managing the FUND.
5. For investment purposes, all or any part of the FUND may be merged with the general investment assets of the FOUNDATION.
6. The endowment FUND hereby created shall be and is expressly declared to be perpetual and irrevocable and not subject to amendment or modification. However, if at some future time a change of circumstances should render the designated purpose of the FUND no longer practical (such as closure of the College of Business Administration) then, and only then, the Board of Trustees of the FOUNDATION shall use the total net income, and so much of the appreciation of the FUND as it may deem prudent, but not the principal, to further the objectives and purposes of the University, given

Exhibit A

University of Oregon Foundation  
Endowment Fund Agreement  
Thomas C. Stewart Business Professorship

Page 3

due consideration to the special interests expressed above. If this event occurs, then the provision within Article 2 regarding approval by Mr. Stewart, or his designee, of the Stewart Professorship appointee, shall still apply.

IN WITNESS WHEREOF, the parties to this agreement have subscribed their names hereto:

DATED THIS 15<sup>th</sup> DAY OF

[Signature], 1991  
Thomas C. Stewart

APPROVED THIS 15<sup>th</sup> DAY OF

May, 1991

[Signature]  
James E. Reinmuth, Dean  
College of Business Administration  
University of Oregon

ACCEPTED THIS 22 DAY OF

May, 1991

[Signature]  
Robert H. Atkinson, Jr.  
President  
University of Oregon Foundation

JER:lg  
fp\Stewart  
5/15/91



## Modification of Endowment Fund Agreement

### Thomas C. Stewart Distinguished Faculty Fund

Formerly known as the Thomas C. Stewart Business Professorship

#### Modification of Name and Purpose

Whereas the parties entered into a prior Agreement in May, 1991; and

Whereas the amount of funds available can be used more strategically within the college to award faculty excellence;

Therefore it is the parties' intent and agreement that the name and purpose shall be modified to become as follows:

The Thomas C. Stewart Distinguished Faculty Fund

The purpose of the Fund shall be to utilize no more than 4% of the value of the fund on an annual basis to reward excellence in faculty performance that significantly enhances the visibility and strategic directions of the Lundquist College of Business (LCB) and University.

Title: Stewart Distinguished Professor (or Stewart Distinguished Faculty) depending on rank.

Eligibility: Tenure track faculty of any rank or (Senior) Instructors with appointments in LCB of 0.5 or above.

Duration: One year, January 1 through December 31.

Selection Process: LCB students, faculty and staff as well as the Business Advisory Council are invited to make nominations to the Stewart Selection Committee. The nomination process will be developed by the Associate Dean for Academic Affairs. The Selection Committee is appointed by the Dean and consists of one instructor, one assistant professor, one associate professor, and two professors not nominated in the current round. The Selection Committee will make a recommendation to the Dean for approval. The Dean may approve or return the recommendation to the Selection Committee with comments. Criteria for selection will be: accomplishments that lead to distinction at a world-class level and further the strategic objectives of the College. These accomplishments may be in research, teaching, leadership, or a combination of these, and may have taken place during or across the previous three years. Nominations will be solicited in June each year and the selection committee will report to the Dean by September 30.

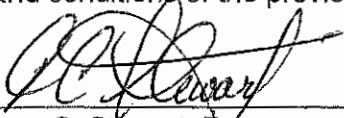
Awards: Title as above, \$10,000 minimum stipend and additional professional development funds as funds are available. Any professional development funds received by the awardee should be secondary to the award and should not take away from the primary purpose of the fund.

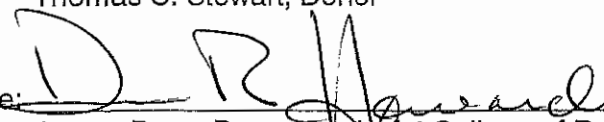


Announcement and Celebration: In December of each year, the Lundquist College of Business will announce the recipient of the Stewart Distinguished Professor and share the news of his or her appointment with members of the campus community. Proceeds from the endowment should be used for any event expenses related to the announcement of the Stewart Professor.

Further, it is agreed that the annual administrative fee charged by the Foundation shall not exceed 1.5%.

All other terms and conditions of the previous agreement remain in effect.

Signature:  10 OCT 2009  
Thomas C. Stewart, Donor Date

Signature:  3/4/10  
~~Dennis Howard~~ James Bean, Dean, Lundquist College of Business Date  
University of Oregon

Signature:  2/26/10  
Michael Redding, VP for University Advancement Date  
University of Oregon

Signature:  9.12.09  
Gary F. Livesay, Chief Operating Officer Date  
University of Oregon Foundation

ORIGINAL COPY  
[Handwritten signature]

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

In the Matter of the Thomas C. Stewart  
Business Professorship  
  
University of Oregon Foundation,  
Petitioner.

Case No. 52-10-15397

GENERAL JUDGMENT FOR  
MODIFICATION OF  
INSTITUTIONAL FUND

This matter having come before the court on the Petition of Petitioner University of Oregon Foundation, an Oregon nonprofit corporation, by and through its Chief Operating Officer, Gary F. Livesay, for the modification of the Thomas C. Stewart Business Professorship, and it appearing to the court from the records and files herein that:

1.

Service was made and perfected by regular mail to the persons entitled to notice as follows:

<u>Name</u>	<u>Date</u>
Susan A. Miller, Assistant Attorney General, State of Oregon	August 9, 2010
Randolph Geller, Deputy General Counsel, University of Oregon	August 9, 2010
Thomas C. Stewart, c/o Randolph Geller, Deputy General Counsel, University of Oregon	August 9, 2010
///	
///	

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2.

Notice as required by Oregon law has been waived by all persons entitled thereto.

3.

Venue is properly in this court and no other court in this state has acquired jurisdiction in this matter.

4.

Petitioner has obtained the consent of the Attorney General to the modification termination as required by Oregon law. The Consent and Waiver of Assistant Attorney General Susan A. Miller is filed herewith.

5.

Petitioner has obtained consent to the modification from Donor Thomas C. Stewart and from Randolph Geller, Deputy General Counsel for the University of Oregon, beneficiary herein.

6.

ORS 128.328 permits the modification of a purpose restriction in a gift instrument when the donor, the beneficiary, and the Attorney General consent. ORS 130.200 permits modification of a charitable trust when the settlor/donor, the beneficiary, and the Attorney General consent.

NOW, THEREFORE, it is hereby adjudged that a general judgment is entered as follows:

The Thomas C. Stewart Business Professorship shall be modified as set forth in Exhibit B of the Agreement Modifying Institutional Fund attached to the Petition filed herein and shall henceforth be known as the Thomas C. Stewart Distinguished Faculty Fund.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Circuit Court Judge

1 PETITIONER  
2 University of Oregon Foundation  
3 360 E. 10<sup>th</sup> Avenue, Suite 202  
4 Eugene, Oregon 97401-3273

ATTORNEYS FOR PETITIONER  
Jon V. Buerstatte, OSB # 822070  
Gleaves Swearingen Potter & Scott LLP  
P.O. Box 1147  
Eugene, Oregon 97440-1147  
(541) 686-8833  
(541) 345-2034 (Fax)  
Email: [buerstatte@gleaveslaw.com](mailto:buerstatte@gleaveslaw.com)

## CERTIFICATE OF SERVICE


I hereby certify that I served the foregoing General Judgment for Modification of Institutional Fund on the following persons on August 9, 2010, by depositing same in the United States Post Office at Eugene, Oregon, enclosed in a sealed envelope, with postage paid to the address noted below:

Thomas C. Stewart  
c/o Randolph Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Randolph Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Susan A. Miller  
Assistant Attorney General  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue Suite 410  
Portland, OR 97201

DATED: August 9, 2010.

  
\_\_\_\_\_  
Jon V. Buerstatte OSB # 822070  
Of Attorneys for Petitioner

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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

In the Matter of the Thomas C. Stewart Business  
Professorship

Case No. 52-10-15397

University of Oregon Foundation,  
Petitioner.

ACCEPTANCE OF SERVICE  
(Attorney General)

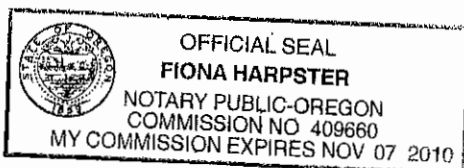
I, Susan A. Miller, Assistant Attorney General for the State of Oregon, Civil Enforcement Division, Charitable Activities, do hereby accept personal and legal service of a true copy of the Petition for Modification of Institutional Fund and Notice of Filing of Petition for Modification of Institutional Fund filed in the above-entitled matter, certified to be such by Jon V. Buerstatte, lawyer for Petitioner.

DATED this 11 day of August, 2010.

Susan A Miller  
SUSAN A. MILLER OSB # 960960  
Assistant Attorney General for the State of Oregon

STATE OF OREGON            )  
  ) ss:  
County of Multnomah        )

On this 11<sup>th</sup> day of August, 2010, the foregoing instrument was personally acknowledged before me by Susan A. Miller, Assistant Attorney General, State of Oregon.



Fiona Harpster  
Notary Public for Oregon  
My commission expires: 11.7.2010

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5 IN THE CIRCUIT COURT OF THE STATE OF OREGON  
6 FOR LANE COUNTY  
7


8 In the Matter of the Thomas C. Stewart Business  
9 Professorship  
10 University of Oregon Foundation,  
11 Petitioner.

Case No. 52-10-15397

12 CONSENT AND WAIVER  
13 OF ATTORNEY GENERAL

14 I, Susan A. Miller, Assistant Attorney General for the State of Oregon, Civil Enforcement  
15 Division, Charitable Activities, have read the Petition for Modification of Institutional Fund  
16 herein. I approve the contents thereof, waive receipt of any required statutory notice and the right  
17 to object to the modification, and consent to the immediate entry of a judgment as requested in  
18 the Petition.

19 DATED this 11 day of August, 2010.

20   
21 Susan A. Miller OSB# 960960  
22 Assistant Attorney General for the State of Oregon  
23  
24  
25  
26



2.10  
May 24, 2010

*Time ✓  
JPM*

Ms. Susan Miller  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue, # 410  
Portland, Oregon 97201

Re: University of Oregon Foundation  
Dynamic Measurement Group Research Award for Literacy Study

Dear Susan:

I am enclosing for your review a proposed Agreement Modifying Institutional Fund in the Dynamic Measurement Group Research Award for Literacy Study. This Fund was established in 2006 by Ruth Kaminski and Roland Good III of Dynamic Measurement Group, Inc. The original purpose was to support research by doctoral students in early literacy and related areas. Sufficient funds are now available so that the parties wish to broaden the purpose to support other graduate students in addition to doctoral students when no or limited doctoral dissertation projects qualify for the award. All original donors have signed the Modification Agreement, but as I stated in a recent letter, we believe that court approval of the modification will be necessary due to the change in ORS 130.200(1).

If the Modification Agreement meets with your approval, please sign where indicated and return the originals to us in the enclosed envelope. If you have questions or need additional information please do not hesitate to let me know.

Very truly yours,

Laurie A. Nelson  
nelson@gleaveslaw.com

LAN: gdm  
Enclosures

cc: Gary Livesay (w/o encls.)  
Paul Weinhold (w/o encls.)  
Thomas P.E. Herrmann (w/o encls.)  
Jon V. Buerstatte (w/o encls.)

Phone:  
(541) 686-8833  
Fax:  
(541) 345-2034

975 Oak Street  
Suite 800  
Eugene, Oregon  
97401-3156

Mailing Address:  
P.O. Box 1147  
Eugene, Oregon  
97440-1147

Email:  
info@gleaveslaw.com  
Web-Site:  
www.gleaveslaw.com

Frederick A. Batson  
Jon V. Buerstatte  
Patricia L. Chapman\*\*  
Joshua A. Clark  
Michael T. Faulconer\*\*  
Howard F. Feinman  
Thomas P. E. Herrmann\*  
Dan Webb Howard\*\*  
Cassie K. Kellogg  
Stephen O. Lane  
Valeri L. Love  
William H. Martin\*  
Walter W. Miller  
Laura T. Z. Montgomery\*  
Thomas K. N. Moseman  
Laurie A. Nelson  
Ian T. Richardson  
Martha J. Rodman  
Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman  
Jane M. Yates

\*Also admitted  
in Washington

\*\*Also admitted  
in California



**AGREEMENT MODIFYING INSTITUTIONAL FUND**

**PARTIES:**

University of Oregon Foundation (A.K.A. University of Oregon Development Fund) (the "Foundation")  
University of Oregon, College of Education  
Dynamic Measurement Group, Inc., Donor

**RECITALS:**

- A. The Parties desire to modify the Dynamic Measurement Group Research Award for Literacy Study Institutional Fund Agreement, dated January 2006 (the "Institutional Fund"), a copy of which is attached hereto as Exhibit "A."
- B. The Parties and the Oregon Attorney General constitute all persons and entities whose signatures are required for this Agreement to be effective pursuant to ORS Chapter 130.

**AGREEMENT:**

NOW, THEREFORE, in consideration of the foregoing recitals that are by this reference expressly made a part hereof, and in consideration of the terms hereinafter contained, the Parties agree as follows:

1. Modification of Institutional Fund

On the Effective Date, the Institutional Fund shall be modified as set forth in Exhibit "B" attached hereto and by this reference incorporated herein.

2. Effective Date

This Agreement shall be effective on the date that all Parties and the Oregon Attorney General have each signed this Agreement and, if required by law, this Agreement has been approved by the Circuit Court of the State of Oregon for Lane County.

3. Tax Consequences

Donor accepts sole responsibility for tax consequences, if any, that result from the aforesaid modification of the Institutional Fund.

4. Number, Gender and Captions

As used herein, the singular shall include the plural and the plural the singular; as the context requires. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this Agreement.

5. Counterparts

This Agreement has been prepared and may be executed in multiple counterparts, each of which shall constitute an original. Each party may execute a separate counterpart, all of which when assembled shall constitute this Agreement, fully executed.

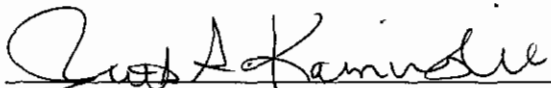
6. Original Agreement


The Institutional Fund, as amended, and each term and provision thereof shall remain in full force and effect, except as herein modified, amended or restated.

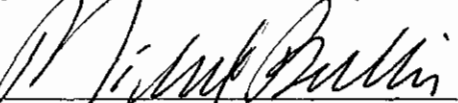
7. Entire Agreement

This Agreement and the exhibit hereto constitute the final written expression of all terms of the Institutional Fund and when read together they constitute the complete and exclusive statement of those terms.


IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on the date set opposite their respective signatures below.

Signature:  3/26/10  
Ruth A. Kaminski, President  
Dynamic Measurement Group Inc., Donor  
Date

Signature:  3/26/10  
Roland H. Good, III, Vice President  
Dynamic Measurement Group Inc., Donor  
Date

Signature:  4/5/10  
Michael Bullis, Dean, College of Education  
University of Oregon  
Date

Signature:  4/12/10  
Michael Redding, VP for University Advancement  
University of Oregon  
Date

Signature:  4-27-10  
Gary F. Livesay, Chief Operating Officer  
University of Oregon Foundation  
Date

ORS 130.200 provides that, in certain instances, in order for an agreement modifying charitable funds held in trust subject to the enforcement or supervisory powers of the state or the Attorney General under ORS 128.610 to 128.750 to be effective, the Attorney General for the State of

Oregon must consent to the agreement. The Institutional Fund is an agreement that may be subject to that requirement. The foregoing Agreement Modifying Institutional Fund is hereby consented to.

ATTORNEY GENERAL

By Susan A Miller OSB 960960 5/24/10  
Susan A. Miller, Assistant Attorney General Date



UNIVERSITY OF OREGON  
FOUNDATION

## *Endowment Fund Agreement*

### **Dynamic Measurement Group Research Award for Literacy Study**

Whereas the University of Oregon Foundation (the Foundation) has received contributions given with the intent of establishing an endowment to provide support for College of Education at the University of Oregon (the University).

Therefore the Foundation shall establish the **Dynamic Measurement Group Research Award for Literacy Study** (the Fund) as a permanent endowment. So much of the net income and net appreciation of the Fund as the Foundation may deem prudent shall be utilized for the purposes set forth in this Agreement.

#### ***Background***

Established by Dynamic Measurement Group, under the guidance of Drs. Ruth Kaminski and Roland Good III, this award was established in honor of the scholars on the Research Team who developed initial versions and provided the initial research base for the Dynamic Indicators of Basic Early Literacy Skills (DIBELS) and the Indicadores Dinámicos del Éxito en la Lectura (IDEL). These measures were developed to inform educational decisions enabling early intervention and prevention for literacy difficulty.

#### ***Purpose***

The purpose of the Fund is to support doctoral students who are developing or conducting research on measurement, intervention, or instructional support regarding early literacy or related areas. It is intended to support students in the School Psychology, Special Education, Educational Leadership academic areas or related programs where the focus is on improving the lives of at-risk populations including students with disabilities.

The award is to be used to develop and conduct research on early literacy and related outcomes. Related outcomes may include the broad range of educational challenges like behavior problems that may serve as barriers to early literacy growth and acquisition.

#### ***Recipient Criteria***

Preference will be given to support dissertation research projects for doctoral students. If no or limited doctoral student dissertation projects are qualified for this award in a given year, the annual disbursement from the fund may also be given as scholarships to other graduate students whose work and interest is in early literacy in the programs listed above.

- ~~Recipients must have demonstrated academic excellence.~~
- The recipient's academic studies are to primarily focus on the importance of early literacy and the prevention of reading failure.
- The recipient must show interest in a system-wide change approach in schools.

Special consideration: The donors intend this dissertation research award to be given to students in addition to any other scholarship, Graduate Teaching Fellowship, or Training Grant Stipend that the student might otherwise receive or be eligible to receive.

## **Exhibit A**

**Administrative Provisions**

1. A one-time fee equivalent to 3% of the original gift value will be charged to this endowed gift. In addition, a reasonable fee may be charged by and paid to the Foundation annually to cover the cost of administrative and fundraising expenses incurred on behalf of the Fund.
2. Any distribution made for current-use purposes not utilized in a given year may either be retained by the department head for expenditure in a future year or reinvested in the Fund, as determined by the department head.
3. For investment purposes, all or any part of the Fund may be merged with the other investment assets of the Foundation and invested at the discretion of the Board of Trustees of the Foundation.
4. Additions to the Fund in the form of property acceptable to the Foundation may be made at any time and shall thereafter be subject in all respects to the terms, provisions, and conditions of this Agreement.
5. The Fund hereby created shall be and is expressly declared to be a perpetual endowment. However, if at some future time a change of circumstances should render the designated purpose of the Fund no longer practical, then, and only then, the Board of Trustees of the Foundation, in consultation with the Dean of the College of Education, shall use so much of the net income and the net appreciation of the Fund as it may deem prudent to further the objectives and purposes of the University of Oregon with retention of the Fund name and giving due consideration to the special interests expressed above.
6. The Fund shall be managed in accordance with the Uniform Management of Institutional Funds Act as adopted by the State of Oregon.

In witness whereof, the parties to this Agreement have subscribed their names hereto:

12/31/05

DATE

1/2/06

DATE

APPROVED BY:

1/3/06

DATE

Ruth Kaminski

Ruth Kaminski

Roland Good III

Roland Good III

Michael Bullis

Michael Bullis  
Interim Dean, College of Education  
University of Oregon

20 January 2006

DATE

Karen A. Kreft

Karen A. Kreft  
President & CEO  
University of Oregon Foundation

**Exhibit A**



UNIVERSITY OF OREGON  
FOUNDATION

## **Modification of Fund Agreement**

### **Dynamic Measurement Group Research Award for Literacy Study**

#### **Modification of Purpose**

Whereas the parties entered into a prior Agreement in January 2006; and

Whereas abundant funds are available and the parties wish to expand the original use;

Therefore it is the parties' intent and agreement that the Foundation shall modify the purpose to become as follows:

The purpose of the Fund is to support students who are developing or conducting research on measurement, intervention, or instructional support regarding early literacy or related areas. It is intended to support students in the School Psychology, Special Education, Educational Leadership academic areas or related programs where the focus is on improving the lives of at-risk populations including students with disabilities.

The award is to be used to develop, conduct and present research on early literacy and related outcomes. Related outcomes may include the broad range of educational challenges like behavior problems that may serve as barriers to early literacy growth and acquisition. The award may also support student travel for professional development related to literacy research.

Preference will be given to support dissertation research projects for doctoral. If no or limited doctoral student dissertation projects are qualified for this award in a given year, the annual disbursement from the fund may also be given as scholarships to other graduate students whose work and interest is consistent with the endowment purpose. If the initial preferences are met, funds may then be disbursed to students to support travel for professional development related to literacy research.

- Recipients must have demonstrated academic excellence.
- The recipient's academic studies are to primarily focus on the importance of literacy or early literacy and the prevention of reading failure.
- The recipient must show interest in a system-wide change approach in schools.


Special consideration: The donors intend this Dissertation Research Award to be given to students in addition to any other scholarship, Graduate Teaching Fellowship, or Training Grant Stipend that the student might otherwise receive or be eligible to receive.

Additional uses of the fund: As the fund grows, it is the donors' intent that a portion of the funds may be used to support student development in the area of interest outlined above. In addition to dissertation research and scholarships, the funds may

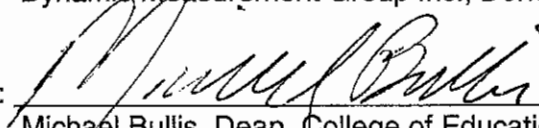
## **Exhibit B**

also be used to support professional development in such activities as travel support to attend conferences and/or present information and other activities deemed appropriate to their program.

All other terms and conditions of the previous agreement remain in effect.

Signature:  3/26/10  
Ruth A. Kaminski, President  
Dynamic Measurement Group Inc., Donor  
Date

Signature:  3/26/10  
Roland H. Good, III, Vice President  
Dynamic Measurement Group Inc., Donor  
Date

Signature:  4/5/10  
Michael Bullis, Dean, College of Education  
University of Oregon  
Date

Signature:  5/12/10  
Michael Redding, VP for University Advancement  
University of Oregon  
Date

Signature:  4-27-10  
Gary F. Livesay, Chief Operating Officer  
University of Oregon Foundation  
Date

**Exhibit B**

FILED

2010 SEP -7 AM 10:11

CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

In the Matter of the Dynamic Measurement  
Group Research Award for Literacy Study

Case No.52-10-15396

GENERAL JUDGMENT FOR  
MODIFICATION OF  
INSTITUTIONAL FUND

University of Oregon Foundation,  
Petitioner.

This matter having come before the court on the Petition of Petitioner University of Oregon Foundation, an Oregon nonprofit corporation, by and through its Chief Operating Officer, Gary F. Livesay, for the modification of the Dynamic Measurement Group Research Award for Literacy Study, and it appearing to the court from the records and files herein that:

1.

Service was made and perfected by regular mail to the persons entitled to notice as follows:

<u>Name</u>	<u>Date</u>
Susan A. Miller, Assistant Attorney General, State of Oregon	August 9, 2010
Randolph Geller, Deputy General Counsel, University of Oregon	August 9, 2010
Ruth A. Kaminski, President, and Ronald H. Good, III, Vice President, Dynamic Measurement Group, Inc. c/o Randolph Geller, Deputy General Counsel, University of Oregon	August 9, 2010



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2.

Notice as required by Oregon law has been waived by all persons entitled thereto.

3.

Venue is properly in this court and no other court in this state has acquired jurisdiction in this matter.

4.

Petitioner has obtained the consent of the Attorney General to the modification as required by Oregon law. The Consent and Waiver of Assistant Attorney General Susan A. Miller is filed herewith.

5.

ORS 128.328(1) permits the modification of a purpose restriction in a gift instrument when the donors consent. ORS 130.200(1) permits the modification of a charitable trust where the settlor/donor and all the beneficiaries consent. Ms. Kaminski and Mr. Good of Dynamic Measurement Group, Inc., Donor, consent to the modification. Petitioner has also obtained the consent of Randolph Geller, Deputy General Counsel, University of Oregon, beneficiary herein.

NOW, THEREFORE, it is hereby adjudged that a general judgment is entered as follows:

The Dynamic Measurement Group Research Award for Literacy Study shall be modified as set forth in Exhibit B of the Agreement Modifying Institutional Fund attached to the Petition filed herein.

DATED this 7 day of September, 2010.

/s/ Lauren S. Holland  
Circuit Court Judge

1 PETITIONER  
2 University of Oregon Foundation  
3 360 E. 10<sup>th</sup> Avenue, Suite 202  
4 Eugene, Oregon 97401-3273

ATTORNEYS FOR PETITIONER  
Jon V. Buerstatte, OSB # 822070  
Gleaves Swearingen Potter & Scott LLP  
P.O. Box 1147  
Eugene, Oregon 97440-1147  
(541) 686-8833  
(541) 345-2034 (Fax)  
Email: buerstatte@gleaveslaw.com

## CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing General Judgment for Modification of Institutional Fund on the following persons on August 9, 2010, by depositing same in the United States Post Office at Eugene, Oregon, enclosed in a sealed envelope, with postage paid to the address noted below:


Randolph Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Susan A. Miller  
Assistant Attorney General  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue Suite 410  
Portland, OR 97201

Ms. Ruth A. Kaminski, President  
Dynamic Measurement Group, Inc.  
c/o Randolph Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Mr. Roland H. Good, III, Vice President  
Dynamic Measurement Group, Inc.  
c/o Randolph Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

DATED: August 9, 2010.



---

Jon W. Buerstatte OSB # 822070  
Of Attorneys for Petitioner



September 13, 2010

Ms. Susan A. Miller  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue, Suite 410  
Portland, OR 97201

Re: University of Oregon Foundation  
Dynamic Measurement Group Research Award for Literacy Study

Dear Susan:

I am pleased to report that Judge Holland signed the General Judgment for Modification of Institutional Fund on September 7, 2010, in the Dynamic Measurement Group Research Award for Literacy Study modification case. I am enclosing a copy of that General Judgment for your records.

Very truly yours,

Laurie A. Nelson  
[nelson@gleaveslaw.com](mailto:nelson@gleaveslaw.com)

LAN/jck  
Enclosures

cc: Gary Livesay (w/o encls.)  
Jon V. Buerstatte (w/o encls.)  
Paul Weinhold (w/ encls.)  
~~Tom Herrmann (w/ encls.)~~

Phone:  
(541) 686-8833  
Fax:  
(541) 345-2034

975 Oak Street  
Suite 800  
Eugene, Oregon  
97401-3156

Mailing Address:  
P.O. Box 1147  
Eugene, Oregon  
97440-1147

Email:  
[info@gleaveslaw.com](mailto:info@gleaveslaw.com)  
Web-Site:  
[www.gleaveslaw.com](http://www.gleaveslaw.com)

Frederick A. Batson  
Jon V. Buerstatte  
Patricia L. Chapman\*\*  
Joshua A. Clark  
Michael T. Faulconer\*\*  
Howard F. Feinman  
Thomas P. E. Herrmann\*  
Dan Webb Howard\*\*  
Cassie K. Kellogg  
Stephen O. Lane  
Valeri L. Love  
William H. Martin\*  
Walter W. Miller  
Laura T. Z. Montgomery\*  
Thomas K. N. Moseman  
Laurie A. Nelson  
Ian T. Richardson  
Martha J. Rodman  
Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman  
Jane M. Yates

\*Also admitted  
in Washington

\*\*Also admitted  
in California



August 4, 2010

Ms. Susan A. Miller  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue #410  
Portland, OR 97201


Re: *Division of Bernard CRUT (University of Oregon Foundation,  
Trustee)*

Dear Susan:

Pursuant to our recent emails I enclose three copies of the Agreement as to Division of James W. and Maureen Bernard Charitable Remainder Unitrust, for your signature where indicated. These documents are identical to the document that I emailed you previously.

If acceptable, please sign all three copies where indicated, and return the signed original agreements to me in the enclosed self-addressed envelope. I will then circulate for additional signatures, and provide you with a copy of the fully executed document, including exhibits.

Very truly yours,

  
Ian T. Richardson  
richardson@gleaveslaw.com

ITR:gdm  
Enclosures

*Beane 8/10/10  
SM*

Phone:  
(541) 686-8833  
Fax:  
(541) 345-2034

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Suite 800  
Eugene, Oregon  
97401-3156

Mailing Address:  
P.O. Box 1147  
Eugene, Oregon  
97440-1147

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info@gleaveslaw.com  
Web-Site:  
www.gleaveslaw.com

Frederick A. Batson  
Jon V. Buerstatte  
Patricia L. Chapman\*\*  
Joshua A. Clark  
Michael T. Faulconer\*\*  
Howard F. Feinman  
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Jane M. Yates

\*Also admitted  
in Washington

\*\*Also admitted  
in California

**Miller Susan A**

**From:** Ian T Richardson [richardson@gleaveslaw.com]  
**Sent:** Monday, August 02, 2010 3:18 PM  
**To:** Miller Susan A  
**Subject:** Proposed CRUT division (University of Oregon Foundation as trustee and remainder beneficiary)

Hello Susan, to follow on my voicemail from today, we are seeking to modify an existing CRUT agreement, by dividing the CRUT pursuant to the divorce of the donors. The division appears comparable to the divorce-related division described in Rev. Rul. 2008-41, and appears to fit squarely within the non-judicial modification procedure provided in ORS 130.045. In lieu of a separate cover letter, I provide a summary of the key facts as follows:

Jim and Maureen Bernard created a joint CRUT in 1996. The CRUT pays income 50/50 to Jim and Maureen, and on the death of one of Jim or Maureen pays all of the income to the survivor. Each spouse reserved the right to terminate his or her 50% interest at death, accelerating that 50% interest to the remainder charity rather than to the survivor of them (at present neither donor has exercised that retained testamentary right).

Mr. and Mrs. Bernard are in the process of obtaining a divorce, and as part of the divorce they propose to split the existing "joint" CRUT into two separate, and initially equal, CRUTs, one for each of them. Each such CRUT would pay income only to one of Jim and Maureen, and on his or her death the trust remainder would pass directly to the charitable remainder beneficiary (meaning, there would no longer be any survivorship interest, not even the current contingent interest). The unitrust percentage will remain 6% for both trusts. The Foundation would remain the irrevocable charitable remainder beneficiary under both CRUTs, pursuant to endowment fund agreements (also attached).

As a result, the proposed division should not reduce or delay the Foundation's receipt of funds, and in fact should accelerate 50% of those funds upon the death of the first of the donors to die (since under the existing agreement those funds would be held for the survivor, unless the first donor to die made a different provision in his or her will). The division will not increase the Foundation's relative costs (as trustee) of administering the CRUT, as the trustee is currently making dual income payments (50% to each donor, paid separately). The proposed division would be made on an asset-by-asset basis – each asset must be divided equally between the 2 trusts (to eliminate opportunities to shift income tax attributes between the 2 trusts, etc.).

The donors would reimburse the Foundation (as trustee) for costs of the division (including legal fees and administrative costs).

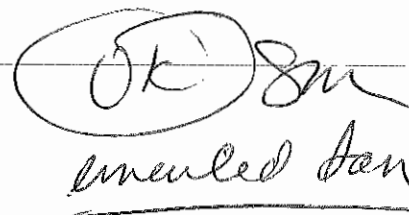
Although tax implications of the division are not of direct significance to the Attorney General's office, the terms and conditions of the proposed Bernard CRT division appear consistent with those of the division described in Rev. Rul. 2008-41. In particular:

- The number of beneficiaries, and the unitrust rate, do not change.
- The term of the trust(s) is not extended.
- The rights of remainder beneficiaries are not altered.
- Each asset of the original trust will be divided, and allocated equally between the two trusts (and for a mid-year division, all tax attributes are allocated equally).

Therefore, I attach a form of draft "Division Agreement," together with Endowment Fund Agreements (to determine use of funds by the charitable remainderman), and the original CRUT agreement, for your review. Please let me know if you'd like to discuss, or if you have any suggested changes.

Thanks in advance for your consideration – Ian Richardson

Ian T. Richardson  
 Gleaves Swearingen Potter & Scott LLP  
 975 Oak Street, Suite 800  
 Eugene, OR 97401  
 office: (541) 886-8833  
 cell: (541) 515-1881  
[richardson@gleaveslaw.com](mailto:richardson@gleaveslaw.com)  
[www.gleaveslaw.com](http://www.gleaveslaw.com)

 OK  
 emailed Ian

Notice: Any statements contained herein are not intended or written to be used, and cannot be used, for the purposes of avoiding penalties under the federal tax laws.

8/3/2010

79-5271

**UNIVERSITY OF OREGON FOUNDATION**

**Quasi-Endowment Fund Agreement**

**The James W. and Maureen Bernard Fund**

Whereas the University of Oregon Foundation has received contributions from James W. and Maureen Bernard (the Donors), given with the intent of establishing a quasi-endowment to provide support for the University of Oregon (the University),


**Therefore**

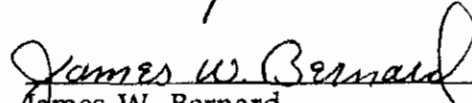
The University of Oregon Foundation (the Foundation) shall establish the James W. and Maureen Bernard Fund (the Fund), as a quasi-endowment. The net income, appreciation, and principal of the Fund shall be utilized annually for the purposes set forth in this agreement.

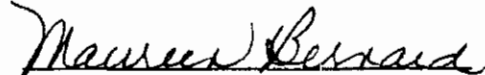
- 1) Subject to paragraph 2) below, the Fund shall be used to support the highest priorities of the University as determined by the President of the University of Oregon (the President) and in meeting those priorities the President may use so much of the income, appreciation, or principal of the Fund as he or she determines is in the best interest of the University.
- 2) Notwithstanding paragraph 1 above, the Donors retain, during their joint lifetimes and the survivor's lifetime, the right to modify the purposes for which the Fund shall be used to the extent that such modifications shall provide support for the University of Oregon. The Donors' intent in retaining this right of modification is to provide them with flexibility in matching the purposes of the Fund to the Donors' charitable interests and the needs of the University as those interests and needs are determined over time and to the extent that the interests expressed are acceptable to the University.
- 3) Any income not utilized in a given year may be either retained for expenditure in a future year or added to the principal of the Fund, as determined by the Foundation, after consultation with the President of the University (or if this agreement is modified by the Donors under paragraph 2, the University representative identified by that modification) to be in the best interest of the Fund. For its services in holding and managing the Fund, a reasonable fee may be charged by and paid to the Foundation to cover the cost of administrative and fundraising expenses incurred on behalf of this endowment fund.
- 4) For investment purposes, all or any part of the Fund may be merged with the general investment assets of the Foundation. Initial investment shall be in the Willamette Investment Pool when the expected duration of the principal exceeds five years from the date of gift.

- 5) Additions to the Fund in the form of property acceptable to the Foundation may be made at any time, and shall thereafter be subject in all respects to the terms, provisions and conditions of this agreement.
- 6) While any principal balance remains, the use of the endowment fund hereby created shall be in compliance with the purpose stated above. However, if at some future time a change of circumstances should render the designated purpose of the Fund no longer practical, then, and only then, the Board of Trustees of the Foundation in agreement with the President of the University (or if this agreement is modified by the Donors under paragraph 2, the University representative identified by that modification) shall use the total net income, the appreciation, and so much of the remaining principal of the fund as it may deem prudent, to further the objectives and purposes of the University of Oregon with retention of the named fund and giving due consideration to the special interests expressed above.
- 7) The endowment fund shall be managed in accordance with the Uniform Management of Institutional Funds Act as adopted by the State of Oregon.

IN WITNESS WHERE OF, the parties to this agreement have subscribed their names hereto:

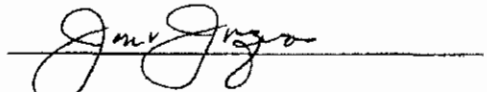
DATED THIS 15<sup>th</sup> DAY OF January 1998 

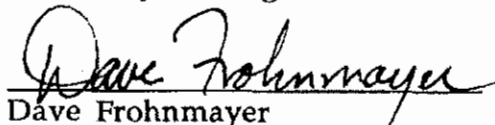
  
James W. Bernard

  
Maureen Bernard

APPROVED THIS 20 DAY OF January 1998 <sup>7</sup>908

BY:

  
University of Oregon Foundation

  
Dave Frohnmayer  
President  
University of Oregon





UNIVERSITY OF OREGON  
FOUNDATION

## **Endowment Fund Agreement**

**(Exhibit C to Agreement Regarding Division of Bernard Charitable  
Remainder Unitrust)**

### **Maureen Bernard Fund**

Whereas, the University of Oregon Foundation (Foundation) anticipates receiving contributions from the Maureen Bernard Charitable Remainder Unitrust for the purpose of establishing an endowment and current gift to provide support for the Department of Art and the Museum of Art at the University of Oregon (University);

Therefore, upon receiving contributions from the Maureen Bernard Charitable Remainder Unitrust the Foundation shall establish the Maureen Bernard Fund (Fund) as a permanent endowment. The Foundation may appropriate for expenditure or accumulate so much of the fund as it determines is prudent for the uses, benefits, and purposes for which the fund is established.

### **Purpose**

One-half of all amounts contributed to the Fund shall be used to fund an endowment to benefit the Department of Art at the University, with a preference for the areas of jewelry and weaving, to be used as determined by the head or chair of the Department of Art.

One-half of all amounts contributed to the Fund shall be used to fund an endowment to benefit the Museum of Art at the University, to be used as determined by the Director of the Museum of Art.

### **Administrative Provisions**

1. A reasonable fee, determined in accordance with the then current policy and practices of the Foundation, as modified from time to time, may be charged by and paid to the Foundation annually to cover the cost of administration of the Fund.
2. Any distribution made for current-use purposes not utilized in a given year may either be retained by the department head for expenditure in a future year in fulfillment of the same or similar purposes or reinvested in the Fund, as determined by the department head.
3. For investment purposes, all or any part of the Fund may be merged with the other investment assets of the Foundation and invested at the discretion of the Board of Trustees of the Foundation.
4. Additions to the Fund in the form of property acceptable to the Foundation may be made at any time and shall thereafter be subject in all respects to the terms, provisions, and conditions of this Agreement.

5. The Fund hereby created shall be and is expressly declared to be a perpetual endowment. If at some future time a change of circumstances should render the designated purpose of the Fund no longer reasonably achievable or of reasonable benefit to the University, then, and only then, the Board of Trustees of the Foundation, or any committee appointed thereby, in consultation with the dean of the Department of Art (if serving), with respect to the endowment for the Department of Art, and in consultation with the Director of the Museum of Art (if serving), with respect to the endowment and current gift for the Museum of Art, shall use the Fund to further the objectives and purposes of the University of Oregon with retention of the Fund name and giving due consideration to the special interests expressed above.
6. The Fund shall be managed in accordance with applicable laws of the State of Oregon.

In witness whereof, the parties to this Agreement have subscribed their names hereto:

**Donor**

\_\_\_\_\_  
Maureen Bernard

\_\_\_\_\_  
Date

**University of Oregon Foundation**

By: \_\_\_\_\_  
Paul Weinhold, President and CEO

\_\_\_\_\_  
Date

**University of Oregon**

By: \_\_\_\_\_  
Michael Redding, Vice President  
for University Advancement

\_\_\_\_\_  
Date



UNIVERSITY OF OREGON  
FOUNDATION

## **Endowment Fund Agreement**

### **(Exhibit B to Agreement Regarding Division of Bernard Charitable Remainder Unitrust)**

#### **James W. Bernard Fund**

Whereas, the University of Oregon Foundation (Foundation) anticipates receiving contributions from the James W. Bernard Charitable Remainder Unitrust for the purpose of establishing an endowment to provide support for the College of Arts and Sciences and the Chemistry Department at the University of Oregon (University);

Therefore, upon receiving contributions from the James W. Bernard Charitable Remainder Unitrust the Foundation shall establish the James W. Bernard Fund (Fund) as a permanent endowment. The Foundation may appropriate for expenditure or accumulate so much of the fund as it determines is prudent for the uses, benefits, and purposes for which the fund is established.

#### **Purpose**

One-half of all amounts contributed to the Fund shall be used to fund an endowment to benefit the College of Arts and Sciences at the University, to be used as determined by the dean of the College of Arts and Sciences.

One-half of all amounts contributed to the Fund shall be used to fund an endowment to benefit the Chemistry Department at the University, to be used as determined by the head or chair of the Chemistry Department.

#### **Administrative Provisions**

1. A reasonable fee, determined in accordance with the then current policy and practices of the Foundation, as modified from time to time, may be charged by and paid to the Foundation annually to cover the cost of administration of the Fund.
2. Any distribution made for current-use purposes not utilized in a given year may either be retained by the department head for expenditure in a future year in fulfillment of the same or similar purposes or reinvested in the Fund, as determined by the department head.
3. For investment purposes, all or any part of the Fund may be merged with the other investment assets of the Foundation and invested at the discretion of the Board of Trustees of the Foundation.
4. Additions to the Fund in the form of property acceptable to the Foundation may be made at any time and shall thereafter be subject in all respects to the terms, provisions, and conditions of this Agreement.

5. The Fund hereby created shall be and is expressly declared to be a perpetual endowment. If at some future time a change of circumstances should render the designated purpose of the Fund no longer reasonably achievable or of reasonable benefit to the University, then, and only then, the Board of Trustees of the Foundation, or any committee appointed thereby, in consultation with the dean of the College of Arts and Sciences (if serving), with respect to the endowment for the College of Arts and Sciences, and in consultation with the head of the Chemistry Department (if serving), with respect to the endowment for the Chemistry Department, shall use the Fund to further the objectives and purposes of the University of Oregon with retention of the Fund name and giving due consideration to the special interests expressed above.
6. The Fund shall be managed in accordance with applicable laws of the State of Oregon.

In witness whereof, the parties to this Agreement have subscribed their names hereto:

**Donor**

\_\_\_\_\_  
James W. Bernard

\_\_\_\_\_  
Date

**University of Oregon Foundation**

By: \_\_\_\_\_  
Paul Weinhold, President and CEO

\_\_\_\_\_  
Date

**University of Oregon**

By: \_\_\_\_\_  
Michael Redding, Vice President  
for University Advancement

\_\_\_\_\_  
Date

**University of Oregon**

By: \_\_\_\_\_  
Michael Redding, Vice President  
for University Advancement

\_\_\_\_\_  
Date

**Donors**

\_\_\_\_\_  
James W. Bernard

\_\_\_\_\_  
Date

\_\_\_\_\_  
Maureen Bernard

\_\_\_\_\_  
Date

ORS 130.045 provides that, in certain instances, in order for an agreement modifying charitable funds held in trust subject to the enforcement or supervisory powers of the state or the Attorney General under ORS 128.610 to 128.750 to be effective, the Attorney General for the State of Oregon must consent to the agreement. The James W. and Maureen Bernard Charitable Remainder Unitrust is an agreement that may be subject to that requirement. The Attorney General hereby consents to the foregoing Agreement as to Division of James W. and Maureen Bernard Charitable Remainder Unitrust.

**ATTORNEY GENERAL**

By: \_\_\_\_\_  
\_\_\_\_\_  
Assistant Attorney General

\_\_\_\_\_  
Date

4.4 The parties acknowledge that James and Maureen entered into that Quasi-Endowment Fund Agreement dated January 15, 1997 and that Restricted Gift Agreement dated March 7, 2003 describing the James W. and Maureen Bernard Fund (the "Prior Fund Agreements"), which fund was designated as remainder beneficiary under the Bernard Unitrust Agreement. The parties further acknowledge that the James W. and Maureen Bernard Fund has not been funded, and that the Prior Fund Agreements were entered into solely in anticipation of distributions on termination of the Bernard Unitrust. Therefore, the Prior Fund Agreements are replaced and superseded by the Endowment Fund Agreements attached as Exhibits B and C, and the James W. Bernard Fund and the Maureen Bernard Fund shall replace the James W. and Maureen Bernard Fund as remainder beneficiary pursuant to Section 6.1 of the Bernard Unitrust Agreement.

5. Tax Consequences, Indemnification. Each of James and Maureen hereby accepts sole responsibility for tax consequences, if any, that may result from the division of the Bernard Unitrust or creation of the James Bernard Unitrust or Maureen Bernard Unitrust pursuant to this Agreement, and indemnifies and holds harmless the Trustee and the Foundation from any claims, causes of action, damages or liabilities arising under or related to this Agreement or the division of the Bernard Unitrust or creation of the James Bernard Unitrust or Maureen Bernard Unitrust (including without limitation any tax consequences thereof).

6. Payment of Expenses. James and Maureen shall reimburse the Trustee for the payment of reasonable costs associated with the division of the Bernard Unitrust and related actions contemplated by this Agreement.

7. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall constitute an original, all of which when assembled shall constitute this Agreement, fully executed.

8. Entire Agreement. This Agreement and the exhibit hereto constitute the final written expression of the agreement of the Parties with respect to the subject matter hereof.

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on the date set opposite their respective signatures below.

**University of Oregon Foundation**

By: \_\_\_\_\_  
Paul Weinholt, President and CEO

\_\_\_\_\_ Date

Charitable Remainder Unitrust” (the “James Bernard Unitrust”) and the other as the “Maureen Bernard Charitable Remainder Unitrust” (the “Maureen Bernard Unitrust”). Except as otherwise expressly changed or added to hereby, the terms of the Bernard Unitrust Agreement shall be applicable to both the James Bernard Unitrust and the Maureen Bernard Unitrust.

2. Effective Date. This Agreement shall be effective on the date that all Parties and the Oregon Attorney General have signed this Agreement (the “Effective Date”).

3. Trustee. The Trustee shall serve as trustee of both the James Bernard Unitrust and the Maureen Bernard Unitrust.

4. Unitrust Amount, Term, Remainder Beneficiary.

4.1 *James Bernard Unitrust*. During the lifetime of James the Trustee shall pay to James from the assets of the James Bernard Unitrust, quarterly in each taxable year of the James Bernard Unitrust, the unitrust amount described in Section 2 of the Bernard Unitrust Agreement, but calculated based upon the net fair market value of the assets of the James Bernard Unitrust only. Upon the death of James the Trustee shall distribute the then principal and income of the James Bernard Unitrust, other than any amount due to James, to the Foundation to fund the James W. Bernard Fund, to be held and administered pursuant to the Endowment Fund Agreement attached hereto as Exhibit B. Maureen hereby acknowledges and agrees that she shall not receive any of the income or principal of the James Bernard Unitrust, after James’ life or otherwise, and releases any beneficial interest in or claims against the James Bernard Unitrust.

4.2 *Maureen Bernard Unitrust*. During the lifetime of Maureen the Trustee shall pay to Maureen from the assets of the Maureen Bernard Unitrust, quarterly in each taxable year of the Maureen Bernard Unitrust, the unitrust amount described in Section 2 of the Bernard Unitrust Agreement, but calculated based upon the net fair market value of the assets of the Maureen Bernard Unitrust only. Upon the death of Maureen the Trustee shall distribute the then principal and income of the Maureen Bernard Unitrust, other than any amount due to Maureen, to the Foundation to fund the Maureen Bernard Fund, to be held and administered pursuant to the Endowment Fund Agreement attached hereto as Exhibit C. James hereby acknowledges and agrees that he shall not receive any of the income or principal of the Maureen Bernard Unitrust, after Maureen’s life or otherwise, and releases any beneficial interest in or claims against the Maureen Bernard Unitrust.

4.3 If a change of circumstances should render the designated purpose of a gift to the Foundation as described in Section 4.1 or 4.2 no longer reasonably achievable or of reasonable benefit to the University of Oregon, then, and only then, the Board of Trustees of the Foundation in consultation with the President of the University of Oregon may otherwise use the gift to further the objectives and purposes of the University of Oregon, giving due consideration, however, to the respective Donor’s purpose and intent as described in Section 4.1 or 4.2.

**AGREEMENT  
AS TO DIVISION OF  
JAMES W. AND MAUREEN BERNARD  
CHARITABLE REMAINDER UNITRUST**

**PARTIES:** James W. Bernard ("James");  
Maureen Bernard ("Maureen");  
University of Oregon Foundation, Trustee of the James W. and Maureen Bernard  
Charitable Remainder Unitrust (the "Trustee");  
University of Oregon Foundation (the "Foundation"); and  
The University of Oregon (the "University").

**RECITALS:**

- A. James and Maureen created the James W. and Maureen Bernard Charitable Remainder Unitrust (the "Bernard Unitrust") pursuant to that unitrust agreement dated effective July 12, 1996 (the "Bernard Unitrust Agreement"), a copy of which is attached hereto as Exhibit A. James and Maureen now desire, and the Foundation and University agree, to divide the Bernard Unitrust into two separate and equal charitable remainder unitrusts, on the terms and conditions herein.
- B. Pursuant to Section 2 of the Bernard Unitrust Agreement James and Maureen are entitled to a 6% annual unitrust amount, paid equally between them, for the remainder of their joint lives. Pursuant to Section 6 of the Bernard Unitrust Agreement, upon the death of one of James or Maureen all of the unitrust income will be paid to the survivor for the remainder of his or her life, unless the first of them to die has revoked, by will, the survivor's survivorship interest in the first spouse's portion of unitrust income. Upon the termination of the Bernard Unitrust the remaining principal and income of the Bernard Unitrust will be paid to the Foundation.
- C. The Parties enter into this Agreement pursuant to ORS 130.045, and the Parties and the Oregon Attorney General constitute all persons and entities whose signatures are required for this Agreement to be effective pursuant thereto.

**AGREEMENT:**

NOW, THEREFORE, in consideration of the foregoing recitals that are by this reference expressly made a part hereof, and in consideration of the terms hereinafter contained, the Parties agree as follows:

1. Division of Bernard Unitrust. As of the Effective Date, the Bernard Unitrust shall be divided into two equal parts, each consisting of one-half of each asset of the Bernard Unitrust, and each part shall thereafter be held as a separate unitrust, one known as the "James W. Bernard



**CHARITABLE REMAINDER UNITRUST**  
**JAMES W. AND MAUREEN BERNARD**

UNITRUST AGREEMENT made this 12 day of <sup>July 1996</sup> ~~June~~, 1996, JAMES W. BERNARD AND MAUREEN BERNARD, residing at 5505 Lake Washington Blvd. NE, #3B, Kirkland, Washington, 98033, (hereinafter called the "Donors") and UNIVERSITY OF OREGON FOUNDATION, an Oregon nonprofit corporation, located at Eugene, Oregon, (hereinafter called the "Trustee") for the purpose of creating a charitable remainder unitrust (within the meaning of Rev. Proc. 90-31 and section 664(d)(2)) of the Internal Revenue Code of 1986, as amended (the "Code") for the lifetime benefit of Donors. The trust created by this Agreement shall be known as the "James W. and Maureen Bernard Charitable Remainder Unitrust".

**SECTION 1. TRANSFER OF PROPERTY.**

The Donors transfer and deliver to the Trustee the community property described in the annexed Schedule "A". This property and all receipts of every kind shall be managed and invested by the Trustee as a single fund (hereinafter called the "unitrust").

**SECTION 2. TRUST PAYMENTS.**

During the lifetimes of the Donors, the Trustee shall pay (in cash, in kind or partly in each) to them jointly, and then to the survivor for life, in each taxable year of the unitrust a unitrust amount equal to six percent (6%) of the net fair market value of the trust assets valued as of the first day of each taxable year of the unitrust (decreased as provided in Section 3 in the case where the taxable year is a short taxable year or is the taxable year in which the survivor of the Donors dies and increased as provided in Section 4 in the case where there are additional contributions in the taxable year). The unitrust amount shall be paid in equal quarterly installments (on the last day of March, June, September and December, with the first installment to be on the last day of the month of September, 1996) from income and, to the extent income is insufficient, from principal. Any income of the unitrust for a taxable year in excess of the unitrust amount shall be added to principal. Notwithstanding any existing or hereafter enacted state law, no amount other than the unitrust amount may be paid to or for the use of any person other than an organization described in each of section 170(b)(1)(A), section 170(c), section 2055(a) and section 2522(a) of the Code. However, an amount shall not be deemed to be paid to or for the use of any person other than an organization described in the aforesaid Code sections if the amount is transferred for full and adequate consideration.

**SECTION 3. TAXABLE YEARS.**

The first taxable year of the unitrust begins with the date of this Agreement and shall end on December 31, 1996. Subsequent taxable years shall be on a calendar year basis. In the case of a taxable year which is for a period of less than 12 months (other than the taxable year in which the survivor of the Donors dies), the unitrust amount which must be distributed under Section 2 shall be such amount multiplied by a fraction the numerator

of which is the number of days in the taxable year of the unitrust and the denominator of which is 365 (366 if February 29 is a day included in the numerator). In the case of the taxable year in which the survivor of the Donors dies, the unitrust amount which must be distributed under Section 2 shall be such amount multiplied by a fraction the numerator of which is the number of days in the period beginning on the first day of such taxable year and ending on the date of death of the survivor of the Donors and the denominator of which is 365 (366 if February 29 is a day included in the numerator). Notwithstanding the foregoing, the obligation of the Trustee to pay the unitrust amount shall terminate with the regular quarterly installment next preceding the death of the survivor of the Donors.

#### SECTION 4. ADDITIONAL CONTRIBUTIONS.

The Donors and others may, from time to time, add property acceptable to the Trustee to the unitrust.

- 4.1 If any additional contributions are made to the unitrust after the initial contribution set forth in Schedule "A", the unitrust amount for the taxable year in which the assets are added to the trust shall be six percent (6%) of the sum of (a) the net fair market value of the trust assets (excluding the assets so added and any income from, or appreciation on, such assets), and (b) that proportion of the value of the assets so added that was excluded under (a) which the number of days in the period which begins with the date of contribution and ends with the earlier of the last day of the taxable year or the death of the survivor of the Donors bears to the number of days in the period which begins on the first day of such taxable year and ends with the earlier of the last day in such taxable year or the death of the survivor of the donors. The assets so added shall be valued at the time of contribution.
- 4.2 If any additional contribution is made by Will, the obligation to pay the unitrust amount with respect to such additional contribution shall commence with the date of death of the person under whose Will the additional contribution is made, but payment of such unitrust amount may be deferred from such date of death to the end of the taxable year of the unitrust in which occurs the complete funding of the additional contribution. Within a reasonable period after such time, the Trustee shall pay, in the case of an underpayment, or shall receive from the Donors or the survivor of them, as the case may be, in the case of an overpayment, the difference between any unitrust amounts actually paid to the Donors, or the survivor of them, as the case may be, plus interest, compounded annually, computed for any period at the rate of interest that the federal income tax regulations (Treasury Regulations) under section 664 of the Code prescribe for the trust for such computation for such period, and the unitrust amounts payable, determined under the method described in section 1.664-1(a)(5)(ii) of the Treasury Regulations. Any payments required to be made because of an underpayment shall be paid to the person (or his/her estate) who received the underpayment. Any repayments required to be made because of an overpayment shall be repaid by the person (or his/her estate) who received the overpayment.

#### SECTION 5. DETERMINATION OF NET FAIR MARKET VALUE.

- 5.1 If the net fair market value of the unitrust assets is incorrectly determined by the Trustee for any taxable year, then within a reasonable period after the

final determination of the correct value, the Trustee shall pay to the Donors or the survivor of them in the case of an undervaluation or shall receive from the Donors or the survivor of them in the case of an overvaluation an amount equal to the difference between the unitrust amount properly payable and the unitrust amount actually paid. Any payments required to be made because of an undervaluation shall be paid to the person (or his/her estate) who received the underpayment. Any repayments required to be made because of an overvaluation shall be repaid by the person (or his/her estate) who received the overpayment.

- 5.2 In computing the net fair market value of the unitrust assets there shall be taken into account all assets and liabilities without regard to whether particular items are taken into account in determining the income of the unitrust. All determinations of the unitrust's net fair market value shall be in accordance with generally accepted fiduciary accounting principles and any United States Treasury requirements governing charitable remainder unitrusts. In any conflict Treasury requirements shall prevail over generally accepted fiduciary accounting principles and any inconsistent provisions of this Agreement.

#### SECTION 6. DISTRIBUTION ON DEATH OF DONOR.

- 6.1 Upon the death of the survivor of the Donors, the Trustee shall distribute the then principal and income of the unitrust, other than any amount due to the Donors or the survivor of them, to UNIVERSITY OF OREGON FOUNDATION to be added to and administered in accordance with the James W. and Maureen Bernard Fund as reflected on the books and records of the UNIVERSITY OF OREGON FOUNDATION.
- 6.2 Notwithstanding any of the foregoing provisions of this Agreement:
- 6.2.1 James W. Bernard hereby expressly reserves the power, exercisable only by his Will, to revoke and terminate the survivorship payments for Maureen Bernard from his interest in the community property in the unitrust. If he effectively exercises his testamentary power:
- (a) the Trustee shall upon his death distribute one-half of the then income and principal of the unitrust, other than any amounts due to the Donors, to UNIVERSITY OF OREGON FOUNDATION for the purposes set forth in Section 6.1;
  - (b) the Trustee's obligation to make payments to him shall cease with the payment next preceding his death and one-half of any accruals for the period beginning with the payment date next preceding his death and ending with the date of his death shall on his death be paid to UNIVERSITY OF OREGON FOUNDATION for the purposes set forth in Section 6.1; and

- (c) the Trustee shall thereafter pay to Maureen Bernard for her life the unitrust amounts in each taxable year of the trust described in Section 2.

6.2.2. Maureen Bernard hereby expressly reserves the power, exercisable only by her Will, to revoke and terminate the survivorship payments for James W. Bernard from her interest in the community property in the unitrust. If she effectively exercises her testamentary power:

- (a) The Trustee shall upon her death distribute one-half of the then income and principal of the unitrust, other than any amounts due to the Donors, to UNIVERSITY OF OREGON FOUNDATION for the purposes set forth in Section 6.1;
- (b) The Trustee's obligation to make payments to her shall cease with the payment next preceding her death and one-half of any accruals for the period beginning with the payment date next preceding her death and ending with the date of her death shall on her death be paid to UNIVERSITY OF OREGON FOUNDATION for the purposes as set forth in Section 6.1; and
- (c) the Trustee shall thereafter pay to James W. Bernard for his life the unitrust amounts in each taxable year of the trust described in Section 2.

6.2.3 In the case of any distributions in kind to UNIVERSITY OF OREGON FOUNDATION, the adjusted basis of the property distributed shall be fairly representative of the adjusted basis of the property available for distribution on the date of distribution.

6.3 If UNIVERSITY OF OREGON FOUNDATION is not an organization described in each of section 170(b)(1)(A), section 170(c), section 2055(a) and section 2522(a) of the Code at the time when any principal or income of the unitrust is to be distributed to it, the Trustee shall distribute such principal or income to one or more organizations then so described as the Trustee shall select in its sole discretion and in such shares as it shall determine.

## SECTION 7. TRUSTEE'S POWERS.

In addition to the powers conferred upon it by law, the Trustee is authorized to:

- 7.1 Retain the property described in Schedule "A", or may sell the property, invest and reinvest the unitrust in any kind of property, without diversification as to kind or amount and without regard to the limitations imposed by law on investments, except that it may not invest in assets which do not have an objective, ascertainable market value, such as real

estate or stock in a closely held corporation. Nothing in this Agreement shall be construed to restrict the Trustee from investing the unitrust assets in a manner which could result in the annual realization of a reasonable amount of income or gain from the sale or disposition of trust assets.

- 7.2 Sell, exchange or otherwise dispose of any unitrust asset at either public or private sale, for cash or on credit; to exchange any such property and to grant options for the purchase thereof without any limitation on the period of any such option.
- 7.3 Consent to and participate in, or to oppose, any foreclosure, liquidation or plan of reorganization, consolidation, merger, combination or other similar plan and to consent to any contract, lease, mortgage, purchase, sale or other action by any other corporation pursuant to such plan.
- 7.4 Deposit any unitrust asset with any protective, reorganizational or similar committee, to delegate discretionary power thereto, to pay part of its expenses and compensation and any assessments levied with respect to such asset.
- 7.5 Exercise all conversion, subscription, voting and other rights of whatsoever nature pertaining to any such unitrust asset and to grant proxies, discretionary or otherwise, with respect thereto.
- 7.6 Extend the time of payment of any obligation held hereunder and to compromise, settle or submit to arbitration or to release any claim in favor of or against any unitrust asset.
- 7.7 Register and hold any unitrust asset in the name of a nominee and the liability of the Trustee shall be neither increased nor decreased thereby.
- 7.8 Contract with independent investment advisors, investment counsel or managers and to pay reasonable and customary fees in connection with any such contract.
- 7.9 For investment purposes, commingle the unitrust assets with the assets of other charitable remainder trusts managed by Trustee or with the general investment assets of the University of Oregon Foundation.
- 7.10 Do all such acts, take all such proceedings and exercise all such rights and privileges, although not hereinbefore specifically mentioned with respect to any unitrust asset as if the absolute owner thereof and in connection therewith to make, execute and deliver any instruments and to enter into any covenants or agreements binding the unitrust; provided that the Trustee shall take no such action as shall violate the provisions of Code Section 664 and the regulations thereunder.

#### SECTION 8. TRUSTEE COMPENSATION.

The Trustee shall not receive compensation for services rendered under this Agreement, although a reasonable fee may be charged by and paid to the Trustee or its designee to cover the cost of direct and indirect administrative expenses incurred on behalf of the Unitrust, which fees shall be charged in a manner consistent with the Trustee's

policy generally applicable to similar Charitable Remainder Trusts. No bond or other security shall be required of the Trustee in any jurisdiction.

#### SECTION 9. TAX BENEFITS/PROHIBITED TRANSACTIONS.

In creating this unitrust, Donors intend to obtain the full benefit of any income, gift and estate tax charitable contribution deductions to which they (and their estates) may be entitled under the Code and for the unitrust to qualify as a charitable remainder unitrust under section 664 of the Code and the regulations thereunder. Accordingly, this unitrust shall be interpreted, valued, managed, invested, administered and in all other respects governed consistent with the Donors' intent. Without limiting the generality of the foregoing, the Trustee is prohibited (except for the payment of the unitrust amount to the Donors and the survivor of them) from engaging in any act of self-dealing as defined in section 4941(d) of the Code, from retaining any excess business holdings as defined in section 4943(c) of the Code which would subject the unitrust to tax under section 4943 of the Code, from making any investments which would subject the unitrust to tax under section 4944 of the Code, and from making any taxable expenditures as defined in section 4945(d) of the Code. If section 4942 of the Code is deemed applicable to the unitrust by reason of section 508(e) of the Code or otherwise, the Trustee shall make distributions at such time and in such manner as not to subject the unitrust to tax under section 4942 of the Code.

#### SECTION 10. MISCELLANEOUS.

- 10.1 No federal estate taxes, state death taxes or any other estate, death or inheritance taxes ("death taxes") with respect to the unitrust shall be allocated to or be recoverable from the unitrust. The Donors impose an obligation on their respective estates to pay any death taxes from sources other than the unitrust and agree to so provide in their respective Wills or in another way. This provision may be enforced by UNIVERSITY OF OREGON FOUNDATION, in its capacity as trustee or charitable remainderman, or by each Donor, acting alone or together.
- 10.2 Each Donor has provided for the payment of any death taxes from sources other than the unitrust. Nevertheless, if for any reason, the unitrust becomes liable for death taxes on the death of the first of the Donors to die, the interest of the surviving Donor in the one-half interest of the deceased Donor shall take effect only if the surviving Donor furnishes the funds for payment of any death taxes for which the unitrust may be liable. If the survivor fails to furnish those funds, it shall be deemed for all purposes of this Agreement that the first of the Donors to die exercised the right in his or her Will described in Section 6.2.
- 10.3 This Agreement is irrevocable.
- 10.4 The Trustee shall have the power to amend this Agreement for the sole purpose of complying with the requirements of section 664 of the Code and Treasury Regulation sections 1.664-1 and 1.664-3.
- 10.5 This Agreement is made pursuant to, and shall be interpreted in accordance with, the laws of the State of Oregon. However, in any conflict with section 664 of the Code, the regulations thereunder or any

EXHIBIT A

JAMES W. AND MAUREEN BERNARD  
CHARITABLE REMAINDER UNITRUST

25748 Shares Univar Corp. Common  
stock.

certificate # NYC 20808

Dated - 7-12-96

Value: \$500,798.60

other existing or hereafter promulgated legislative or Treasury requirements for the qualification of the unitrust and for the Donors obtaining the full benefit of any income, gift and estate tax charitable deductions to which they (and their respective estates) may be entitled, section 664 of the Code, the regulations thereunder and the legislative and Treasury requirements shall govern.

10.6 The section headings in this Agreement are included herein for convenience of reference only and shall not constitute part of this Agreement for any other purpose.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the date first above written.

UNIVERSITY OF OREGON FOUNDATION,  
an Oregon nonprofit corporation

By: David Westcott  
David Westcott, Acting Executive Director

TRUSTEE

James W. Bernard  
James W. Bernard  
Maureen Bernard  
Maureen Bernard

DONORS





ATTORNEYS  
AT LAW

August 9, 2010

Susan A. Miller  
Assistant Attorney General  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue Suite 410  
Portland, OR 97201

Re: University of Oregon Foundation  
Dynamic Measurement Group Research Award for Literacy Study

Dear Susan:

I am enclosing for your review certified true copies of the Petition for Modification of Institutional Fund, the Notice of Filing of Petition for Modification of Institutional Fund, and proposed General Judgment for Modification of Institutional Fund in the Dynamic Measurement Group Research Award for Literacy Study institutional fund modification proceeding which we have filed on behalf of the University of Oregon Foundation.

If the documents meet with your approval, we would appreciate your signing and returning to us in the enclosed return envelope the Acceptance of Service and Consent and Waiver. We will then file the Acceptances and Consents received from you, from the donors, and from Randy Geller with the court and submit the General Judgment for the judge's signature.

Thank you for your assistance in this matter.

Very truly yours,

Jon V. Buerstatte  
buerstatte@gleaveslaw.com

JVB:gd  
Enclosures

cc: Gary Livesay (w/o encls.)  
Randy Geller (w/o encls.)  
Paul Weinhold (w/ encls.)  
Tom Herrmann (w/ encls.)

Phone:  
(541) 686-8833  
Fax:  
(541) 345-2034

975 Oak Street  
Suite 800  
Eugene, Oregon  
97401-3156

Mailing Address:  
P.O. Box 1147  
Eugene, Oregon  
97440-1147

Email:  
info@gleaveslaw.com  
Web-Site:  
www.gleaveslaw.com

Frederick A. Batson  
Jon V. Buerstatte  
Patricia L. Chapman\*\*  
Joshua A. Clark  
Michael T. Faulconer\*\*  
Howard F. Feinman  
Thomas P. E. Herrmann\*  
Dan Webb Howard\*\*  
Cassie K. Kellogg  
Stephen O. Lane  
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Laura T. Z. Montgomery\*  
Thomas K. N. Moseman  
Laurie A. Nelson  
Ian T. Richardson  
Martha J. Rodman  
Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman  
Jane M. Yates

\*Also admitted  
in Washington

\*\*Also admitted  
in California

August 9, 2010

Randy Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Re: University of Oregon Foundation  
Dynamic Measurement Group Research Award for Literacy Study

Dear Randy:

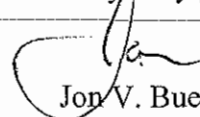
I am enclosing for your review certified true copies of the Petition for Modification of Institutional Fund, the Notice of Filing of Petition for Modification of Institutional Fund, and proposed General Judgment for Modification of Institutional Fund in the Dynamic Measurement Group Research Award for Literacy Study institutional fund modification proceeding which we have filed on behalf of the University of Oregon Foundation.

If the documents meet with your approval, we would appreciate your signing and returning to us in the enclosed return envelope the Acceptance of Service and Consent and Waiver. Additionally, we have enclosed for your review the documents for service upon Ms. Ruth A. Kaminski and Mr. Roland H. Good, III, President and Vice President of Dynamic Measurement Group, Inc., Donor. We would appreciate your forwarding these document to Donor Relations so that that department may send the documents on to Ms. Kaminski and Mr. Good.

Once we receive the Acceptances and Consents from you, from Ms. Kaminski and Mr. Good, and from Susan Miller of the AG's office, we will file those with the court and submit the General Judgment for the judge's signature.

Thank you for your assistance in this matter.

Very truly yours,



Jon V. Buerstatte  
buerstatte@gleaveslaw.com

JVB:ghm  
Enclosures

cc: Gary Livesay (w/o encls.)  
Susan Miller (w/o encls.) ✓  
Paul Weinhold (w/ encls.)  
Tom Herrmann (w/ encls.)

Gleaves  
Swearingen  
Potter &  
Scott LLP



ATTORNEYS  
AT LAW

Phone:  
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Fax:  
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975 Oak Street  
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97401-3156

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Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman  
Jane M. Yates

\*Also admitted  
in Washington

\*\*Also admitted  
in California

Gleaves  
Swearingen  
Potter &  
Scott LLP



ATTORNEYS  
AT LAW

August 9, 2010

Ms. Ruth A. Kaminski, President  
Mr. Roland H. Good, III, Vice President  
Dynamic Measurement Group, Inc.  
c/o Randy Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Re: University of Oregon Foundation  
Dynamic Measurement Group Research Award for Literacy Study

Dear Ms. Kaminski and Mr. Good:

I am enclosing for your review certified true copies of the Petition for Modification of Institutional Fund, the Notice of Filing of Petition for Modification of Institutional Fund, and proposed General Judgment for Modification of Institutional Fund in the Dynamic Measurement Group Research Award for Literacy Study institutional fund modification proceeding which we have filed on behalf of the University of Oregon Foundation.

As you will recall, we earlier submitted for your review and signature the Agreement Modifying Institutional Fund, a copy of which is attached to the Petition. Oregon law requires that the University of Oregon Foundation seek the approval of the Lane County Circuit Court in order to modify the fund.

If the documents meet with your approval, we would appreciate your signing and returning to us in the enclosed return envelope the Acceptance of Service and Consent and Waiver. If you have questions, I would be happy to try to answer them. However, if you need legal advice regarding these documents, please consult independent counsel, since we represent the Foundation only in this matter and are not able to advise you.

Once we receive the Acceptances and Consents from you, from Randy Geller, and from Susan Miller of the AG's office, we will file those with the court and submit the General Judgment for the judge's signature.

Thank you very much for your assistance in this matter.

Very truly yours,

Jon V. Buerstatte  
buerstatte@gleaveslaw.com

JVB:gd  
Enclosures

cc: Gary Livesay (w/o encls.)  
Susan Miller (w/o encls.)  
Paul Weinhold (w/ encls.)  
Tom Herrmann (w/ encls.)

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Joshua K. Smith  
James W. Spickerman  
Jane M. Yates

\*Also admitted  
in Washington

\*\*Also admitted  
in California

CERTIFIED TRUE COPY

*[Handwritten Signature]*

FILED

2010 JUL 14 PM 3:31

CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

BY \_\_\_\_\_

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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

In the Matter of the Dynamic Measurement Group  
Research Award for Literacy Study

Case No. 92-10-15396

PETITION FOR MODIFICATION OF  
INSTITUTIONAL FUND

University of Oregon Foundation,  
Petitioner.

UNIVERSITY OF OREGON FOUNDATION, an Oregon nonprofit corporation, by and through its Chief Operating Officer, Gary F. Livesay, petitioner, represents to and petitions the court as follows:

1. Attorney General Consent. The Attorney General's consent to the modification requested herein is required by ORS 130.200(1) and ORS 128.328(1). Petitioner has received the Attorney General's consent to the modification (see page 3 of Exhibit 1) and will seek a signed Consent for filing in this proceeding.

2. Venue. Venue for this matter lies in Lane County because the institutional fund is administered in Lane County, Oregon.

3. Historical Background of Fund. In late 2005 through early 2006, Dynamic Measurement Group, Inc., by and through Ruth Kaminski and Roland Good III, funded the

1 Dynamic Measurement Group Research Award for Literacy Study. The purpose of the fund was  
2 to support doctoral students engaged in research on early literacy and related areas. See Exhibit  
3 A, attached hereto and incorporated herein.

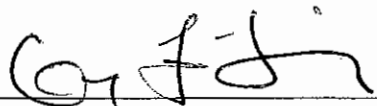
4 4. Reason for Modification. The fund has sufficient money available, and the parties  
5 wish to broaden the purpose of the fund. The preference will continue to be for doctoral students  
6 engaged in early literacy research, but in the event few applications qualify on that basis, other  
7 graduate students will also qualify for the award or for scholarships. Additionally, if sufficient  
8 funds are available, the fund may support professional development activities for qualified  
9 applicants. See Exhibit B, attached hereto and incorporated herein.

10 5. Statutory Basis for Modification (UPMIFA). ORS 128.328(1) permits the  
11 modification of a purpose restriction in a gift instrument when the donors consent. Both Ms.  
12 Kaminski and Mr. Good consent to this modification.

13 6. Statutory Basis for Modification (UTC). ORS 130.200(1) permits the court  
14 modification of a charitable trust where the settlor/donor and all beneficiaries consent.

15  
16 WHEREFORE, petitioner prays for a general judgment approving the modification of the  
17 institutional fund as set forth in Exhibit B of Exhibit 1, attached hereto and incorporated herein.

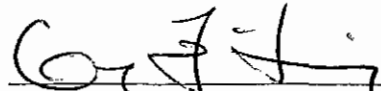
18  
19 Dated this 3 day of June, 2010.

20  
21   
22 University of Oregon Foundation  
23 By: Gary F. Livesay  
24 Chief Operating Officer, Petitioner

25 ///  
26 ///  
///  
///  
///

1 I, GARY F. LIVESAY, HEREBY DECLARE THAT THE ABOVE STATEMENT  
2 IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I  
3 UNDERSTAND IT IS MADE FOR USE AS EVIDENCE IN COURT AND IS SUBJECT  
4 TO PENALTY FOR PERJURY.

5 Dated: June 3, 2010.

  
University of Oregon Foundation  
By: Gary F. Livesay  
Chief Operating Officer, Petitioner

8 PETITIONER  
9 University of Oregon Foundation  
10 360 E. 10<sup>th</sup> Avenue, Suite 202  
11 Eugene, Oregon 97401-3273

ATTORNEYS FOR PETITIONER  
Jon V. Buerstatte, OSB # 822070  
Gleaves Swearingen Potter & Scott LLP  
P.O. Box 1147  
Eugene, Oregon 97440-1147  
(541) 686-8833  
(541) 345-2034 (Fax)  
Email: buerstatte@gleaveslaw.com

**AGREEMENT MODIFYING INSTITUTIONAL FUND**

**PARTIES:**

University of Oregon Foundation (A.K.A. University of Oregon Development Fund) (the "Foundation")  
University of Oregon, College of Education  
Dynamic Measurement Group, Inc., Donor

**RECITALS:**

- A. The Parties desire to modify the Dynamic Measurement Group Research Award for Literacy Study Institutional Fund Agreement, dated January 2006 (the "Institutional Fund"), a copy of which is attached hereto as Exhibit "A."
- B. The Parties and the Oregon Attorney General constitute all persons and entities whose signatures are required for this Agreement to be effective pursuant to ORS Chapter 130.

**AGREEMENT:**

NOW, THEREFORE, in consideration of the foregoing recitals that are by this reference expressly made a part hereof, and in consideration of the terms hereinafter contained, the Parties agree as follows:

1. Modification of Institutional Fund

On the Effective Date, the Institutional Fund shall be modified as set forth in Exhibit "B" attached hereto and by this reference incorporated herein.

2. Effective Date

This Agreement shall be effective on the date that all Parties and the Oregon Attorney General have each signed this Agreement and, if required by law, this Agreement has been approved by the Circuit Court of the State of Oregon for Lane County.

3. Tax Consequences

Donor accepts sole responsibility for tax consequences, if any, that result from the aforesaid modification of the Institutional Fund.

4. Number, Gender and Captions

As used herein, the singular shall include the plural and the plural the singular, as the context requires. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this Agreement.

5. Counterparts

This Agreement has been prepared and may be executed in multiple counterparts, each of which shall constitute an original. Each party may execute a separate counterpart, all of which when assembled shall constitute this Agreement, fully executed.

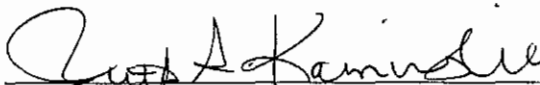
6. Original Agreement

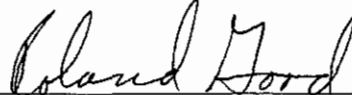
The Institutional Fund, as amended, and each term and provision thereof shall remain in full force and effect, except as herein modified, amended or restated.

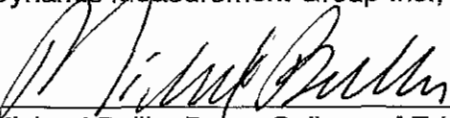
7. Entire Agreement

This Agreement and the exhibit hereto constitute the final written expression of all terms of the Institutional Fund and when read together they constitute the complete and exclusive statement of those terms.

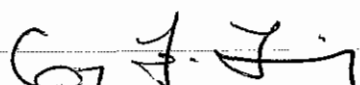
IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on the date set opposite their respective signatures below.

Signature:  3/26/10  
Ruth A. Kaminski, President  
Dynamic Measurement Group Inc., Donor  
Date

Signature:  3/26/10  
Roland H. Good, III, Vice President  
Dynamic Measurement Group Inc., Donor  
Date

Signature:  4/5/10  
Michael Bullis, Dean, College of Education  
University of Oregon  
Date

Signature:  4/12/10  
Michael Redding, VP for University Advancement  
University of Oregon  
Date

Signature:  4-27-10  
Gary F. Livesay, Chief Operating Officer  
University of Oregon Foundation  
Date

ORS 130.200 provides that, in certain instances, in order for an agreement modifying charitable funds held in trust subject to the enforcement or supervisory powers of the state or the Attorney General under ORS 128.610 to 128.750 to be effective, the Attorney General for the State of



Oregon must consent to the agreement. The Institutional Fund is an agreement that may be subject to that requirement. The foregoing Agreement Modifying Institutional Fund is hereby consented to.

ATTORNEY GENERAL

By Susan A Miller DSB 960960 5/24/10  
Susan A. Miller, Assistant Attorney General Date



UNIVERSITY OF OREGON  
FOUNDATION

## *Endowment Fund Agreement*

### **Dynamic Measurement Group Research Award for Literacy Study**

Whereas the University of Oregon Foundation (the Foundation) has received contributions given with the intent of establishing an endowment to provide support for College of Education at the University of Oregon (the University).

Therefore the Foundation shall establish the **Dynamic Measurement Group Research Award for Literacy Study** (the Fund) as a permanent endowment. So much of the net income and net appreciation of the Fund as the Foundation may deem prudent shall be utilized for the purposes set forth in this Agreement.

#### ***Background***

Established by Dynamic Measurement Group, under the guidance of Drs. Ruth Kaminski and Roland Good III, this award was established in honor of the scholars on the Research Team who developed initial versions and provided the initial research base for the Dynamic Indicators of Basic Early Literacy Skills (DIBELS) and the Indicadores Dinámicos del Éxito en la Lectura (IDEL). These measures were developed to inform educational decisions enabling early intervention and prevention for literacy difficulty.

#### ***Purpose***

The purpose of the Fund is to support doctoral students who are developing or conducting research on measurement, intervention, or instructional support regarding early literacy or related areas. It is intended to support students in the School Psychology, Special Education, Educational Leadership academic areas or related programs where the focus is on improving the lives of at-risk populations including students with disabilities.

The award is to be used to develop and conduct research on early literacy and related outcomes. Related outcomes may include the broad range of educational challenges like behavior problems that may serve as barriers to early literacy growth and acquisition.

#### ***Recipient Criteria***

Preference will be given to support dissertation research projects for doctoral students. If no or limited doctoral student dissertation projects are qualified for this award in a given year, the annual disbursement from the fund may also be given as scholarships to other graduate students whose work and interest is in early literacy in the programs listed above.

- Recipients must have demonstrated academic excellence.
- The recipient's academic studies are to primarily focus on the importance of early literacy and the prevention of reading failure.
- The recipient must show interest in a system-wide change approach in schools.

Special consideration: The donors intend this dissertation research award to be given to students in addition to any other scholarship, Graduate Teaching Fellowship, or Training Grant Stipend that the student might otherwise receive or be eligible to receive.

## **Exhibit A**

**Administrative Provisions**

1. A one-time fee equivalent to 3% of the original gift value will be charged to this endowed gift. In addition, a reasonable fee may be charged by and paid to the Foundation annually to cover the cost of administrative and fundraising expenses incurred on behalf of the Fund.
2. Any distribution made for current-use purposes not utilized in a given year may either be retained by the department head for expenditure in a future year or reinvested in the Fund, as determined by the department head.
3. For investment purposes, all or any part of the Fund may be merged with the other investment assets of the Foundation and invested at the discretion of the Board of Trustees of the Foundation.
4. Additions to the Fund in the form of property acceptable to the Foundation may be made at any time and shall thereafter be subject in all respects to the terms, provisions, and conditions of this Agreement.
5. The Fund hereby created shall be and is expressly declared to be a perpetual endowment. However, if at some future time a change of circumstances should render the designated purpose of the Fund no longer practical, then, and only then, the Board of Trustees of the Foundation, in consultation with the Dean of the College of Education, shall use so much of the net income and the net appreciation of the Fund as it may deem prudent to further the objectives and purposes of the University of Oregon with retention of the Fund name and giving due consideration to the special interests expressed above.
6. The Fund shall be managed in accordance with the Uniform Management of Institutional Funds Act as adopted by the State of Oregon.

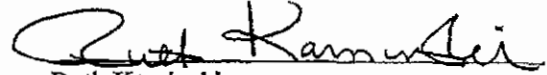
In witness whereof, the parties to this Agreement have subscribed their names hereto:


12/31/05  
DATE


1/2/06  
DATE

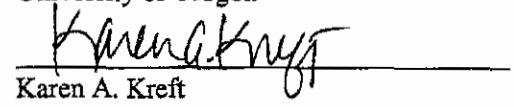
**APPROVED BY:**  
1/3/06  
DATE

20 January 2006  
DATE

  
Ruth Kaminski

  
Roland Good III

  
Michael Bullis  
Interim Dean, College of Education  
University of Oregon

  
Karen A. Kreft  
President & CEO  
University of Oregon Foundation

**Exhibit A**



## **Modification of Fund Agreement**

### **Dynamic Measurement Group Research Award for Literacy Study**

#### **Modification of Purpose**

Whereas the parties entered into a prior Agreement in January 2006; and

Whereas abundant funds are available and the parties wish to expand the original use;

Therefore it is the parties' intent and agreement that the Foundation shall modify the purpose to become as follows:

The purpose of the Fund is to support students who are developing or conducting research on measurement, intervention, or instructional support regarding early literacy or related areas. It is intended to support students in the School Psychology, Special Education, Educational Leadership academic areas or related programs where the focus is on improving the lives of at-risk populations including students with disabilities.

The award is to be used to develop, conduct and present research on early literacy and related outcomes. Related outcomes may include the broad range of educational challenges like behavior problems that may serve as barriers to early literacy growth and acquisition. The award may also support student travel for professional development related to literacy research.

Preference will be given to support dissertation research projects for doctoral. If no or limited doctoral student dissertation projects are qualified for this award in a given year, the annual disbursement from the fund may also be given as scholarships to other graduate students whose work and interest is consistent with the endowment purpose. If the initial preferences are met, funds may then be disbursed to students to support travel for professional development related to literacy research.

- Recipients must have demonstrated academic excellence.
- The recipient's academic studies are to primarily focus on the importance of literacy or early literacy and the prevention of reading failure.
- The recipient must show interest in a system-wide change approach in schools.

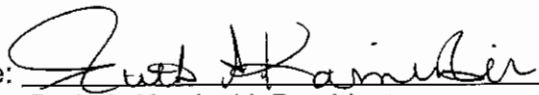
Special consideration: The donors intend this Dissertation Research Award to be given to students in addition to any other scholarship, Graduate Teaching Fellowship, or Training Grant Stipend that the student might otherwise receive or be eligible to receive.

Additional uses of the fund: As the fund grows, it is the donors' intent that a portion of the funds may be used to support student development in the area of interest outlined above. In addition to dissertation research and scholarships, the funds may

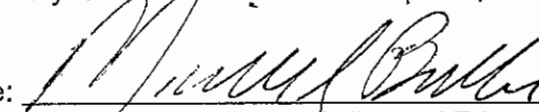
## **Exhibit B**

also be used to support professional development in such activities as travel support to attend conferences and/or present information and other activities deemed appropriate to their program.

All other terms and conditions of the previous agreement remain in effect.

Signature:  3/26/10  
Ruth A. Kaminski, President  
Dynamic Measurement Group Inc., Donor  
Date

Signature:  3/26/10  
Roland H. Good, III, Vice President  
Dynamic Measurement Group Inc., Donor  
Date

Signature:  4/5/10  
Michael Bullis, Dean, College of Education  
University of Oregon  
Date

Signature:  5/12/10  
Michael Redding, VP for University Advancement  
University of Oregon  
Date

Signature:  4-27-10  
Gary F. Livesay, Chief Operating Officer  
University of Oregon Foundation  
Date

**Exhibit B**

CERTIFIED TRUE COPY



IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF LANE

In the Matter of the Dynamic Measurement  
Group Research Award for Literacy Study,  
  
University of Oregon Foundation,  
Petitioner.

Case No. 52-10-15396

NOTICE OF FILING OF PETITION  
FOR MODIFICATION OF  
INSTITUTIONAL FUND

To: Susan A. Miller, Assistant Attorney General for the State of Oregon, Civil Enforcement Division, Charitable Activities, Randolph Geller, Deputy General Counsel for the University of Oregon, and Ruth A. Kaminski, President, and Roland H. Good, III, Vice President, Dynamic Measurement Group, Inc., Donor.

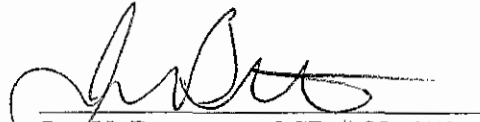
You are hereby notified that the attached document was filed by the undersigned in the above entitled court on the 14th day of July, 2010. Unless you file objections to the petition within 120 days after August 9, 2010, the petition will be granted and the resulting judgment will be binding on all persons interested in the trust.

If you file objections within the 120 day period, the court will fix a time and place for a hearing. At least 10 days before the date of that hearing, you must serve a copy of your objections and give notice of the time and place of the hearing to all persons interested in the

///

1 trust. See ORS 130.200.

2 DATED this 9th day of August, 2010.

3   
4 Jon V. Buerstatte OSB # 822070  
Of Attorneys for Petitioner

5 PETITIONER  
6 University of Oregon Foundation  
7 360 E. 10<sup>th</sup> Avenue, Suite 202  
8 Eugene, OR 97401-3273

9 ATTORNEY FOR PETITIONER  
10 Jon V. Buerstatte  
11 OSB # 822070  
12 Gleaves Swearingen Potter & Scott LLP  
13 975 Oak Street, Suite 800  
14 Eugene, OR 97401  
15 541-345-2034 (fax no.)  
16 buerstatte@gleaveslaw.com

CERTIFIED TRUE COPY

*[Handwritten Signature]*

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

In the Matter of the Dynamic Measurement  
Group Research Award for Literacy Study

Case No.52-10-15396

GENERAL JUDGMENT FOR  
MODIFICATION OF  
INSTITUTIONAL FUND

University of Oregon Foundation,  
Petitioner.

This matter having come before the court on the Petition of Petitioner University of Oregon Foundation, an Oregon nonprofit corporation, by and through its Chief Operating Officer, Gary F. Livesay, for the modification of the Dynamic Measurement Group Research Award for Literacy Study, and it appearing to the court from the records and files herein that:

1.

Service was made and perfected by regular mail to the persons entitled to notice as follows:

<u>Name</u>	<u>Date</u>
Susan A. Miller, Assistant Attorney General, State of Oregon	August 9, 2010
Randolph Geller, Deputy General Counsel, University of Oregon	August 9, 2010
Ruth A. Kaminski, President, and Ronald H. Good, III, Vice President, Dynamic Measurement Group, Inc. c/o Randolph Geller, Deputy General Counsel, University of Oregon	August 9, 2010



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2.

Notice as required by Oregon law has been waived by all persons entitled thereto.

3.

Venue is properly in this court and no other court in this state has acquired jurisdiction in this matter.

4.

Petitioner has obtained the consent of the Attorney General to the modification as required by Oregon law. The Consent and Waiver of Assistant Attorney General Susan A. Miller is filed herewith.

5.

ORS 128.328(1) permits the modification of a purpose restriction in a gift instrument when the donors consent. ORS 130.200(1) permits the modification of a charitable trust where the settlor/donor and all the beneficiaries consent. Ms. Kaminski and Mr. Good of Dynamic Measurement Group, Inc., Donor, consent to the modification. Petitioner has also obtained the consent of Randolph Geller, Deputy General Counsel, University of Oregon, beneficiary herein.

NOW, THEREFORE, it is hereby adjudged that a general judgment is entered as follows:

The Dynamic Measurement Group Research Award for Literacy Study shall be modified as set forth in Exhibit B of the Agreement Modifying Institutional Fund attached to the Petition filed herein.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Circuit Court Judge

1 PETITIONER  
2 University of Oregon Foundation  
3 360 E. 10<sup>th</sup> Avenue, Suite 202  
4 Eugene, Oregon 97401-3273

ATTORNEYS FOR PETITIONER  
Jon V. Buerstatte, OSB # 822070  
Gleaves Swearingen Potter & Scott LLP  
P.O. Box 1147  
Eugene, Oregon 97440-1147  
(541) 686-8833  
(541) 345-2034 (Fax)  
Email: buerstatte@gleaveslaw.com

## CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing General Judgment for Modification of Institutional Fund on the following persons on August 9, 2010, by depositing same in the United States Post Office at Eugene, Oregon, enclosed in a sealed envelope, with postage paid to the address noted below:


Randolph Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Susan A. Miller  
Assistant Attorney General  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue Suite 410  
Portland, OR 97201

Ms. Ruth A. Kaminski, President  
Dynamic Measurement Group, Inc.  
c/o Randolph Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Mr. Roland H. Good, III, Vice President  
Dynamic Measurement Group, Inc.  
c/o Randolph Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

DATED: August 9, 2010.

  
Jon V. Buerstatte OSB # 822070  
Of Attorneys for Petitioner

1  
2  
3  
4 IN THE CIRCUIT COURT OF THE STATE OF OREGON  
5 FOR LANE COUNTY

6 In the Matter of the Dynamic Measurement Group  
7 Research Award for Literacy Study

Case No. 52-10-15396

8 University of Oregon Foundation,  
9 Petitioner.

ACCEPTANCE OF SERVICE  
(Attorney General)

10 I, Susan A. Miller, Assistant Attorney General for the State of Oregon, Civil Enforcement  
11 Division, Charitable Activities, do hereby accept personal and legal service of a true copy of the  
12 Petition for Modification of Institutional Fund and Notice of Filing of Petition for Modification  
13 of Institutional Fund filed in the above-entitled matter, certified to be such by Jon V. Buerstatte,  
14 lawyer for Petitioner.  
15

16 DATED this 11<sup>th</sup> day of August, 2010.

17 Susan A Miller  
18 SUSAN A. MILLER OSB # 960960  
Assistant Attorney General for the State of Oregon

19 STATE OF OREGON )  
20 ) ss:  
21 County of Multnomah )

22 On this 11<sup>th</sup> day of August, 2010, the foregoing instrument was personally acknowledged  
before me by Susan A. Miller, Assistant Attorney General, State of Oregon.



Fiona Harpster  
Notary Public for Oregon  
My commission expires: 11.7.2010

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5 IN THE CIRCUIT COURT OF THE STATE OF OREGON  
6 FOR LANE COUNTY  
7

8 In the Matter of the Dynamic Measurement  
9 Group Research Award for Literacy Study

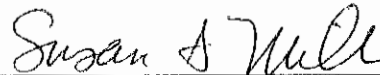
Case No. 52-10-15396

10 University of Oregon Foundation,  
11 Petitioner.

12 CONSENT AND WAIVER  
13 OF ATTORNEY GENERAL

14 I, Susan A. Miller, Assistant Attorney General for the State of Oregon, Civil Enforcement  
15 Division, Charitable Activities, have read the Petition for Modification of Institutional Fund  
16 herein. I approve the contents thereof, waive receipt of any required statutory notice and the right  
17 to object to the modification, and consent to the immediate entry of a judgment as requested in  
18 the Petition.

19 DATED this 11 day of August, 2010.

20 

21 Susan A. Miller OSB# 960960  
22 Assistant Attorney General for the State of Oregon  
23  
24  
25  
26

OK done

November 9, 2010

Susan A. Miller  
Assistant Attorney General  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue Suite 410  
Portland, OR 97201

Re: University of Oregon Foundation  
Max Risinger Memorial Fund

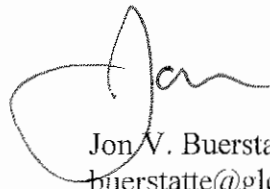
Dear Susan:

I am enclosing for your review certified true copies of the Petition for Modification of Institutional Fund, the Notice of Filing of Petition for Modification of Institutional Fund, and proposed General Judgment for Modification of Institutional Fund in the Max Risinger Memorial Fund institutional fund modification proceeding which we have filed on behalf of the University of Oregon Foundation.

If the documents meet with your approval, we would appreciate your signing and returning to us in the enclosed return envelope the Acceptance of Service and Consent and Waiver. We will then file the Acceptances and Consents received from you and from Randy Geller with the court and submit the General Judgment for the judge's signature.

Thank you for your assistance in this matter.

Very truly yours,



Jon V. Buerstatte  
[buerstatte@gleaveslaw.com](mailto:buerstatte@gleaveslaw.com)

JVB:gd  
Enclosures

cc: Randy Geller (w/o encls.)  
Paul Weinhold (w/ encls.)  
Tom Herrmann (w/ encls.)



Phone:  
(541) 686-8833  
Fax:  
(541) 345-2034

975 Oak Street  
Suite 800  
Eugene, Oregon  
97401-3156

Mailing Address:  
P.O. Box 1147  
Eugene, Oregon  
97440-1147

Email:  
[info@gleaveslaw.com](mailto:info@gleaveslaw.com)  
Web-Site:  
[www.gleaveslaw.com](http://www.gleaveslaw.com)

Frederick A. Batson  
Jon V. Buerstatte  
Patricia L. Chapman\*\*  
Michael T. Faulconer\*\*  
Howard F. Feinman  
Thomas P. E. Herrmann\*  
Dan Webb Howard\*\*  
Cassie K. Kellogg  
Stephen O. Lane  
Valeri L. Love  
William H. Martin\*  
Laura T. Z. Montgomery\*  
Thomas K. N. Moseman  
Laurie A. Nelson  
Ian T. Richardson  
Martha J. Rodman  
Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman  
Jane M. Yates

\*Also admitted  
in Washington

\*\*Also admitted  
in California

**RECEIVED**

NOV 13 2010

DEPARTMENT OF JUSTICE  
PORTLAND LEGAL

Gleaves  
Swearingen  
Potter &  
Scott LLP

ATTORNEYS  
AT LAW

November 9, 2010

Randy Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Re: University of Oregon Foundation  
Max Risinger Memorial Fund

Dear Randy:

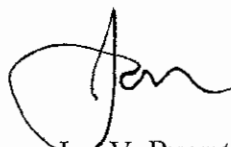
I am enclosing for your review certified true copies of the Petition for Modification of Institutional Fund, the Notice of Filing of Petition for Modification of Institutional Fund, and proposed General Judgment for Modification of Institutional Fund in the Max Risinger Memorial Fund institutional fund modification proceeding which we have filed on behalf of the University of Oregon Foundation.

If the documents meet with your approval, we would appreciate your signing and returning to us in the enclosed return envelope the Acceptance of Service and Consent and Waiver.

Once we receive the Acceptances and Consents from you and from Susan Miller of the AG's office, we will file those with the court and submit the General Judgment for the judge's signature.

Thank you for your assistance in this matter.

Very truly yours,



Jon V. Buerstatte  
[buerstatte@gleaveslaw.com](mailto:buerstatte@gleaveslaw.com)

JVB:gdm  
Enclosures

cc: Susan Miller (w/o encls.)  
Paul Weinhold (w/ encls.)  
Tom Herrmann (w/ encls.)

Phone:  
(541) 686-8833  
Fax:  
(541) 345-2034

975 Oak Street  
Suite 800  
Eugene, Oregon  
97401-3156

Mailing Address:  
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97440-1147

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Jane M. Yates

\*Also admitted  
in Washington

\*\*Also admitted  
in California

RECEIVED

NOV 13 2010

DEPARTMENT OF JUSTICE  
PORTLAND LEGAL

CERTIFIED TRUE COPY  
*[Signature]*

FILED  
2019 OCT 26 PM 3:19  
JRS: [unclear]  
[unclear]

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

In the Matter of the Max Risinger Memorial Fund  
  
University of Oregon Foundation,  
Petitioner.

Case No. 52-10-23789

PETITION FOR MODIFICATION OF  
INSTITUTIONAL FUND

UNIVERSITY OF OREGON FOUNDATION, an Oregon nonprofit corporation, by and through its President/Chief Executive Officer, Paul Weinhold, petitioner, represents to and petitions the Court as follows:

1. Attorney General Consent. The Attorney General's consent to the modification requested herein is required by ORS 130.200(2) and ORS 128.328. Petitioner has received the Attorney General's consent to the modification (see page 2 of Exhibit 1) and will seek a signed Consent for filing in this proceeding.

2. Venue. Venue for this matter lies in Lane County because the institutional fund is administered in Lane County, Oregon.

3. Historical Background of Fund. In April of 1976, Mrs. Rosemary Risinger established the Max Risinger Memorial Fund (the "Fund"). The purpose of the fund was to grant an annual award of \$200 to an upper-division or graduate choral music education student at the University of Oregon. The student must show promise of outstanding success in the field.



1           4.     Reason for Modification.     The Fund currently generates \$1,000 annually, five  
2 times the amount of the annual award specified by Mrs. Risinger. This means effectively that  
3 several hundred dollars is added to the principal of the fund each year, further increasing the  
4 disparity between the amount of funds available and the small amount which is permitted to be  
5 awarded under the original fund agreement. Petitioner requests that the Court approve the  
6 removal of the \$200 restriction on the annual award amount.

7           5.     Statutory Basis for Modification (UPMIFA). ORS 128.328(2) authorizes the  
8 modification of a restriction contained in a gift instrument if the restriction has become wasteful.  
9 Because the Fund generates \$1000 annually but is only permitted to disburse \$200 annually, the  
10 restriction has become wasteful.

11          6.     Statutory Basis for Modification (UTC).     ORS 130.200(2) permits the  
12 modification of an irrevocable trust upon consent of all the beneficiaries and of the Attorney  
13 General if the Court concludes that the modification is not inconsistent with a material purpose  
14 of the trust. The Fund's material purpose is to provide scholarships for promising choral music  
15 students at the University of Oregon. Removal of the restriction on the amount of the annual  
16 award is consistent with that purpose. The University of Oregon and the Attorney General

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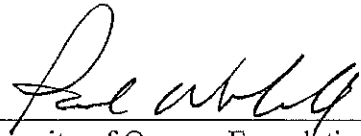
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1 consent to the modification.

2 WHEREFORE, petitioner prays for a general judgment approving the modification of the  
3 institutional fund as set forth in Exhibit B of Exhibit 1, attached hereto and incorporated herein.

4  
5 Dated this 19<sup>th</sup> day of October, 2010.

6  
7   
8 University of Oregon Foundation  
9 By: Paul Weinhold  
President/ Chief Executive Officer, Petitioner

10 I, PAUL WEINHOLD, HEREBY DECLARE THAT THE ABOVE STATEMENT  
11 IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I  
12 UNDERSTAND IT IS MADE FOR USE AS EVIDENCE IN COURT AND IS SUBJECT  
13 TO PENALTY FOR PERJURY.

14 Dated: October 19<sup>th</sup>, 2010.

15  
16   
17 University of Oregon Foundation  
18 By: Paul Weinhold  
19 President/ Chief Executive Officer, Petitioner

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ATTORNEYS FOR PETITIONER  
Jon V. Buerstatte, OSB # 822070  
Gleaves Swearingen Potter & Scott LLP  
P.O. Box 1147  
Eugene, Oregon 97440-1147  
(541) 686-8833  
(541) 345-2034 (Fax)  
Email: buerstatte@gleaveslaw.com

**AGREEMENT MODIFYING INSTITUTIONAL FUND**

**PARTIES:**

University of Oregon Foundation (A.K.A. University of Oregon Development Fund) (the "Foundation")

University of Oregon, School of Music and Dance

**RECITALS:**

- A. The Parties desire to modify the Max Risinger Memorial Fund Institutional Fund Agreement, dated April 1976 (the "Institutional Fund"), a copy of which is attached hereto as Exhibit "A."
- B. The Parties, Oregon Attorney General, and Circuit Court constitute all persons and entities whose signatures are required for this Agreement to be effective pursuant to ORS Chapter 130.

**AGREEMENT:**

NOW, THEREFORE, in consideration of the foregoing recitals that are by this reference expressly made a part hereof, and in consideration of the terms hereinafter contained, the Parties agree as follows:

1. Modification of Institutional Fund

On the Effective Date, the Institutional Fund shall be modified as set forth in Exhibit "B" attached hereto and by this reference incorporated herein.

2. Effective Date

This Agreement shall be effective on the date that all Parties and the Oregon Attorney General have each signed this Agreement and, if required by law, this Agreement has been approved by the Circuit Court of the State of Oregon for Lane County.

3. Number, Gender and Captions

As used herein, the singular shall include the plural and the plural the singular, as the context requires. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this Agreement.

4. Counterparts

This Agreement has been prepared and may be executed in multiple counterparts, each of which shall constitute an original. Each party may execute a separate counterpart, all of which when assembled shall constitute this Agreement, fully executed.

5. Original Agreement

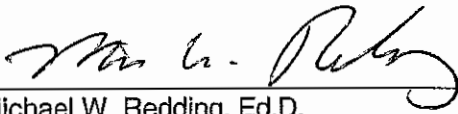
The Institutional Fund, as amended, and each term and provision thereof shall remain in full force and effect, except as herein modified, amended or restated.

6. Entire Agreement

This Agreement and the exhibit hereto constitute the final written expression of all terms of the Institutional Fund and when read together they constitute the complete and exclusive statement of those terms.

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on the date set opposite their respective signatures below.

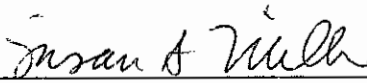
Signature:  7/8/2010  
Brad Foley, Dean, School of Music & Dance  
University of Oregon Date

Signature:  8/30/10  
Michael W. Redding, Ed.D.  
Vice President University Relations  
University of Oregon Date

Signature:  9-2-10  
Gary F. Livesay, Chief Operating Officer  
University of Oregon Foundation Date

ORS 130.200 provides that, in certain instances, in order for an agreement modifying charitable funds held in trust subject to the enforcement or supervisory powers of the state or the Attorney General under ORS 128.610 to 128.750 to be effective, the Attorney General for the State of Oregon must consent to the agreement. The Institutional Fund is an agreement that may be subject to that requirement. The foregoing Agreement Modifying Institutional Fund is hereby consented to.

ATTORNEY GENERAL

By  OSB 960960 9/20/10  
Susan A. Miller, Assistant Attorney General Date

MAX RISINGER MEMORIAL FUND

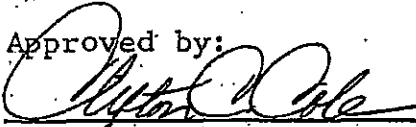
Instrument of Agreement

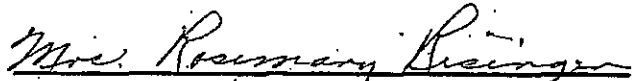
April 26, 1976

The University of Oregon Development Fund has received to date approximately \$900.00 in gifts for the Max Risinger Memorial Fund, with further contributions expected. This agreement is intended to formalize the stipulations for the use and perpetuation of the fund.

1. It is my wish that a perpetual fund entitled the "Max Risinger Memorial Award Fund" is to be established within the University of Oregon Development Fund.
2. The purpose of this fund is to grant an annual award of \$200.00 to an upper-division or graduate student enrolled at the University of Oregon in choral music education who shows promise of outstanding success in the field.
3. The recipient of the award is to be selected by a committee of the music education faculty, including the Dean of the School of Music, on the basis of observed talent and performance in music education.
4. Funds shall be set aside each year from earnings and current contributions sufficient to provide the \$200.00 annual award. All available funds in excess of this amount whether from earnings or current contributions shall be added each year to the endowment principal. If for any reason the award is not made for a given academic year, then it shall be added to the endowment principal.
5. The principal of the endowment fund shall not be invaded to fund the annual award. Realized capital gains or losses shall be added to or deleted from the principal of the fund.
6. If for any reason this award is no longer required, the earnings shall be used for the closest appropriate purpose, at the discretion of the University of Oregon Development Fund Board of Directors after consultation and approval by the Dean of the School of Music.
7. The fund may be increased by further gifts from the family of Max Risinger or from any and all contributions made by any other persons or parties.

Approved by:

  
Clifton C. Cole, Acting Director  
University of Oregon Development Fund

  
Mrs. Rosemary Risinger

April 27, 1976  
Date

April 28, 1976  
Date

**Exhibit A**

Property of the University of Oregon Foundation.

**CONFIDENTIAL**

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UNIVERSITY OF OREGON  
FOUNDATION

**Modification of Fund Agreement**

**Max Risinger Memorial Fund**

**Modification of Purpose**

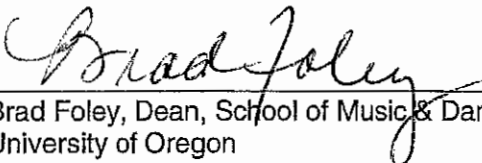
Whereas the parties entered into a prior Agreement in 1976; and

Whereas the fund current generates \$1,000 per year, so limiting the annual award to \$200 is wasteful;

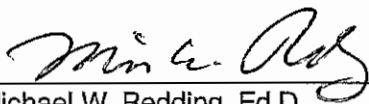
Therefore it is the parties' intent and agreement that the Foundation shall modify the purpose to become as follows:

- The scholarship[s] may be used for all standard educational expenses including tuition, fees, books, miscellaneous supplies, room and board.
- The purpose of this fund is to grant scholarship[s] to upper- division or graduate students enrolled at the University of Oregon in choral music education who show promise of outstanding success in the field.
- The recipient of the award is to be selected by a committee of the music education faculty, including the Dean of the School of Music, on the basis of observed talent and performance in music education.
- If for any reason the award is not made for a given academic year, then it shall be added to the endowment principal.

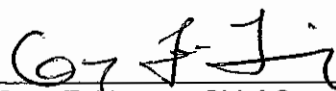
All other terms and conditions of the previous agreement remain in effect.

Signature:   
 Brad Foley, Dean, School of Music & Dance  
 University of Oregon

7/8/2010  
 Date

Signature:   
 Michael W. Redding, Ed.D.  
 Vice President University Relations  
 University of Oregon

8/30/10  
 Date

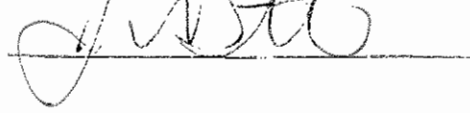
Signature:   
 Gary F. Livesay, Chief Operating Officer  
 University of Oregon Foundation

9-2-10  
 Date

**Exhibit B**

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CERTIFIED TRUE COPY



IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF LANE

In the Matter of the Max Risinger Memorial  
Fund,  
  
University of Oregon Foundation,  
Petitioner.

Case No. 52-10-23789

NOTICE OF FILING OF PETITION  
FOR MODIFICATION OF  
INSTITUTIONAL FUND

To: Susan A. Miller, Assistant Attorney General for the State of Oregon, Civil Enforcement Division, Charitable Activities, and Randolph Geller, General Counsel for the University of Oregon.

You are hereby notified that the attached document was filed by the undersigned in the above entitled court on the 26th day of October, 2010. Unless you file objections to the petition within 120 days after that date, the petition will be granted and the resulting judgment will be binding on all persons interested in the trust.


If you file objections within the 120 day period, the court will fix a time and place for a hearing. At least 10 days before the date of that hearing, you must serve a copy of your objections and give notice of the time and place of the hearing to all persons interested in the

///

///

1 trust. See ORS 130.200.

2 DATED this 9th day of November, 2010.

3   
4 Jon V. Buerstatte OSB # 822070  
Of Attorneys for Petitioner

5 PETITIONER  
6 University of Oregon Foundation  
7 360 E. 10<sup>th</sup> Avenue, Suite 202  
8 Eugene, OR 97401-3273

ATTORNEY FOR PETITIONER  
9 Jon V. Buerstatte  
10 OSB # 822070  
11 Gleaves Swearingen Potter & Scott LLP  
12 975 Oak Street, Suite 800  
13 Eugene, OR 97401  
14 541-345-2034 (fax no.)  
15 [buerstatte@gleaveslaw.com](mailto:buerstatte@gleaveslaw.com)



CERTIFIED TRUE COPY  
*[Signature]*

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

In the Matter of the Max Risinger Memorial  
Fund  
  
University of Oregon Foundation,  
Petitioner.

Case No. 52-10-23789

GENERAL JUDGMENT FOR  
MODIFICATION OF  
INSTITUTIONAL FUND

This matter having come before the court on the Petition of Petitioner University of Oregon Foundation, an Oregon nonprofit corporation, by and through its President and Chief Executive Officer, Paul Weinhold, for the modification of the Max Risinger Memorial Fund, and it appearing to the court from the records and files herein that:

1.

Service was made and perfected by regular mail to the persons entitled to notice as follows:

Name	Date
Susan A. Miller, Assistant Attorney General, State of Oregon	November 9, 2010
Randolph Geller, General Counsel, University of Oregon	November 9, 2010

2.

Notice as required by Oregon law has been waived by all persons entitled thereto.

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3.

Venue is properly in this court and no other court in this state has acquired jurisdiction in this matter.

4.

Petitioner has obtained the consent of the Attorney General to the modification as required by Oregon law. The Consent and Waiver of Assistant Attorney General Susan A. Miller is filed herewith.

5.

Petitioner has obtained consent to the modification from Randolph Geller, General Counsel for the University of Oregon, beneficiary.

6.

ORS 128.328(2) authorizes the modification of a restriction contained in a gift instrument if the restriction has become wasteful. Because the Fund generates \$1000 annually but is only permitted to disburse \$200 annually, the restriction has become wasteful.

ORS 130.200(2) permits the modification of an irrevocable trust upon consent of all the beneficiaries and of the Attorney General if the Court concludes that the modification is not inconsistent with a material purpose of the trust. The Fund's material purpose is to provide

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1 scholarships for promising choral music students at the University of Oregon. Removal of the  
2 restriction on the amount of the annual award is consistent with that purpose.

3  
4 NOW, THEREFORE, it is hereby adjudged that a general judgment is entered as follows:

5 The Max Risinger Memorial Fund shall be modified as set forth in Exhibit B of Exhibit 1  
6 attached to the Petition filed herein.

7  
8 DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

9  
10  
11 \_\_\_\_\_  
Circuit Court Judge

12 PETITIONER  
13 University of Oregon Foundation  
14 360 E. 10<sup>th</sup> Avenue, Suite 202  
15 Eugene, Oregon 97401-3273

16 ATTORNEYS FOR PETITIONER  
17 Jon V. Buerstatte, OSB # 822070  
18 Gleaves Swearingen Potter & Scott LLP  
19 P.O. Box 1147  
20 Eugene, Oregon 97440-1147  
21 (541) 686-8833  
22 (541) 345-2034 (Fax)  
23 Email: [buerstatte@gleaveslaw.com](mailto:buerstatte@gleaveslaw.com)


## CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing General Judgment for Modification of Institutional Fund on the following persons on November 9, 2010, by depositing same in the United States Post Office at Eugene, Oregon, enclosed in a sealed envelope, with postage paid to the address noted below:

Randolph Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Susan A. Miller  
Assistant Attorney General  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue Suite 410  
Portland, OR 97201

DATED: November 9, 2010.

  
Jon V. Buerstatte OSB # 822070  
Of Attorneys for Petitioner

1  
2  
3 IN THE CIRCUIT COURT OF THE STATE OF OREGON  
4 FOR LANE COUNTY  
5


6 In the Matter of the Max Risinger Memorial Fund  
7  
8 University of Oregon Foundation,  
9 Petitioner.

Case No. 52-10-23789

ACCEPTANCE OF SERVICE  
(Attorney General)

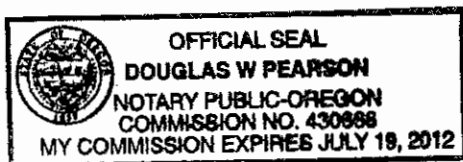
10 I, Susan A. Miller, Assistant Attorney General for the State of Oregon, Civil Enforcement  
11 Division, Charitable Activities, do hereby accept personal and legal service of a true copy of the  
12 Petition for Modification of Institutional Fund and Notice of Filing of Petition for Modification  
13 of Institutional Fund filed in the above-entitled matter, certified to be such by Jon V. Buerstatte,  
14 lawyer for Petitioner.  
15

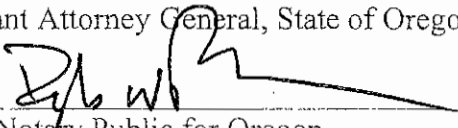
16 DATED this 15 day of November, 2010.

17   
18 \_\_\_\_\_  
SUSAN A. MILLER OSB # 960960  
Assistant Attorney General for the State of Oregon

19 STATE OF OREGON )  
20 ) ss:  
21 County of Multnomah )

22 On this 15<sup>th</sup> day of November, 2010, the foregoing instrument was personally  
23 acknowledged before me by Susan A. Miller, Assistant Attorney General, State of Oregon.



27   
28 \_\_\_\_\_  
Notary Public for Oregon  
My commission expires: 7/19/2012

1  
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4  
5 IN THE CIRCUIT COURT OF THE STATE OF OREGON  
6 FOR LANE COUNTY  
7

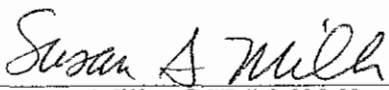
8 In the Matter of the Max Risinger Memorial Fund  
9 University of Oregon Foundation,  
10 Petitioner.

Case No. 52-10-23789

CONSENT AND WAIVER  
OF ATTORNEY GENERAL

11 I, Susan A. Miller, Assistant Attorney General for the State of Oregon, Civil Enforcement  
12 Division, Charitable Activities, have read the Petition for Modification of Institutional Fund  
13 herein. I approve the contents thereof, waive receipt of any required statutory notice and the right  
14 to object to the modification, and consent to the immediate entry of a judgment as requested in  
15 the Petition.  
16

17 DATED this 15 day of November, 2010.

18  
19   
20 Susan A. Miller OSB# 960960  
21 Assistant Attorney General for the State of Oregon  
22  
23  
24  
25  
26

November 9, 2010

*JK*

Susan A. Miller  
Assistant Attorney General  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue Suite 410  
Portland, OR 97201

Re: University of Oregon Foundation  
John A. and Patricia L. Gertson Scholarship Fund

Dear Susan:

I am enclosing for your review certified true copies of the Petition for Modification of Institutional Fund, the Notice of Filing of Petition for Modification of Institutional Fund, and proposed General Judgment for Modification of Institutional Fund in the John A. and Patricia L. Gertson Scholarship Fund institutional fund modification proceeding which we have filed on behalf of the University of Oregon Foundation.

If the documents meet with your approval, we would appreciate your signing and returning to us in the enclosed return envelope the Acceptance of Service and Consent and Waiver. We will then file the Acceptances and Consents received from you and from Randy Geller with the court and submit the General Judgment for the judge's signature.

Thank you for your assistance in this matter.

Very truly yours,



Jon V. Buerstatte  
[buerstatte@gleaveslaw.com](mailto:buerstatte@gleaveslaw.com)

JVB:ghm  
Enclosures

cc: Randy Geller (w/o encls.)  
Paul Weinhold (w/ encls.)  
Tom Herrmann (w/ encls.)

Phone:  
(541) 686-8833  
Fax:  
(541) 345-2034

975 Oak Street  
Suite 800  
Eugene, Oregon  
97401-3156

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Frederick A. Batson  
Jon V. Buerstatte  
Patricia L. Chapman\*\*  
Michael T. Faulconer\*\*  
Howard F. Feinman  
Thomas P. E. Herrmann\*  
Dan Webb Howard\*\*  
Cassie K. Kellogg  
Stephen O. Lane  
Valeri L. Love  
William H. Martin\*  
Laura T. Z. Montgomery\*  
Thomas K. N. Moseman  
Laurie A. Nelson  
Ian T. Richardson  
Martha J. Rodman  
Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman  
Jane M. Yates

\*Also admitted  
in Washington

\*\*Also admitted  
in California

RECEIVED  
NOV 13 2010  
DEPARTMENT OF JUSTICE  
PORTLAND LEGAL

Gleaves  
Swearingen  
Potter &  
Scott LLP

ATTORNEYS  
AT LAW

November 9, 2010

Randy Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Re: University of Oregon Foundation  
John A. and Patricia L. Gertson Scholarship Fund

Dear Randy:

I am enclosing for your review certified true copies of the Petition for Modification of Institutional Fund, the Notice of Filing of Petition for Modification of Institutional Fund, and the proposed General Judgment for Modification of Institutional Fund in the John A. and Patricia L. Gertson Scholarship Fund institutional fund modification proceeding which we have filed on behalf of the University of Oregon Foundation.

If the documents meet with your approval, we would appreciate your signing and returning to us in the enclosed return envelope the Acceptance of Service and Consent and Waiver.

Once we receive the Acceptances and Consents from you and from Susan Miller of the AG's office, we will file those with the court and submit the General Judgment for the judge's signature.

Thank you for your assistance in this matter.

Very truly yours,



Jon V. Buerstatte  
[buerstatte@gleaveslaw.com](mailto:buerstatte@gleaveslaw.com)

JVB:gd  
Enclosures

cc: Susan Miller (w/o encls.)  
Paul Weinholt (w/ encls.)  
Tom Herrmann (w/ encls.)

Phone:  
(541) 686-8833  
Fax:  
(541) 345-2034

975 Oak Street  
Suite 800  
Eugene, Oregon  
97401-3156

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Jane M. Yates

\*Also admitted  
in Washington

\*\*Also admitted  
in California

RECEIVED

NOV 13 2010

DEPARTMENT OF JUSTICE  
PORTLAND LEGAL



CERTIFIED TRUE COPY  
*[Signature]*

FILED  
AT 3:50 O'CLOCK P M  
NOV - 8 2010  
Circuit Court For Lane County, Oregon  
BY \_\_\_\_\_

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

In the Matter of the John A. and Patricia L. Gertson  
Scholarship Fund  
  
University of Oregon Foundation,  
Petitioner.

Case No. 52-10-74700

PETITION FOR MODIFICATION OF  
INSTITUTIONAL FUND

UNIVERSITY OF OREGON FOUNDATION, an Oregon nonprofit corporation, by and through its President and Chief Executive Officer, Paul Weinhold, petitioner, represents to and petitions the court as follows:

1. Attorney General Consent. The Attorney General's consent to the modification requested herein is required by ORS 130.200(2). Notice to the Attorney General is required under ORS 128.328(3) so that the Attorney General has the opportunity to be heard in the matter. Petitioner has received the Attorney General's consent to the modification (see page 2 of Exhibit 1) and will seek a signed Consent for filing in this proceeding.

2. Venue. Venue for this matter lies in Lane County because the institutional fund is administered in Lane County, Oregon.

3. Historical Background of Fund. The John A. and Patricia L. Gertson Scholarship Fund (the "Fund") was established in 1998 to receive the remainder interest in the John A. and Patricia L. Gertson Charitable Remainder Annuity Trust. Mr. and Mrs. Gertson have passed away, and the remainder has vested in the University of Oregon Foundation.

1           4.     Reason for Modification.     The original language of the endowment fund  
2 agreement provides that the scholarship shall be awarded “to an undergraduate student at the  
3 Lundquist College of Business (“LCB”) whose grade point average is not high enough to qualify  
4 for scholarships based on academic achievement. The student must not have been awarded other  
5 privately funded scholarships for the same academic period.” This language is overly restrictive  
6 and difficult to administer.

7           Scholarship selection is quite competitive at the University of Oregon, with a very large  
8 number of applications submitted. LCB uses students’ grade point averages in sorting through  
9 the applications, but requiring the school to look at every application to determine whether the  
10 student had received another scholarship would be impractical, if not impossible. Dala Gant  
11 (Associate Director of Scholarship Management in the University’s Donor Relations department)  
12 reports that the different schools and colleges simply do not have that information, nor does the  
13 Central Office of Financial Aid.

14           Furthermore, it is expected that a student applying for the Gertson scholarship would not  
15 necessarily know whether or not he or she will be receiving another scholarship which would  
16 disqualify the student from the Gertson scholarship. Students often apply for multiple  
17 scholarships in as many places as possible (and are strongly encouraged to do so by the  
18 government and everyone else). It would not be unusual for a student to apply early in the  
19 academic year and not receive notification of an award until spring or even the following  
20 academic year.

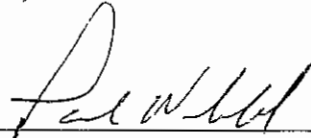
21           5.     Statutory Basis for Modification (UPMIFA). Pursuant to ORS 128.328(3), the  
22 court may modify a charitable restriction contained in a gift instrument if the restriction is  
23 impractical provided the modification is consistent with the charitable purposes expressed in the  
24 gift instrument. Modification in this case will allow petitioner to carry out the donors’ charitable  
25 purposes of providing scholarships to those who might not otherwise qualify by removing the  
26 overly restrictive language that hampers administration.

          6.     Statutory Basis for Modification (UTC). Pursuant to ORS 130.200(2),     the  
court may modify an irrevocable trust if the modification is not inconsistent with a material  
purpose of the trust. Here, modification is requested so that petitioner can effectively carry out  
the donor’s intent and material purpose of providing scholarships to students who might not

1 qualify for other private financial aid. All beneficiaries must consent. Petitioner, the University  
2 of Oregon, and the Attorney General all consent to the modification.

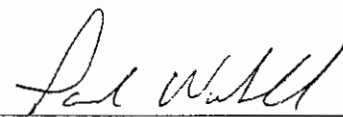
3 WHEREFORE, petitioner prays for a general judgment approving the modification of the  
4 institutional fund as set forth in Exhibit B of Exhibit 1, attached hereto and incorporated herein.

5 Dated this 4<sup>th</sup> day of November, 2010.

6   
7 University of Oregon Foundation  
8 By: Paul Weinhold  
9 President and Chief Executive Officer  
10 Petitioner

11 I, PAUL WEINHOLD, HEREBY DECLARE THAT THE ABOVE STATEMENT  
12 IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I  
13 UNDERSTAND IT IS MADE FOR USE AS EVIDENCE IN COURT AND IS SUBJECT  
14 TO PENALTY FOR PERJURY.

15 Dated: November 4, 2010.

16   
17 University of Oregon Foundation  
18 By: Paul Weinhold  
19 President and Chief Executive Officer  
20 Petitioner

21 **PETITIONER**  
22 University of Oregon Foundation  
23 360 E. 10<sup>th</sup> Avenue, Suite 202  
24 Eugene, Oregon 97401-3273

25 **ATTORNEYS FOR PETITIONER**  
26 Jon V. Buerstatte, OSB # 822070  
Gleaves Swearingen Potter & Scott LLP  
P.O. Box 1147  
Eugene, Oregon 97440-1147  
(541) 686-8833  
(541) 345-2034 (Fax)  
Email: [buerstatte@gleaveslaw.com](mailto:buerstatte@gleaveslaw.com)

**AGREEMENT MODIFYING INSTITUTIONAL FUND**

**PARTIES:**

University of Oregon Foundation (A.K.A. University of Oregon Development Fund) (the "Foundation")

University of Oregon, Lundquist College of Business

**RECITALS:**

- A. The Parties desire to modify the John A. and Patricia L. Gertson Scholarship Institutional Fund Agreement, dated October 1998 (the "Institutional Fund"), a copy of which is attached hereto as Exhibit "A."
- B. The Parties, Oregon Attorney General, and Circuit Court constitute all persons and entities whose signatures are required for this Agreement to be effective pursuant to ORS Chapter 130.

**AGREEMENT:**

NOW, THEREFORE, in consideration of the foregoing recitals that are by this reference expressly made a part hereof, and in consideration of the terms hereinafter contained, the Parties agree as follows:

1. Modification of Institutional Fund

On the Effective Date, the Institutional Fund shall be modified as set forth in Exhibit "B" attached hereto and by this reference incorporated herein.

2. Effective Date

This Agreement shall be effective on the date that all Parties and the Oregon Attorney General have each signed this Agreement and, if required by law, this Agreement has been approved by the Circuit Court of the State of Oregon for Lane County.

3. Number, Gender and Captions

As used herein, the singular shall include the plural and the plural the singular, as the context requires. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this Agreement.

4. Counterparts

This Agreement has been prepared and may be executed in multiple counterparts, each of which shall constitute an original. Each party may execute a separate counterpart, all of which when assembled shall constitute this Agreement, fully executed.


5. Original Agreement

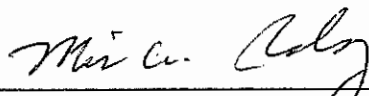
The Institutional Fund, as amended, and each term and provision thereof shall remain in full force and effect, except as herein modified, amended or restated.

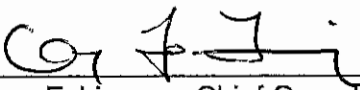
6. Entire Agreement

This Agreement and the exhibit hereto constitute the final written expression of all terms of the Institutional Fund and when read together they constitute the complete and exclusive statement of those terms.

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on the date set opposite their respective signatures below.

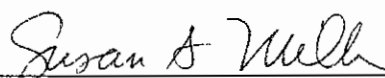
Signature:  2/18/10  
Dennis Howard, Dean, Date  
Lundquist College of Business  
University of Oregon

Signature:  2/22/10  
Michael Redding, VP for University Relations Date  
University of Oregon

Signature:  2-25-10  
Gary F. Livesay, Chief Operating Officer Date  
University of Oregon Foundation

ORS 130.200 provides that, in certain instances, in order for an agreement modifying charitable funds held in trust subject to the enforcement or supervisory powers of the state or the Attorney General under ORS 128.610 to 128.750 to be effective, the Attorney General for the State of Oregon must consent to the agreement. The Institutional Fund is an agreement that may be subject to that requirement. The foregoing Agreement Modifying Institutional Fund is hereby consented to.

ATTORNEY GENERAL

By  OSB 960960 10/13/10  
Susan A. Miller, Assistant Attorney General Date

# UNIVERSITY OF OREGON FOUNDATION

## Endowment Fund Agreement

### The John A. and Patricia L. Gertson Scholarship Fund

Whereas the University of Oregon Foundation will receive contributions from The John A. and Patricia L. Gertson Charitable Annuity Trust, given with the intent of establishing an endowment to provide support for scholarships for the Lundquist College of Business at the University of Oregon (the University)

#### Therefore

- 1) The University of Oregon Foundation (the Foundation) shall establish the **The John A. and Patricia L. Gertson Scholarship Fund** (the Fund), as a permanent endowment. The net income and so much of the appreciation of the Fund, as the Foundation may deem prudent, shall be utilized to award a scholarship to an undergraduate student at the Lundquist College of Business whose grade point average is not high enough to qualify for scholarships based on academic achievement. The student must not have been awarded other privately funded scholarships for the same academic period.
- 2) Notwithstanding paragraph 1) above, the Donors retain, during their lifetimes, the right to modify the purposes for which the Fund shall be used to the extent that such modifications shall provide support for the University of Oregon. The Donors' intent in retaining this right of modification is to provide them with flexibility in matching the purposes of the Fund to their charitable interests and the needs of the University as those interests and needs are determined over time and to the extent that the interests expressed are acceptable to the University.
- 3) Any distribution made for current use purposes not utilized in a given year may be either retained for expenditure in a future year or added to the principal of the Fund, as determined by the dean of the Lundquist College of Business, after consultation with the Foundation to be in the best interest of the Fund. For its services in holding and managing the Fund, a reasonable fee may be charged by and paid to the Foundation to cover the cost of administrative and fundraising expenses incurred on behalf of this endowment Fund.
- 4) For investment purposes all, or any part of, the Fund may be merged with the general investment assets of the Foundation and invested at the discretion of the Board of Trustees of the University of Oregon Foundation.
- 5) Additions to the Fund in the form of property acceptable to the Foundation may be made at any time, and shall thereafter be subject in all respects to the terms, provisions and conditions of this agreement.

**Exhibit A**

- 6) The endowment fund hereby created shall be and is expressly declared to be perpetual. However, if at some future time a change of circumstances should render the designated purpose of the Fund no longer practical, then, and only then, the Board of Trustees of the Foundation in agreement with the dean of the Lundquist College of Business shall use all, or any part of, the net income and so much of the appreciation of the Fund as it may deem prudent, to further the objectives and purposes of the University of Oregon with retention of the named Fund and giving due consideration to the special interests expressed above.
- 7) The endowment Fund shall be managed in accordance with the Uniform Management of Institutional Funds Act as adopted by the State of Oregon.

IN WITNESS WHERE OF, the parties to this agreement have subscribed their names hereto:

DATED THIS 3 DAY OF

Sept., 1998

John A. Gertson  
John A. Gertson

Patricia L. Gertson  
Patricia L. Gertson

APPROVED THIS 2 DAY OF

October, 1998

BY:

Jon V. Jaqua  
Jon V. Jaqua  
Executive Director  
University of Oregon Foundation

Dale Morse  
Dale Morse, Dean  
Lundquist College of Business  
University of Oregon

**Exhibit A**



### Modification of Fund Agreement

#### John A. and Patricia L. Gertson Scholarship

#### Modification of Purpose

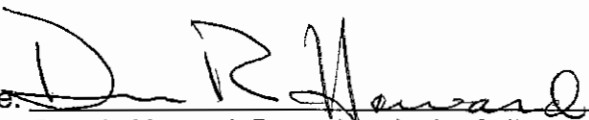
Whereas the parties entered into a prior Agreement in October 1998; and

Whereas it has become impossible to follow the selection criteria originally listed, because the scholarship currently stipulates that the award must go to an undergraduate whose grade point average is not high enough to qualify for scholarships based on academic achievement, and the student also must not be receiving other privately funded scholarships during the same academic period; however, current campus policy does not allow units to discriminate based on what other scholarships a student may be receiving, so this information is not available to the academic units and thus makes it impossible to honor the donors' restrictions;

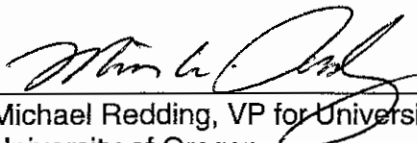
Therefore it is the parties' intent and agreement that the Foundation shall modify the purpose to become as follows:

To award a scholarship to an undergraduate student at the Lundquist College of Business who has demonstrated academic promise, but may not otherwise qualify for a merit based scholarship requiring a high grade point average.

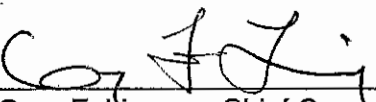
All other terms and conditions of the previous agreement remain in effect.

Signature:   
Dennis Howard, Dean, Lundquist College of Business  
University of Oregon

2/18/10  
Date

Signature:   
Michael Redding, VP for University Relations  
University of Oregon

2/22/10  
Date

Signature:   
Gary F. Livesay, Chief Operating Officer  
University of Oregon Foundation

2-25-10  
Date

**Exhibit B**



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CERTIFIED TRUE COPY  
*[Signature]*

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF LANE

In the Matter of the John A. and Patricia L.  
Gertson Scholarship Fund,  
  
University of Oregon Foundation,  
Petitioner.

Case No. 52-10-24700

NOTICE OF FILING OF PETITION  
FOR MODIFICATION OF  
INSTITUTIONAL FUND

To: Susan A. Miller, Assistant Attorney General for the State of Oregon, Civil Enforcement Division, Charitable Activities, and Randolph Geller, General Counsel for the University of Oregon.

You are hereby notified that the attached document was filed by the undersigned in the above entitled court on the 8th day of November, 2010. Unless you file objections to the petition within 120 days after that date, the petition will be granted and the resulting judgment will be binding on all persons interested in the trust.


If you file objections within the 120 day period, the court will fix a time and place for a hearing. At least 10 days before the date of that hearing, you must serve a copy of your objections and give notice of the time and place of the hearing to all persons interested in the

///

///

1 trust. See ORS 130.200.

2 DATED this 9th day of November, 2010.

3   
4 Jon V. Buerstatte OSB # 822070  
Of Attorneys for Petitioner

5 PETITIONER  
6 University of Oregon Foundation  
7 360 E. 10<sup>th</sup> Avenue, Suite 202  
8 Eugene, OR 97401-3273

9 ATTORNEY FOR PETITIONER  
10 Jon V. Buerstatte  
11 OSB # 822070  
12 Gleaves Swearingen Potter & Scott LLP  
13 975 Oak Street, Suite 800  
14 Eugene, OR 97401  
15 541-345-2034 (fax no.)  
16 [buerstatte@gleaveslaw.com](mailto:buerstatte@gleaveslaw.com)

CERTIFIED TRUE COPY



IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

In the Matter of the John A. and Patricia L.  
Gertson Scholarship Fund

Case No.52-10-24700

GENERAL JUDGMENT FOR  
MODIFICATION OF  
INSTITUTIONAL FUND

University of Oregon Foundation,  
Petitioner.

This matter having come before the court on the Petition of Petitioner University of Oregon Foundation, an Oregon nonprofit corporation, by and through its President and Chief Executive Officer, Paul Weinhold, for the modification of the John A. and Patricia L. Gertson Scholarship Fund, and it appearing to the court from the records and files herein that:

1.

Service was made and perfected by regular mail to the persons entitled to notice as follows:

Name	Date
Susan A. Miller, Assistant Attorney General, State of Oregon	November 9, 2010
Randolph Geller, General Counsel, University of Oregon	November 9, 2010

2.

Notice as required by Oregon law has been waived by all persons entitled thereto.

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3.

Venue is properly in this court and no other court in this state has acquired jurisdiction in this matter.

4.

Petitioner has obtained the consent of the Attorney General to the modification as required by Oregon law. The Consent and Waiver of Assistant Attorney General Susan A. Miller is filed herewith.

5.

Petitioner has obtained consent to the modification from Randolph Geller, General Counsel for the University of Oregon, beneficiary.

6.

Pursuant to ORS 128.328(3), the court may modify a charitable restriction contained in a gift instrument if the restriction is impractical provided the modification is consistent with the charitable purposes expressed in the gift instrument. Modification in this case will allow petitioner to carry out the donors' charitable purposes of providing scholarships to those who might not otherwise qualify by removing the overly restrictive language that hampers administration.

Pursuant to ORS 130.200(2), the court may modify an irrevocable trust if the modification is not inconsistent with a material purpose of the trust. Here, modification is

///

///

///

///

1 requested so that petitioner can effectively carry out the donor's intent and material purpose of  
2 providing scholarships to students who might not qualify for other private financial aid.

3 NOW, THEREFORE, it is hereby adjudged that a general judgment is entered as follows:

4 The John A. and Patricia L. Gertson Scholarship Fund shall be modified as set forth in  
5 Exhibit B of Exhibit 1 attached to the Petition filed herein.  
6

7 DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
8

9  
10 \_\_\_\_\_  
Circuit Court Judge

11 PETITIONER  
12 University of Oregon Foundation  
13 360 E. 10<sup>th</sup> Avenue, Suite 202  
Eugene, Oregon 97401-3273

ATTORNEYS FOR PETITIONER  
Jon V. Buerstatte, OSB # 822070  
Gleaves Swearingen Potter & Scott LLP  
P.O. Box 1147  
Eugene, Oregon 97440-1147  
(541) 686-8833  
(541) 345-2034 (Fax)  
Email: [buerstatte@gleaveslaw.com](mailto:buerstatte@gleaveslaw.com)

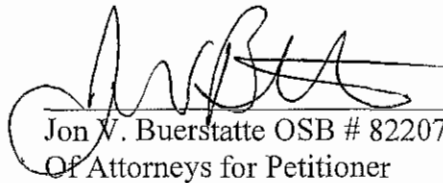
## CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing General Judgment for Modification of Institutional Fund on the following persons on November 9, 2010, by depositing same in the United States Post Office at Eugene, Oregon, enclosed in a sealed envelope, with postage paid to the address noted below:

Randolph Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Susan A. Miller  
Assistant Attorney General  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue Suite 410  
Portland, OR 97201

DATED: November 9, 2010.

  
Jon V. Buerstatte OSB # 822070  
Of Attorneys for Petitioner

1  
2  
3 IN THE CIRCUIT COURT OF THE STATE OF OREGON  
4 FOR LANE COUNTY  
5

6 In the Matter of the John A. and Patricia L. Gertson  
7 Scholarship Fund

Case No. 52-10-24700

8 University of Oregon Foundation,  
9 Petitioner.

ACCEPTANCE OF SERVICE  
(Attorney General)

10 I, Susan A. Miller, Assistant Attorney General for the State of Oregon, Civil Enforcement  
11 Division, Charitable Activities, do hereby accept personal and legal service of a true copy of the  
12 Petition for Modification of Institutional Fund and Notice of Filing of Petition for Modification  
13 of Institutional Fund filed in the above-entitled matter, certified to be such by Jon V. Buerstatte,  
14 lawyer for Petitioner.  
15

16 DATED this 15 day of November, 2010.

17 Susan A Miller  
18 SUSAN A. MILLER OSB # 960960  
Assistant Attorney General for the State of Oregon

19 STATE OF OREGON )  
20 ) ss:  
County of Multnomah )

21 On this 15<sup>th</sup> day of November, 2010, the foregoing instrument was personally  
22 acknowledged before me by Susan A. Miller, Assistant Attorney General, State of Oregon.



Toni C Kemple  
Notary Public for Oregon  
My commission expires: 8/27/11

1  
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4  
5 IN THE CIRCUIT COURT OF THE STATE OF OREGON  
6 FOR LANE COUNTY  
7

8 In the Matter of the John A. and Patricia L.  
9 Gertson Scholarship Fund

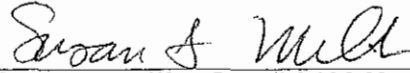
Case No. 52-10-24700

10 University of Oregon Foundation,  
11 Petitioner.

CONSENT AND WAIVER  
OF ATTORNEY GENERAL

12 I, Susan A. Miller, Assistant Attorney General for the State of Oregon, Civil Enforcement  
13 Division, Charitable Activities, have read the Petition for Modification of Institutional Fund  
14 herein. I approve the contents thereof, waive receipt of any required statutory notice and the right  
15 to object to the modification, and consent to the immediate entry of a judgment as requested in  
16 the Petition.

17 DATED this 15 day of November, 2010.

18  
19   
20 Susan A. Miller OSB# 960960  
21 Assistant Attorney General for the State of Oregon  
22  
23  
24  
25  
26



September 14, 2011

Ms. Susan Miller  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue, #410  
Portland, OR 97201

Re: University of Oregon Foundation – Lannom Charitable Remainder  
Unitrust

Dear Susan:

On behalf of our client, University of Oregon Foundation, I am enclosing for your review a proposed Agreement Modifying Charitable Remainder Unitrust in the Harold E. Lannom and Adrienne D. Lannom Charitable Remainder Unitrust. The modification is intended to change the charitable purpose for the one-half of the remainder interest in this CRUT which passes to the University of Oregon Foundation. No change is proposed to the one-half remainder interest which passes to St. Mary's Episcopal Church in Eugene.

The original purpose of the fund was to benefit the Bach Festival here in Eugene. However, while the Bach Festival remains a program of the University, the Settlers believe the Festival has come to emphasize performance rather than education, conducts many of its event off campus, and in general has become more independent from the School of Music (although it is still a program of the School of Music). For these and other reasons, the Settlers no longer feel that the charitable purpose provided for one-half the remainder interest in the CRUT will be served as originally intended, and the Settlers have requested a change, to which the School of Music has agreed.

The new purpose of the one-half remainder gift to the University of Oregon Foundation would be to support the University of Oregon's Museum of Natural and Cultural History. The specific fund that would receive the remainder interest is the Museum of Natural History Director's Endowed Fund. This Fund supports educational and scholarly endeavors at the Museum and would be a valuable asset in recruitment and retention of Museum directors.

Phone:  
(541) 686-8833  
Fax:  
(541) 345-2034

975 Oak Street  
Suite 800  
Eugene, Oregon  
97401-3156

Mailing Address:  
P.O. Box 1147  
Eugene, Oregon  
97440-1147

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Dan Webb Howard\*\*  
Cassie K. Jones  
Stephen O. Lane  
William H. Martin\*  
Laura T. Z. Montgomery\*  
Thomas K. N. Moseman  
Laurie A. Nelson  
Ian T. Richardson  
Martha J. Rodman  
Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman

\*Also admitted  
in Washington

\*\*Also admitted  
in California

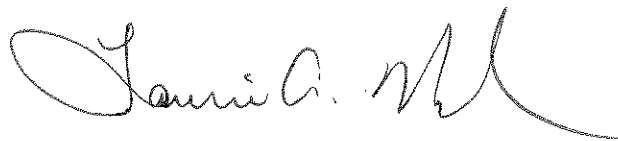
Ms. Susan Miller  
September 14, 2011  
Page - 2

Because this modification changes the material purpose of the one-half remainder interest, we plan to file a Petition for Modification with the Lane County Circuit Court under ORS 130.200(1).

Attached to the proposed Modification Agreement are two exhibits. Exhibit A is the original Unitrust Agreement from 1993, and Exhibit B is the 1999 Agreement Modifying Charitable Remainder Unitrust which incorporated a "flip" provision as permitted by a Treasury Regulation which had been amended prior to the modification.

If the form of the Agreement meets with your approval, please sign where indicated and return the Agreement to our office for filing with the court. If you have any questions or need additional information, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Laurie A. Nelson". The signature is written in black ink and is positioned above the typed name and email address.

Laurie A. Nelson  
[nelson@gleaveslaw.com](mailto:nelson@gleaveslaw.com)

LAN:gdm  
Enclosures

cc: Paul Weinhold  
Erika Funk  
Thomas P.E. Herrmann  
Jon V. Buerstatte  
Ian T. Richardson

**AGREEMENT MODIFYING CHARITABLE REMAINDER UNITRUST**

**PARTIES:**

**Settlers/Donors:**

Harold E. Lannom and Adrienne D. Lannom

**Trustee:**

University of Oregon Foundation, an Oregon nonprofit corporation (A.K.A. University of Oregon Development Fund)

**Beneficiaries:**

C. Brad Foley, Dean, University of Oregon School of Music

Jon Erlandson, Director, University of Oregon Museum of Natural and Cultural History

Michael C. Andreasen, Vice President for University Development, University of Oregon

The Rev Bingham, Powell of St. Mary's Episcopal Church, Eugene

**RECITALS:**

- A. The Parties desire to modify the **Harold E. Lannom and Adrienne D. Lannom Charitable Remainder Unitrust Agreement**, dated April 1, 1993 (the "CRUT"), a copy of which is attached hereto as Exhibit "A." The CRUT was subsequently modified by Agreement Modifying Charitable Remainder Unitrust on August 5, 1999, a copy of which is attached hereto as Exhibit "B."
- B. The Parties and the Oregon Attorney General constitute all persons and entities whose signatures are required for this Agreement to be effective pursuant to ORS Chapter 130, subject to approval of the Circuit Court of the State of Oregon for Lane County.

**AGREEMENT:**

NOW, THEREFORE, in consideration of the foregoing recitals that are by this reference expressly made a part hereof, and in consideration of the terms hereinafter contained, the Parties agree as follows:

1. Modification of CRUT

On the Effective Date, the CRUT shall be modified as set forth below:

- a. Section 6.1 shall be modified to read:

"6.1 Upon the death of the survivor of the Donors, the Trustee shall distribute all of the then income and principal of the unitrust, other than any amount due to

the Donors or the survivor of them, in equal shares to the UNIVERSITY OF OREGON FOUNDATION and ST. MARY'S EPISCOPAL CHURCH of Eugene, Oregon. The amount distributed to the University of Oregon Foundation shall be added to the Museum of Natural History Director's Endowed Fund ("Director's Fund") for the purpose contained in the governing instrument of the Director's Fund. The amount distributed to the St. Mary's Episcopal Church shall be added to the general endowment fund of the Church."

b. Section 6.3 shall be modified to read:

"6.4 Solely with respect to the University of Oregon Foundation, if at some time a change of circumstances should render the designated purpose of the Museum of Natural History Director's Endowed Fund no longer of reasonable benefit to the University of Oregon, as determined by the Foundation and the President of the University of Oregon, then, and only then, the Board of Trustees of the Foundation in consultation with the President of the University of Oregon, without seeking approval of the Oregon Attorney General or any court, may otherwise use the gift to further the objectives and purposes of the University of Oregon, giving due consideration to the Donors' purpose and intent as described in Section 6.1."

2. Effective Date

This Agreement shall be effective on the date that all Parties and the Oregon Attorney General have each signed this Agreement and this Agreement has been approved by the Circuit Court of the State of Oregon for Lane County.

3. Tax Consequences

Donors accept sole responsibility for tax consequences, if any, that result from the aforesaid modification of the CRUT.

4. Number, Gender and Captions

As used herein, the singular shall include the plural and the plural the singular, as the context requires. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this Agreement.

5. Counterparts

This Agreement has been prepared and may be executed in multiple counterparts, each of which shall constitute an original. Each party may execute a separate counterpart, all of which when assembled shall constitute this Agreement, fully executed.

6. Original Agreement

The CRUT, as amended, and each term and provision thereof shall remain in full force and effect, except as herein modified, amended or restated.

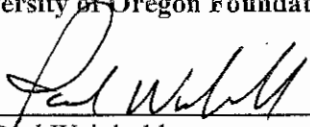
7. Entire Agreement

This Agreement and the exhibit hereto constitute the final written expression of all terms of the CRUT and when read together they constitute the complete and exclusive statement of those terms.

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on the date set opposite their respective signatures below.


**Trustee:**

**University of Oregon Foundation:**

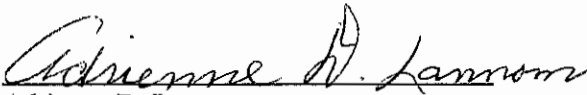
By:   
Paul Weinhold  
President and CEO

8/19/2011  
Date

**Settlors/Donors:**

  
Harold E. Lannom


14 August 2011  
Date

  
Adrienne D. Lannom

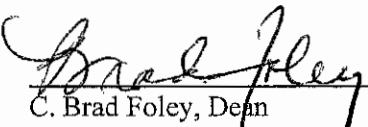
14 Aug 2011  
Date

**Beneficiaries:**

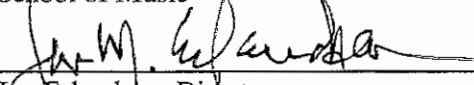
**University of Oregon:**

By:   
Michael C. Andreasen, Vice President  
for University Development

8/19/2011  
Date

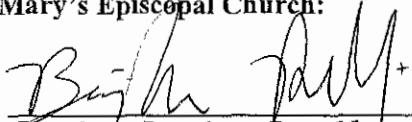
  
C. Brad Foley, Dean  
School of Music

8/29/2011  
Date

  
Jon Erlandson, Director  
Museum of Natural and Cultural History

1 SEPT 2011  
Date

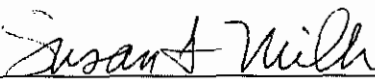
**St. Mary's Episcopal Church:**

  
\_\_\_\_\_  
The Rev Bingham Powell

9/6/11  
\_\_\_\_\_  
Date

ORS 130.200(1) provides that, in order for an agreement modifying charitable funds held in trust to be effective, the Attorney General for the State of Oregon must consent to the agreement. The Attorney General hereby consents to the foregoing Agreement Modifying Charitable Remainder Unitrust.

**Attorney General:**

By:   
\_\_\_\_\_  
Susan A. Miller OSB# 960960  
Assistant Attorney General

9/20/11  
\_\_\_\_\_  
Date

## CHARITABLE REMAINDER UNITRUST

HAROLD E. LANNOM & ADRIENNE D. LANNOM

UNITRUST AGREEMENT made this 1st day of April, 1993, between HAROLD E. AND ADRIENNE D. LANNOM, residing at 2720 Lawrence Street, Eugene, Oregon 97405, (hereinafter called "Donors") and UNIVERSITY OF OREGON FOUNDATION, an Oregon nonprofit corporation, located at Eugene, Oregon, (hereinafter called "Trustee").

### SECTION 1. TRANSFER OF PROPERTY.

Donors transfer and deliver to Trustee the property described in the annexed Schedule "A." This property and all receipts of every kind shall be managed and invested by Trustee as a single fund (hereinafter called the "unitrust").

### SECTION 2. TRUST PAYMENTS.

During the lifetimes of Donors, Trustee shall pay (in cash, in kind or partly in each) to them jointly and then to the survivor for life, in each taxable year of the unitrust a unitrust amount equal to the lesser of (a) the trust income for such taxable year (as defined in section 643(b) of the Internal Revenue Code of 1986 and the regulations thereunder) and (b) seven percent (7%) of the net fair market value of the trust assets valued as of the first day of such taxable year (decreased as provided in Section 3 in the case where the taxable year is a short taxable year or is the taxable year in which the survivor of the Donors dies and increased as provided in Section 4 in the case where there are additional contributions in the taxable year). If the trust income for any taxable year exceeds the amount determined under (b), the payment to Donors and the survivor of them shall also include such excess income to the extent that the aggregate of the amounts paid to Donors and the survivor of them in prior years is less than seven percent (7%) of the aggregate net fair market value of the trust assets for such years. Payments to Donors and the survivor of them shall be in quarterly installments (on the last day of March, June, September, and December, with the first installment to be on the last day of the month of June, 1993). Any income of the unitrust in excess of such payments shall be added to principal. Notwithstanding any existing or hereafter enacted state law, no amount other than the unitrust amount may be paid to or for the use of any person other than an organization described in each of section 170(b)(1)(A), section 170(c), section 2055(a), and section 2522(a) of the Internal Revenue Code of 1986 (hereinafter called the "Code"). However, an amount shall not be deemed to be paid to or for the use of any person other than an organization described in the aforesaid Code sections if the amount is transferred for full and adequate consideration.

### SECTION 3. TAXABLE YEARS.

The first taxable year of the unitrust begins with the date of this Agreement and shall end on December 31, 1993. Subsequent taxable years shall be on a calendar year basis. In the case of a taxable year which is for a period of less than 12 months (other than the taxable year in which the survivor of the Donors dies), the amount described in Section 2 shall be such amount multiplied by a fraction the numerator of which is the

number of days in the taxable year of the unitrust and the denominator of which is 365 (366 if February 29 is a day included in the numerator). In the case of the taxable year in which the survivor of the Donors dies, the amount described in Section 2 shall be such amount multiplied by a fraction the numerator of which is the number of days in the period beginning on the first day of such taxable year and ending on the date of death of the survivor of the Donors and the denominator of which is 365 (366 if February 29 is a day included in the numerator). Notwithstanding the foregoing, the obligation of Trustee to pay the unitrust amount shall terminate with the regular quarterly installment next preceding the death of the survivor of the Donors.

#### SECTION 4. ADDITIONAL CONTRIBUTIONS.

The Donors and others may, from time to time, add property acceptable to Trustee to the unitrust.

- 4.1 If any additional contributions are made to the unitrust after the initial contribution in trust, the amount described in Section 2 for the taxable year in which the assets are added to the trust shall be seven percent (7%) of the sum of (a) the net fair market value of the trust assets (excluding the assets so added and any income from, or appreciation on, such assets), and (b) that proportion of the value of the assets so added that was excluded under (a) which the number of days in the period which begins with the date of contribution and ends with the earlier of the last day of the taxable year or the death of the survivor of the Donors bears to the number of days in the period which begins on the first day of such taxable year and ends with the earlier of the last day of such taxable year or the death of the survivor of the Donors. The assets so added shall be valued at the time of contribution.
- 4.2 If any additional contribution is made by Will, the obligation to pay the unitrust amount with respect to such additional contribution shall commence with the date of death of the person under whose Will the additional contribution is made, but payment of such unitrust amount may be deferred from such date of death to the end of the taxable year of the unitrust in which occurs the complete funding of the additional contribution. Within a reasonable period after such time, the Trustee shall pay, in the case of an underpayment, or shall receive from the Donors or the survivor of them, as the case may be, in the case of an overpayment, the difference between any unitrust amounts actually paid to the Donors or the survivor of them, as the case may be, plus interest, compounded annually, computed for any period at the rate of interest that the federal income tax regulations (Treasury Regulations) under section 664 of the Code prescribe for the trust for such computation for such period, and the unitrust amounts payable determined under the method described in section 1.664-1(a)(5)(ii) of the Treasury Regulations, plus interest, compounded annually, computed for any period at the rate of interest that the Treasury Regulations under section 664 of the Code prescribe for the trust for such computation for such period. Any payments required to be made because of an underpayment shall be paid to the person (or his estate) who received the underpayment. Any repayments required to be made because of an overpayment shall be repaid by the person (or his estate) who received the overpayment.



SECTION 5. DETERMINATION OF NET FAIR MARKET VALUE.

- 5.1 If the net fair market value of the unitrust assets is incorrectly determined by Trustee for any taxable year, then within a reasonable period after the final determination of the correct value Trustee shall pay to the Donors or the survivor of them, in the case of an undervaluation, or shall receive from the Donors or the survivor of them, in the case of an overvaluation, an amount equal to the difference between the unitrust amount properly payable and the unitrust amount actually paid. Any payments required to be made because of an undervaluation shall be paid to the person (or his estate) who received the underpayment. Any repayments required to be made because of an overvaluation shall be repaid by the person (or his estate) who received the overpayment.
- 5.2 In computing the net fair market value of the unitrust assets there shall be taken into account all assets and liabilities without regard to whether particular items are taken into account in determining the income of the unitrust. All determinations of the unitrust's net fair market value shall be in accordance with generally accepted fiduciary accounting principles and any United States Treasury requirements governing charitable remainder unitrusts. In any conflict Treasury requirements shall prevail over generally accepted fiduciary accounting principles and any inconsistent provisions of this Agreement.

SECTION 6. DISTRIBUTION ON DEATH OF DONOR.

- 6.1 Upon the death of the survivor of the Donors, the Trustee shall distribute all of the then income and principal of the unitrust, other than any amount due to the Donors or the survivor of them, in equal shares to the UNIVERSITY OF OREGON FOUNDATION and ST. MARY'S EPISCOPAL CHURCH of Eugene, Oregon. The amount distributed to the University of Oregon Foundation shall be added to an endowment fund established for the purpose of funding a Conducting Chair for the University of Oregon School of Music's Bach Festival. The amount distributed to the St. Mary's Episcopal Church shall be added to the general endowment fund of the Church.
- 6.2 Notwithstanding any of the foregoing provisions of this Agreement:
- 6.2.1 HAROLD E. LANNOM hereby expressly reserves the power, exercisable only by his Will, to revoke and terminate the survivorship payments for ADRIENNE D. LANNOM from his interest in the joint property in the unitrust. If he effectively exercises his testamentary power:
- (a) Trustee shall upon his death distribute one-half of the then income and principal of the unitrust, other than any amounts due to the Donors, in equal shares to UNIVERSITY OF OREGON FOUNDATION and ST. MARY'S EPISCOPAL CHURCH of Eugene, Oregon, to be used for the purposes described in Section 6.1;

- (b) Trustee's obligation to make payments to him shall cease with the payment next preceding his death and one-half of any accruals for the period beginning with the payment date next preceding his death and ending with the date of his death shall on his death be paid in equal shares to UNIVERSITY OF OREGON FOUNDATION and ST. MARY'S EPISCOPAL CHURCH of Eugene, Oregon, to be used for the purposes described in Section 6.1; and
- (c) Trustee shall thereafter pay to ADRIENNE D. LANNOM for her life the unitrust amounts in each taxable year of the trust described in Sections 3 and 4.

6.2.2 ADRIENNE D. LANNOM hereby expressly reserves the power, exercisable only by her Will, to revoke and terminate the survivorship payments for HAROLD E. LANNOM from her interest in the joint property in the unitrust. If she effectively exercises her testamentary power:

- (a) Trustee shall upon her death distribute one-half of the then income and principal of the unitrust, other than any amounts due to the Donors, in equal shares to UNIVERSITY OF OREGON FOUNDATION and ST. MARY'S EPISCOPAL CHURCH of Eugene, Oregon, to be used for the purposes described in Section 6.1; and
- (b) Trustee's obligation to make payments to her shall cease with the payment next preceding her death and one-half of any accruals for the period beginning with the payment date next preceding her death and ending with the date of her death shall on her death be paid in equal shares to UNIVERSITY OF OREGON FOUNDATION and ST. MARY'S EPISCOPAL CHURCH of Eugene, Oregon, to be used for the purposes described in Section 6.1; and
- (c) Trustee shall thereafter pay to HAROLD E. LANNOM for his life the unitrust amounts in each taxable year of the trust described in Sections 3 and 4.

6.2.3 In the case of any distributions in kind to UNIVERSITY OF OREGON FOUNDATION or ST. MARY'S EPISCOPAL CHURCH of Eugene, Oregon, the adjusted basis of the property distributed shall be fairly representative of the adjusted basis of the property available for distribution on the date of distribution.

6.3 If either the UNIVERSITY OF OREGON FOUNDATION or ST. MARY'S EPISCOPAL CHURCH of Eugene, Oregon, is not an organization described in each of section 170(b)(1)(A), section 170(c), section 2055(a), and section 2522(a) of the Code at the time when any principal or income of the unitrust is to be distributed to it, Trustee shall distribute such principal or income to one or more organizations then so described as Trustee shall select in its sole discretion and in such shares as it shall determine.

- 6.4 Solely with respect to the University of Oregon Foundation, if at some time a change of circumstances should render the designated purpose of the endowment fund for the Bach Festival Conducting Chair no longer practical, then, and only then, the Board of Trustees of the Foundation and the President of the University of Oregon shall use the expendable proceeds from that portion of the endowment fund attributable to this unitrust as deemed prudent to further the objectives and purposes of the University, giving due consideration to the special interest expressed above.

**SECTION 7. TRUSTEE'S POWERS.**

In addition to the powers conferred upon it by law, Trustee is authorized to:

- 7.1 Retain the property described in Schedule "A," or may sell the property and invest and reinvest the unitrust in any kind of property without diversification as to kind or amount and without regard to the limitations imposed by law on investments. Nothing in this Agreement shall be construed to restrict the Trustee from investing the unitrust assets in a manner which could result in the annual realization of a reasonable amount of income or gain from the sale or disposition of trust assets.
- 7.2 Sell, exchange or otherwise dispose of any unitrust asset at either public or private sale, for cash or on credit; to exchange any such property and to grant options for the purchase thereof without any limitation on the period of any such option.
- 7.3 Consent to and participate in, or to oppose, any foreclosure, liquidation or plan of reorganization, consolidation, merger, combination or other similar plan and to consent to any contract, lease, mortgage, purchase, sale or other action by any other corporation pursuant to such plan.
- 7.4 Deposit any unitrust asset with any protective, reorganizational or similar committee, to delegate discretionary power thereto, to pay part of its expenses and compensation and any assessments levied with respect to such asset.
- 7.5 Exercise all conversion, subscription, voting and other rights of whatsoever nature pertaining to any such unitrust asset and to grant proxies, discretionary or otherwise, with respect thereto.
- 7.6 Extend the time of payment of any obligation held hereunder and to compromise, settle or submit to arbitration or to release any claim in favor of or against any unitrust asset.
- 7.7 Register and hold any unitrust asset in the name of a nominee and the liability of the Trustee shall be neither increased nor decreased thereby.
- 7.8 Do all such acts, take all such proceedings and exercise all such rights and privileges, although not hereinbefore specifically mentioned with respect to any unitrust asset as if the absolute owner thereof and in connection therewith to make, execute and deliver any instruments and to enter into any covenants or agreements binding the unitrust; provided that the

Trustee shall take no such action as shall violate the provisions of Code Section 664 and the regulations thereunder.

SECTION 8. TRUSTEE'S COMPENSATION.

Trustee shall not receive compensation for services rendered under this Agreement, although a reasonable fee may be charged by and paid to Trustee or its designee to cover the cost of direct and indirect administrative expenses incurred on behalf of the Unitrust, which fees shall be charged in a manner consistent with Trustee's policy generally applicable to similar Charitable Remainder Trusts. No bond or other security shall be required of Trustee in any jurisdiction.

SECTION 9. TAX BENEFITS/PROHIBITED TRANSACTIONS.

In creating this unitrust, the Donors intend to obtain the full benefit of any income, gift and estate tax charitable contribution deductions to which they (and their estates) may be entitled under the Code and for the unitrust to qualify as a charitable remainder unitrust under section 664 of the Code and the regulations thereunder. Accordingly, this unitrust shall be interpreted, valued, managed, invested, administered, and in all other respects governed consistent with the Donors' intent. Without limiting the generality of the foregoing, Trustee is prohibited (except for the payment of the unitrust amount to the Donors and the survivor of them) from engaging in any act of self-dealing as defined in section 4941(d) of the Code, from retaining any excess business holdings as defined in section 4943(c) of the Code which would subject the unitrust to tax under section 4943 of the Code, from making any investments which would subject the unitrust to tax under section 4944 of the Code, and from making any taxable expenditures as defined in section 4945(d) of the Code. If section 4942 of the Code is deemed applicable to the unitrust by reason of section 508(e) of the Code or otherwise, Trustee shall make distributions at such time and in such manner as not to subject the unitrust to tax under section 4942 of the Code.

SECTION 10. MISCELLANEOUS.


- 10.1 No federal estate taxes, state death taxes, or any other estate, death, or inheritance taxes ("death taxes") with respect to the unitrust shall be allocated to or be recoverable from the unitrust. The Donors impose an obligation on their respective estates to pay any death taxes from sources other than the unitrust and agree to so provide in their respective Wills or in another way. This provision may be enforced by the UNIVERSITY OF OREGON FOUNDATION, in its capacity as trustee or charitable remainderman, or by each Donor, acting alone or together.
- 10.2 Each Donor has provided for the payment of any death taxes from sources other than the unitrust. Nevertheless, if for any reason, the unitrust becomes liable for death taxes on the death of the first of the Donors to die, the interest of the surviving Donor in the one-half interest of the deceased Donor shall take effect only if the surviving Donor furnishes the funds for payment of any death taxes for which the unitrust may be liable. If the survivor fails to furnish those funds, it shall be deemed for all purposes of this Agreement that the first of the Donors to die exercised the right in his or her Will described in Section 6.2.1 and 6.2.2.
- 10.3 This Agreement is irrevocable.

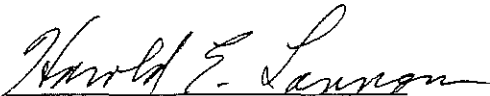
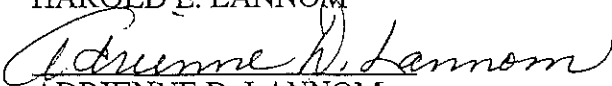
10.4 Trustee shall have the power to amend this Agreement for the sole purpose of complying with the requirements of section 664 of the Code and Treasury Regulations sections 1.664-1 and 1.664-3.

10.5 This Agreement is made pursuant to, and shall be interpreted in accordance with, the laws of the State of Oregon. However, in any conflict with section 664 of the Code, the regulations thereunder or any other existing or hereafter promulgated legislative or Treasury requirements for the qualification of the unitrust and for the Donors' obtaining the full benefit of any income, gift, and estate tax charitable deductions to which they (and their respective estates) may be entitled, section 664 of the Code, the regulations thereunder, and the legislative and Treasury requirements shall govern.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the date first above written.

UNIVERSITY OF OREGON FOUNDATION,  
an Oregon nonprofit corporation

By:   
PAUL EBERLE  
Title: Acting Executive Director

  
HAROLD E. LANNOM  
  
ADRIENNE D. LANNOM

TRUSTEE

DONORS

SCHEDULE "A"

HAROLD E. LANNOM AND ADRIENNE D. LANNOM  
CHARITABLE REMAINDER UNITRUST

Real Property located at 310 East 14th Avenue, Eugene, Oregon.  
Tax Lot 17-03-31-41-2700

Initial net fair market value: \$120,000.00

**AGREEMENT MODIFYING CHARITABLE REMAINDER UNITRUST**

**PARTIES:**

**TRUSTEE:** University of Oregon Foundation (A.K.A.  
University of Oregon Development Fund)

**DONORS:** Harold E. Lannom  
Adrienne D. Lannom

**BENEFICIARIES:**

**Income Beneficiaries:** Harold E. Lannom  
Adrienne D. Lannom

**Remainder Beneficiaries:** University of Oregon Foundation  
University of Oregon  
St. Mary's Episcopal Church

**DATE:** August 5, 1999

**RECITALS:**

- A. Pursuant to ORS 128.177-128.185, the Parties desire to modify certain provisions of the Harold E. Lannom and Adrienne D. Lannom Charitable Remainder Unitrust, dated April 1, 1993 ("the CRUT"), a copy of which is attached hereto as Exhibit "A" and by reference incorporated herein.
- B. The Parties want to modify the CRUT because of a newly amended Treasury Regulation, Treas. Reg. § 1.664-3(a) ("the Regulation"), which is herein incorporated by reference. Prior to the Regulation, Section 664 of the Internal Revenue Code of 1986, as amended, and the regulations thereunder, required that the computation of the unitrust amount paid to the income beneficiaries of a charitable remainder unitrust had to be based on either the fixed percentage method ("Fixed Percentage Method") or one of two income exception methods ("Income Exception Method") and a charitable remainder unitrust could not convert from the Income Exception Method to the Fixed Percentage Method.
- C. The Regulation now provides that a newly created charitable remainder unitrust may provide for a conversion from the Income Exception Method of computing the unitrust amount to the Fixed Percentage Method, provided that the terms of the trust agreement comply with the provisions of the Regulation. A charitable remainder unitrust that provides for such a conversion is termed a "Flip Unitrust."

EXHIBIT   B  

PAGE   1

- D. In addition, the Regulation allows an existing charitable remainder unitrust utilizing the Income Exception Method to compute the unitrust amount to be modified in accordance with state law through legal proceedings initiated on or before June 8, 1999, for the purpose of converting to the Fixed Percentage Method, subject to the requirements of the Regulation. The Internal Revenue Service, in Internal Revenue Service Notice 99-31 ("the Notice"), extended the deadline for reformation from June 8, 1999 until June 30, 2000. Additionally, the Notice clarified the term "legal proceedings" to include judicial and non-judicial reformation as provided under state law.
- E. The Regulation provides three (3) requirements for a Flip Unitrust: (1) unitrust payments must be made on an annual (or more frequent) basis; (2) the conversion from the Income Exception Method to the Fixed Percentage Method must be governed by a triggering event or date that is not discretionary or within the control of any person; and (3) the conversion from the Income Exception Method to the Fixed Percentage Method must occur at the beginning of the taxable year that follows the taxable year during which the triggering event or date occurs. The CRUT qualifies under the Regulation for reformation to a Flip Unitrust.
- F. The Parties constitute all persons and entities whose signatures are required for this Agreement to be effective pursuant to ORS 128.177(2).

#### AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing recitals that are by this reference expressly made a part hereof, and in consideration of the terms hereinafter contained, the Parties agree as follows:

1. Modification of CRUT

On January 1 following the triggering event or date described in Paragraph 2 below, the original Section 2 of the CRUT shall be deemed and construed to be deleted in its entirety and shall be replaced in its entirety with the following new Section 2:

"During the lifetimes of the Donors, the Trustee shall pay (in cash, in kind or partly in each) to the Donors jointly, and then to the survivor of them for life, in each taxable year of the unitrust, a unitrust amount equal to seven percent (7%) of the net fair market value of the trust assets valued on the first day of such taxable year (decreased as provided in Section 3 in the case where the taxable year is a short taxable year or is the taxable year in which the survivor of the Donors dies and increased as provided in Section 4 in the case where there are additional contributions in the taxable year). The unitrust amount shall be paid in equal quarterly installments (as of the last day of March, June, September and December of each year, with the first installment to be on the last day of the month of March, 2000) from income and, to the extent income is insufficient, from principal. Any income of the unitrust for a taxable year in excess of the unitrust amount shall be added to principal. Notwithstanding any existing or

EXHIBIT B

PAGE 2



hereafter enacted state law, no amount other than the unitrust amount may be paid to or for the use of any person other than an organization described in each of section 170(b)(1)(A), section 170(c), section 2055(a) and section 2522(a) of the Internal Revenue Code of 1986 (hereinafter called the "Code"). However, an amount shall not be deemed to be paid to or for the use of any person other than an organization described in the aforesaid Code sections if the amount is transferred for full and adequate consideration."

2. Triggering Event or Date

December 31, 1999 shall constitute the "triggering event or date" as that term is defined by the Regulation.

3. Waiver of Make-Up Payment

Effective January 1, 2000, Donors waive the right to payment of any deficiency that has accrued under the second sentence of the original Section 2.

4. Number, Gender and Captions

As used herein, the singular shall include the plural and the plural the singular. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this Agreement.

5. Counterparts

This Agreement has been prepared and may be executed in multiple counterparts, each of which shall constitute an original. Each party may execute a separate counterpart, all of which when assembled shall constitute this Agreement, fully executed.

6. Compliance with Regulation and Notice

The Parties intend that this Agreement comply and be interpreted in accordance with the Regulation and Notice. In the event of any conflict between this Agreement and the Regulation and Notice, the Regulation and Notice shall prevail.

7. Original Agreement

The CRUT and each term and provision thereof shall remain in full force and effect, except as herein modified, amended or restated.

8. Entire Agreement

This Agreement and the CRUT constitute the final written expression of all terms of the Harold E. Lannom and Adrienne D. Lannom Charitable Remainder Unitrust and when read together they constitute the complete and exclusive statement of those terms.

EXHIBIT B  
PAGE 3

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on the date set opposite their respective signatures below.

TRUSTEE

University of Oregon Foundation

By Karri Pargeter  
Karri Pargeter, Director of Finance

6/25/99  
Date

DONORS

Harold E. Lannom  
Harold E. Lannom

6-8-99  
Date

Adrienne D. Lannom  
Adrienne D. Lannom

6/8/99  
Date

BENEFICIARIES

**Income Beneficiaries**

Harold E. Lannom  
Harold E. Lannom

6-8-99  
Date

Adrienne D. Lannom  
Adrienne D. Lannom

6/8/99  
Date

**Remainder Beneficiaries**

University of Oregon Foundation

By Karri Pargeter  
Karri Pargeter, Director of Finance

6/25/99  
Date

University of Oregon

By Dave Frohnmayer  
Dave Frohnmayer, President

7/2/99  
Date

St. Mary's Episcopal Church

By \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Date

EXHIBIT B  
PAGE 4

ORS 128.135(2) and 128.177(2)(d) state that, in order for an agreement modifying a charitable trust subject to the enforcement or supervisory powers of the state or the Attorney General under ORS 128.610 to 128.750 to be effective, the Attorney General for the State of Oregon must approve the agreement. The CRUT is an agreement subject to that requirement. The foregoing Agreement Modifying Charitable Remainder Unitrust is hereby approved.

ATTORNEY GENERAL

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

\_\_\_\_\_ Date

EXHIBIT   B    
PAGE   5

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on the date set opposite their respective signatures below.

TRUSTEE

University of Oregon Foundation

By \_\_\_\_\_  
Karri Pargeter, Director of Finance Date \_\_\_\_\_

DONORS

\_\_\_\_\_  
Harold E. Lannom Date \_\_\_\_\_

\_\_\_\_\_  
Adrienne D. Lannom Date \_\_\_\_\_

BENEFICIARIES

**Income Beneficiaries**

\_\_\_\_\_  
Harold E. Lannom Date \_\_\_\_\_

\_\_\_\_\_  
Adrienne D. Lannom Date \_\_\_\_\_

**Remainder Beneficiaries**

University of Oregon Foundation

By \_\_\_\_\_  
Karri Pargeter, Director of Finance Date \_\_\_\_\_

University of Oregon

By \_\_\_\_\_  
Dave Frohnmayer, President Date \_\_\_\_\_

St. Mary's Episcopal Church

By Nancy R. Crawford  
Treasurer Date August 5, 1999

EXHIBIT B  
PAGE 6

ORS 128.135(2) and 128.177(2)(d) state that, in order for an agreement modifying a charitable trust subject to the enforcement or supervisory powers of the state or the Attorney General under ORS 128.610 to 128.750 to be effective, the Attorney General for the State of Oregon must approve the agreement. The CRUT is an agreement subject to that requirement. The foregoing Agreement Modifying Charitable Remainder Unitrust is hereby approved.

ATTORNEY GENERAL

Ross Laybourn, AAG  
By: Ross L. Laybourn

6/15/99  
Date

EXHIBIT B  
PAGE 7

# CHARITABLE REMAINDER UNITRUST

HAROLD E. LANNOM & ADRIENNE D. LANNOM

UNITRUST AGREEMENT made this 1st day of April, 1993, between HAROLD E. AND ADRIENNE D. LANNOM, residing at 2720 Lawrence Street, Eugene, Oregon 97405, (hereinafter called "Donors") and UNIVERSITY OF OREGON FOUNDATION, an Oregon nonprofit corporation, located at Eugene, Oregon, (hereinafter called "Trustee").

## SECTION 1. TRANSFER OF PROPERTY.

Donors transfer and deliver to Trustee the property described in the annexed Schedule "A." This property and all receipts of every kind shall be managed and invested by Trustee as a single fund (hereinafter called the "unitrust").

## SECTION 2. TRUST PAYMENTS.

During the lifetimes of Donors, Trustee shall pay (in cash, in kind or partly in each) to them jointly and then to the survivor for life, in each taxable year of the unitrust a unitrust amount equal to the lesser of (a) the trust income for such taxable year (as defined in section 643(b) of the Internal Revenue Code of 1986 and the regulations thereunder) and (b) seven percent (7%) of the net fair market value of the trust assets valued as of the first day of such taxable year (decreased as provided in Section 3 in the case where the taxable year is a short taxable year or is the taxable year in which the survivor of the Donors dies and increased as provided in Section 4 in the case where there are additional contributions in the taxable year). If the trust income for any taxable year exceeds the amount determined under (b), the payment to Donors and the survivor of them shall also include such excess income to the extent that the aggregate of the amounts paid to Donors and the survivor of them in prior years is less than seven percent (7%) of the aggregate net fair market value of the trust assets for such years. Payments to Donors and the survivor of them shall be in quarterly installments (on the last day of March, June, September, and December, with the first installment to be on the last day of the month of June, 1993). Any income of the unitrust in excess of such payments shall be added to principal. Notwithstanding any existing or hereafter enacted state law, no amount other than the unitrust amount may be paid to or for the use of any person other than an organization described in each of section 170(b)(1)(A), section 170(c), section 2055(a), and section 2522(a) of the Internal Revenue Code of 1986 (hereinafter called the "Code"). However, an amount shall not be deemed to be paid to or for the use of any person other than an organization described in the aforesaid Code sections if the amount is transferred for full and adequate consideration.

## SECTION 3. TAXABLE YEARS.

The first taxable year of the unitrust begins with the date of this Agreement and shall end on December 31, 1993. Subsequent taxable years shall be on a calendar year basis. In the case of a taxable year which is for a period of less than 12 months (other than the taxable year in which the survivor of the Donors dies), the amount described in Section 2 shall be such amount multiplied by a fraction the numerator of which is the

number of days in the taxable year of the unitrust and the denominator of which is 365 (366 if February 29 is a day included in the numerator). In the case of the taxable year in which the survivor of the Donors dies, the amount described in Section 2 shall be such amount multiplied by a fraction the numerator of which is the number of days in the period beginning on the first day of such taxable year and ending on the date of death of the survivor of the Donors and the denominator of which is 365 (366 if February 29 is a day included in the numerator). Notwithstanding the foregoing, the obligation of Trustee to pay the unitrust amount shall terminate with the regular quarterly installment next preceding the death of the survivor of the Donors.

#### SECTION 4. ADDITIONAL CONTRIBUTIONS.

The Donors and others may, from time to time, add property acceptable to Trustee to the unitrust.

- 4.1 If any additional contributions are made to the unitrust after the initial contribution in trust, the amount described in Section 2 for the taxable year in which the assets are added to the trust shall be seven percent (7%) of the sum of (a) the net fair market value of the trust assets (excluding the assets so added and any income from, or appreciation on, such assets), and (b) that proportion of the value of the assets so added that was excluded under (a) which the number of days in the period which begins with the date of contribution and ends with the earlier of the last day of the taxable year or the death of the survivor of the Donors bears to the number of days in the period which begins on the first day of such taxable year and ends with the earlier of the last day of such taxable year or the death of the survivor of the Donors. The assets so added shall be valued at the time of contribution.
- 4.2 If any additional contribution is made by Will, the obligation to pay the unitrust amount with respect to such additional contribution shall commence with the date of death of the person under whose Will the additional contribution is made, but payment of such unitrust amount may be deferred from such date of death to the end of the taxable year of the unitrust in which occurs the complete funding of the additional contribution. Within a reasonable period after such time, the Trustee shall pay, in the case of an underpayment, or shall receive from the Donors or the survivor of them, as the case may be, in the case of an overpayment, the difference between any unitrust amounts actually paid to the Donors or the survivor of them, as the case may be, plus interest, compounded annually, computed for any period at the rate of interest that the federal income tax regulations (Treasury Regulations) under section 664 of the Code prescribe for the trust for such computation for such period, and the unitrust amounts payable determined under the method described in section 1.664-1(a)(5)(ii) of the Treasury Regulations, plus interest, compounded annually, computed for any period at the rate of interest that the Treasury Regulations under section 664 of the Code prescribe for the trust for such computation for such period. Any payments required to be made because of an underpayment shall be paid to the person (or his estate) who received the underpayment. Any repayments required to be made because of an overpayment shall be repaid by the person (or his estate) who received the overpayment.

SECTION 5. DETERMINATION OF NET FAIR MARKET VALUE.

- 5.1 If the net fair market value of the unitrust assets is incorrectly determined by Trustee for any taxable year, then within a reasonable period after the final determination of the correct value Trustee shall pay to the Donors or the survivor of them, in the case of an undervaluation, or shall receive from the Donors or the survivor of them, in the case of an overvaluation, an amount equal to the difference between the unitrust amount properly payable and the unitrust amount actually paid. Any payments required to be made because of an undervaluation shall be paid to the person (or his estate) who received the underpayment. Any repayments required to be made because of an overvaluation shall be repaid by the person (or his estate) who received the overpayment.
- 5.2 In computing the net fair market value of the unitrust assets there shall be taken into account all assets and liabilities without regard to whether particular items are taken into account in determining the income of the unitrust. All determinations of the unitrust's net fair market value shall be in accordance with generally accepted fiduciary accounting principles and any United States Treasury requirements governing charitable remainder unitrusts. In any conflict Treasury requirements shall prevail over generally accepted fiduciary accounting principles and any inconsistent provisions of this Agreement.

SECTION 6. DISTRIBUTION ON DEATH OF DONOR.

- 6.1 Upon the death of the survivor of the Donors, the Trustee shall distribute all of the then income and principal of the unitrust, other than any amount due to the Donors or the survivor of them, in equal shares to the UNIVERSITY OF OREGON FOUNDATION and ST. MARY'S EPISCOPAL CHURCH of Eugene, Oregon. The amount distributed to the University of Oregon Foundation shall be added to an endowment fund established for the purpose of funding a Conducting Chair for the University of Oregon School of Music's Bach Festival. The amount distributed to the St. Mary's Episcopal Church shall be added to the general endowment fund of the Church.
- 6.2 Notwithstanding any of the foregoing provisions of this Agreement:
- 6.2.1 HAROLD E. LANNOM hereby expressly reserves the power, exercisable only by his Will, to revoke and terminate the survivorship payments for ADRIENNE D. LANNOM from his interest in the joint property in the unitrust. If he effectively exercises his testamentary power:
- (a) Trustee shall upon his death distribute one-half of the then income and principal of the unitrust, other than any amounts due to the Donors, in equal shares to UNIVERSITY OF OREGON FOUNDATION and ST. MARY'S EPISCOPAL CHURCH of Eugene, Oregon, to be used for the purposes described in Section 6.1;



- (b) Trustee's obligation to make payments to him shall cease with the payment next preceding his death and one-half of any accruals for the period beginning with the payment date next preceding his death and ending with the date of his death shall on his death be paid in equal shares to UNIVERSITY OF OREGON FOUNDATION and ST. MARY'S EPISCOPAL CHURCH of Eugene, Oregon, to be used for the purposes described in Section 6.1; and
- (c) Trustee shall thereafter pay to ADRIENNE D. LANNOM for her life the unitrust amounts in each taxable year of the trust described in Sections 3 and 4.

6.2.2 ADRIENNE D. LANNOM hereby expressly reserves the power, exercisable only by her Will, to revoke and terminate the survivorship payments for HAROLD E. LANNOM from her interest in the joint property in the unitrust. If she effectively exercises her testamentary power:

- (a) Trustee shall upon her death distribute one-half of the then income and principal of the unitrust, other than any amounts due to the Donors, in equal shares to UNIVERSITY OF OREGON FOUNDATION and ST. MARY'S EPISCOPAL CHURCH of Eugene, Oregon, to be used for the purposes described in Section 6.1; and
- (b) Trustee's obligation to make payments to her shall cease with the payment next preceding her death and one-half of any accruals for the period beginning with the payment date next preceding her death and ending with the date of her death shall on her death be paid in equal shares to UNIVERSITY OF OREGON FOUNDATION and ST. MARY'S EPISCOPAL CHURCH of Eugene, Oregon, to be used for the purposes described in Section 6.1; and
- (c) Trustee shall thereafter pay to HAROLD E. LANNOM for his life the unitrust amounts in each taxable year of the trust described in Sections 3 and 4.

6.2.3 In the case of any distributions in kind to UNIVERSITY OF OREGON FOUNDATION or ST. MARY'S EPISCOPAL CHURCH of Eugene, Oregon, the adjusted basis of the property distributed shall be fairly representative of the adjusted basis of the property available for distribution on the date of distribution.

6.3 If either the UNIVERSITY OF OREGON FOUNDATION or ST. MARY'S EPISCOPAL CHURCH of Eugene, Oregon, is not an organization described in each of section 170(b)(1)(A), section 170(c), section 2055(a), and section 2522(a) of the Code at the time when any principal or income of the unitrust is to be distributed to it, Trustee shall distribute such principal or income to one or more organizations then so described as Trustee shall select in its sole discretion and in such shares as it shall determine.

- 6.4 Solely with respect to the University of Oregon Foundation, if at some time a change of circumstances should render the designated purpose of the endowment fund for the Bach Festival Conducting Chair no longer practical, then, and only then, the Board of Trustees of the Foundation and the President of the University of Oregon shall use the expendable proceeds from that portion of the endowment fund attributable to this unitrust as deemed prudent to further the objectives and purposes of the University, giving due consideration to the special interest expressed above.

#### SECTION 7. TRUSTEE'S POWERS.

In addition to the powers conferred upon it by law, Trustee is authorized to:

- 7.1 Retain the property described in Schedule "A," or may sell the property and invest and reinvest the unitrust in any kind of property without diversification as to kind or amount and without regard to the limitations imposed by law on investments. Nothing in this Agreement shall be construed to restrict the Trustee from investing the unitrust assets in a manner which could result in the annual realization of a reasonable amount of income or gain from the sale or disposition of trust assets.
- 7.2 Sell, exchange or otherwise dispose of any unitrust asset at either public or private sale, for cash or on credit; to exchange any such property and to grant options for the purchase thereof without any limitation on the period of any such option.
- 7.3 Consent to and participate in, or to oppose, any foreclosure, liquidation or plan of reorganization, consolidation, merger, combination or other similar plan and to consent to any contract, lease, mortgage, purchase, sale or other action by any other corporation pursuant to such plan.
- 7.4 Deposit any unitrust asset with any protective, reorganizational or similar committee, to delegate discretionary power thereto, to pay part of its expenses and compensation and any assessments levied with respect to such asset.
- 7.5 Exercise all conversion, subscription, voting and other rights of whatsoever nature pertaining to any such unitrust asset and to grant proxies, discretionary or otherwise, with respect thereto.
- 7.6 Extend the time of payment of any obligation held hereunder and to compromise, settle or submit to arbitration or to release any claim in favor of or against any unitrust asset.
- 7.7 Register and hold any unitrust asset in the name of a nominee and the liability of the Trustee shall be neither increased nor decreased thereby.
- 7.8 Do all such acts, take all such proceedings and exercise all such rights and privileges, although not hereinbefore specifically mentioned with respect to any unitrust asset as if the absolute owner thereof and in connection therewith to make, execute and deliver any instruments and to enter into any covenants or agreements binding the unitrust; provided that the

Trustee shall take no such action as shall violate the provisions of Code Section 664 and the regulations thereunder.

SECTION 8. TRUSTEE'S COMPENSATION.

Trustee shall not receive compensation for services rendered under this Agreement, although a reasonable fee may be charged by and paid to Trustee or its designee to cover the cost of direct and indirect administrative expenses incurred on behalf of the Unitrust, which fees shall be charged in a manner consistent with Trustee's policy generally applicable to similar Charitable Remainder Trusts. No bond or other security shall be required of Trustee in any jurisdiction.

SECTION 9. TAX BENEFITS/PROHIBITED TRANSACTIONS.

In creating this unitrust, the Donors intend to obtain the full benefit of any income, gift and estate tax charitable contribution deductions to which they (and their estates) may be entitled under the Code and for the unitrust to qualify as a charitable remainder unitrust under section 664 of the Code and the regulations thereunder. Accordingly, this unitrust shall be interpreted, valued, managed, invested, administered, and in all other respects governed consistent with the Donors' intent. Without limiting the generality of the foregoing, Trustee is prohibited (except for the payment of the unitrust amount to the Donors and the survivor of them) from engaging in any act of self-dealing as defined in section 4941(d) of the Code, from retaining any excess business holdings as defined in section 4943(c) of the Code which would subject the unitrust to tax under section 4943 of the Code, from making any investments which would subject the unitrust to tax under section 4944 of the Code, and from making any taxable expenditures as defined in section 4945(d) of the Code. If section 4942 of the Code is deemed applicable to the unitrust by reason of section 508(e) of the Code or otherwise, Trustee shall make distributions at such time and in such manner as not to subject the unitrust to tax under section 4942 of the Code.

SECTION 10. MISCELLANEOUS.

- 10.1 No federal estate taxes, state death taxes, or any other estate, death, or inheritance taxes ("death taxes") with respect to the unitrust shall be allocated to or be recoverable from the unitrust. The Donors impose an obligation on their respective estates to pay any death taxes from sources other than the unitrust and agree to so provide in their respective Wills or in another way. This provision may be enforced by the UNIVERSITY OF OREGON FOUNDATION, in its capacity as trustee or charitable remainderman, or by each Donor, acting alone or together.
- 10.2 Each Donor has provided for the payment of any death taxes from sources other than the unitrust. Nevertheless, if for any reason, the unitrust becomes liable for death taxes on the death of the first of the Donors to die, the interest of the surviving Donor in the one-half interest of the deceased Donor shall take effect only if the surviving Donor furnishes the funds for payment of any death taxes for which the unitrust may be liable. If the survivor fails to furnish those funds, it shall be deemed for all purposes of this Agreement that the first of the Donors to die exercised the right in his or her Will described in Section 6.2.1 and 6.2.2.
- 10.3 This Agreement is irrevocable.

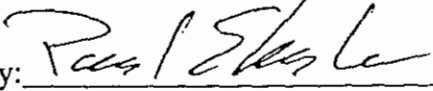
EXHIBIT     B      
PAGE     13

10.4 Trustee shall have the power to amend this Agreement for the sole purpose of complying with the requirements of section 664 of the Code and Treasury Regulations sections 1.664-1 and 1.664-3.

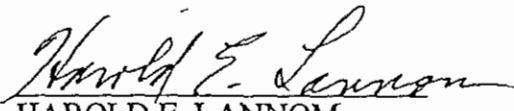

10.5 This Agreement is made pursuant to, and shall be interpreted in accordance with, the laws of the State of Oregon. However, in any conflict with section 664 of the Code, the regulations thereunder or any other existing or hereafter promulgated legislative or Treasury requirements for the qualification of the unitrust and for the Donors' obtaining the full benefit of any income, gift, and estate tax charitable deductions to which they (and their respective estates) may be entitled, section 664 of the Code, the regulations thereunder, and the legislative and Treasury requirements shall govern.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the date first above written.

UNIVERSITY OF OREGON FOUNDATION,  
an Oregon nonprofit corporation

By:   
PAUL EBERLE  
Title: Acting Executive Director

TRUSTEE

  
HAROLD E. LANNOM  
  
ADRIENNE D. LANNOM

DONORS

EXHIBIT B  
PAGE 14

SCHEDULE "A"

HAROLD E. LANNOM AND ADRIENNE D. LANNOM  
CHARITABLE REMAINDER UNITRUST

Real Property located at 310 East 14th Avenue, Eugene, Oregon.  
Tax Lot 17-03-31-41-2700

Initial net fair market value: \$120,000.00

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15

*(Handwritten initials)*

**RECEIVED**

DEC 02 2010

DEPARTMENT OF JUSTICE  
PORTLAND LEGAL

*Gleaves  
Swearingen  
Potter &  
Scott LLP*

November 29, 2010

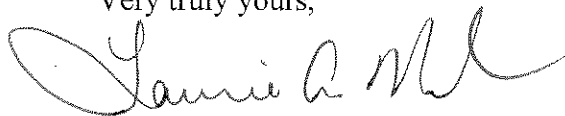
Ms. Susan A. Miller  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue, Suite 410  
Portland, OR 97201

Re: University of Oregon Foundation  
Max Risinger Memorial Fund

Dear Susan:

I am pleased to report that Judge Holland signed the General Judgment for Modification of Institutional Fund on November 23, 2010, in the Max Risinger Memorial Fund modification case. I am enclosing a copy of that General Judgment for your records.

Very truly yours,



Laurie A. Nelson  
[nelson@gleaveslaw.com](mailto:nelson@gleaveslaw.com)

LAN/gdm  
Enclosures

cc: Paul Weinhold (w/ encls.)  
Tom Herrmann (w/ encls.)  
Jon V. Buerstette (w/o encls.)

Phone:  
(541) 686-8833  
Fax:  
(541) 345-2034

975 Oak Street  
Suite 800  
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97401-3156

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97440-1147

Email:  
[info@gleaveslaw.com](mailto:info@gleaveslaw.com)  
Web-Site:  
[www.gleaveslaw.com](http://www.gleaveslaw.com)

Frederick A. Batson  
Jon V. Buerstette  
Patricia L. Chapman\*\*  
Michael T. Faulconer\*\*  
Howard F. Feinman  
Thomas P. E. Herrmann\*  
Dan Webb Howard\*\*  
Cassie K. Kellogg  
Stephen O. Lane  
Valeri L. Love  
William H. Martin\*  
Laura T. Z. Montgomery\*  
Thomas K. N. Moseman  
Laurie A. Nelson  
Ian T. Richardson  
Martha J. Rodman  
Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman  
Jane M. Yates

\*Also admitted  
in Washington

\*\*Also admitted  
in California

**FILED**

2010 NOV 23 AM 10:33

CIRCUIT COURT OF OREGON  
FOR LANE COUNTY

BY \_\_\_\_\_

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

In the Matter of the Max Risinger Memorial  
Fund

Case No. 52-10-23789

GENERAL JUDGMENT FOR  
MODIFICATION OF  
INSTITUTIONAL FUND

University of Oregon Foundation,  
Petitioner.

This matter having come before the court on the Petition of Petitioner University of Oregon Foundation, an Oregon nonprofit corporation, by and through its President and Chief Executive Officer, Paul Weinhold, for the modification of the Max Risinger Memorial Fund, and it appearing to the court from the records and files herein that:

1.

Service was made and perfected by regular mail to the persons entitled to notice as follows:

<u>Name</u>	<u>Date</u>
Susan A. Miller, Assistant Attorney General, State of Oregon	November 9, 2010
Randolph Geller, General Counsel, University of Oregon	November 9, 2010

2.

Notice as required by Oregon law has been waived by all persons entitled thereto.

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3.

Venue is properly in this court and no other court in this state has acquired jurisdiction in this matter.

4.

Petitioner has obtained the consent of the Attorney General to the modification as required by Oregon law. The Consent and Waiver of Assistant Attorney General Susan A. Miller is filed herewith.

5.

Petitioner has obtained consent to the modification from Randolph Geller, General Counsel for the University of Oregon, beneficiary.

6.

ORS 128.328(2) authorizes the modification of a restriction contained in a gift instrument if the restriction has become wasteful. Because the Fund generates \$1000 annually but is only permitted to disburse \$200 annually, the restriction has become wasteful.

ORS 130.200(2) permits the modification of an irrevocable trust upon consent of all the beneficiaries and of the Attorney General if the Court concludes that the modification is not inconsistent with a material purpose of the trust. The Fund's material purpose is to provide

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1 scholarships for promising choral music students at the University of Oregon. Removal of the  
2 restriction on the amount of the annual award is consistent with that purpose.  
3

4 NOW, THEREFORE, it is hereby adjudged that a general judgment is entered as follows:

5 The Max Risinger Memorial Fund shall be modified as set forth in Exhibit B of Exhibit 1  
6 attached to the Petition filed herein.  
7

8 DATED this 23 day of November, 2010.  
9

10 LSL Lauren S. Holland  
11 Circuit Court Judge

12 PETITIONER  
13 University of Oregon Foundation  
14 360 E. 10<sup>th</sup> Avenue, Suite 202  
15 Eugene, Oregon 97401-3273

16 ATTORNEYS FOR PETITIONER  
17 Jon V. Buerstatte, OSB # 822070  
18 Gleaves Swearingen Potter & Scott LLP  
19 P.O. Box 1147  
20 Eugene, Oregon 97440-1147  
21 (541) 686-8833  
22 (541) 345-2034 (Fax)  
23 Email: [buerstatte@gleaveslaw.com](mailto:buerstatte@gleaveslaw.com)  
24  
25  
26

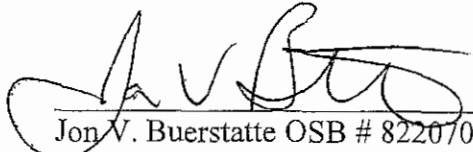
**CERTIFICATE OF SERVICE**

I hereby certify that I served the foregoing General Judgment for Modification of Institutional Fund on the following persons on November 9, 2010, by depositing same in the United States Post Office at Eugene, Oregon, enclosed in a sealed envelope, with postage paid to the address noted below:

Randolph Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Susan A. Miller  
Assistant Attorney General  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue Suite 410  
Portland, OR 97201

DATED: November 9, 2010.

  
Jon V. Buerstatte OSB # 822070  
Of Attorneys for Petitioner

September 15, 2010

Ms. Susan Miller  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue, # 410  
Portland, Oregon 97201

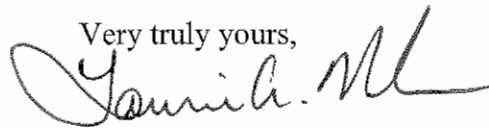
Re: University of Oregon Foundation  
Max Risinger Memorial Fund Institutional Fund Agreement

Dear Susan:

I am enclosing for your review a proposed Agreement Modifying Institutional Fund in the Max Risinger Memorial Fund Institutional Fund Agreement. This Fund was established in 1976 to provide an annual award of \$200 to an upper-division or graduate student in choral music education. The principal may not be invaded to fund the award. However, the current income generated by the fund is \$1000 annually, which means that \$800 is added to principal rather than being available for student awards. The parties wish to modify the fund to remove the limitation on the amount of the award so that the donors' funds will be available to students rather than piling up in an account. The donors are not available to consent to the modification, and we plan to seek court approval as required by statute.

If the Modification Agreement meets with your approval, please sign where indicated and return the originals to us in the enclosed envelope. If you have questions or need additional information please do not hesitate to let me know.

Very truly yours,



Laurie A. Nelson  
nelson@gleaveslaw.com

LAN: gdm  
Enclosures

cc: Gary Livesay (w/o encls.)  
Paul Weinhold (w/o encls.)  
Thomas P.E. Herrmann (w/o encls.)  
Jon V. Buerstatte (w/o encls.)

*mailed back 9/20/10*  
*SN*

Phone:  
(541) 686-8833  
Fax:  
(541) 345-2034

975 Oak Street  
Suite 800  
Eugene, Oregon  
97401-3156

Mailing Address:  
P.O. Box 1147  
Eugene, Oregon  
97440-1147

Email:  
info@gleaveslaw.com  
Web-Site:  
www.gleaveslaw.com

Frederick A. Batson  
Jon V. Buerstatte  
Patricia L. Chapman\*\*  
Joshua A. Clark  
Michael T. Faulconer\*\*  
Howard F. Feinman  
Thomas P. E. Herrmann\*  
Dan Webb Howard\*\*  
Cassie K. Kellogg  
Stephen O. Lane  
Valeri L. Love  
William H. Martin\*  
Walter W. Miller  
Laura T. Z. Montgomery\*  
Thomas K. N. Moseman  
Laurie A. Nelson  
Ian T. Richardson  
Martha J. Rodman  
Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman  
Jane M. Yates

\*Also admitted  
in Washington

\*\*Also admitted  
in California

**AGREEMENT MODIFYING INSTITUTIONAL FUND**

**PARTIES:**

University of Oregon Foundation (A.K.A. University of Oregon Development Fund) (the "Foundation")

University of Oregon, School of Music and Dance

**RECITALS:**

- A. The Parties desire to modify the Max Risinger Memorial Fund Institutional Fund Agreement, dated April 1976 (the "Institutional Fund"), a copy of which is attached hereto as Exhibit "A."
- B. The Parties, Oregon Attorney General, and Circuit Court constitute all persons and entities whose signatures are required for this Agreement to be effective pursuant to ORS Chapter 130.

**AGREEMENT:**

NOW, THEREFORE, in consideration of the foregoing recitals that are by this reference expressly made a part hereof, and in consideration of the terms hereinafter contained, the Parties agree as follows:

1. Modification of Institutional Fund

On the Effective Date, the Institutional Fund shall be modified as set forth in Exhibit "B" attached hereto and by this reference incorporated herein.

2. Effective Date

This Agreement shall be effective on the date that all Parties and the Oregon Attorney General have each signed this Agreement and, if required by law, this Agreement has been approved by the Circuit Court of the State of Oregon for Lane County.

3. Number, Gender and Captions

As used herein, the singular shall include the plural and the plural the singular, as the context requires. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this Agreement.

4. Counterparts

This Agreement has been prepared and may be executed in multiple counterparts, each of which shall constitute an original. Each party may execute a separate counterpart, all of which when assembled shall constitute this Agreement, fully executed.

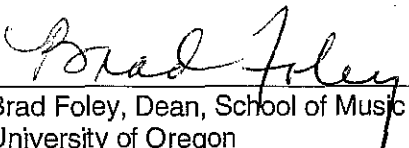
5. Original Agreement

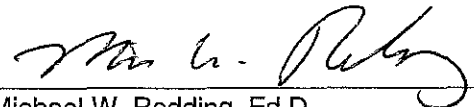
The Institutional Fund, as amended, and each term and provision thereof shall remain in full force and effect, except as herein modified, amended or restated.

6. Entire Agreement

This Agreement and the exhibit hereto constitute the final written expression of all terms of the Institutional Fund and when read together they constitute the complete and exclusive statement of those terms.

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on the date set opposite their respective signatures below.

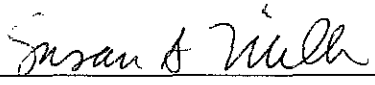
Signature:  7/8/2010  
Brad Foley, Dean, School of Music & Dance  
University of Oregon Date

Signature:  8/30/10  
Michael W. Redding, Ed.D.  
Vice President University Relations  
University of Oregon Date

Signature:  9-2-10  
Gary F. Livesay, Chief Operating Officer  
University of Oregon Foundation Date

ORS 130.200 provides that, in certain instances, in order for an agreement modifying charitable funds held in trust subject to the enforcement or supervisory powers of the state or the Attorney General under ORS 128.610 to 128.750 to be effective, the Attorney General for the State of Oregon must consent to the agreement. The Institutional Fund is an agreement that may be subject to that requirement. The foregoing Agreement Modifying Institutional Fund is hereby consented to.

ATTORNEY GENERAL

By  OSB 960960 9/20/10  
Susan A. Miller, Assistant Attorney General Date

MAX RISINGER MEMORIAL FUND

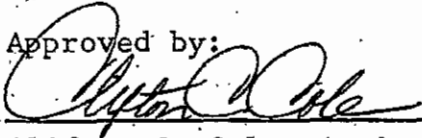
Instrument of Agreement

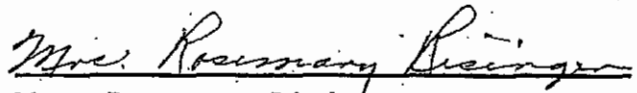
April 26, 1976

The University of Oregon Development Fund has received to date approximately \$900.00 in gifts for the Max Risinger Memorial Fund, with further contributions expected. This agreement is intended to formalize the stipulations for the use and perpetuation of the fund.

1. It is my wish that a perpetual fund entitled the "Max Risinger Memorial Award Fund" is to be established within the University of Oregon Development Fund.
2. The purpose of this fund is to grant an annual award of \$200.00 to an upper-division or graduate student enrolled at the University of Oregon in choral music education who shows promise of outstanding success in the field.
3. The recipient of the award is to be selected by a committee of the music education faculty, including the Dean of the School of Music, on the basis of observed talent and performance in music education.
4. Funds shall be set aside each year from earnings and current contributions sufficient to provide the \$200.00 annual award. All available funds in excess of this amount whether from earnings or current contributions shall be added each year to the endowment principal. If for any reason the award is not made for a given academic year, then it shall be added to the endowment principal.
5. The principal of the endowment fund shall not be invaded to fund the annual award. Realized capital gains or losses shall be added to or deleted from the principal of the fund.
6. If for any reason this award is no longer required, the earnings shall be used for the closest appropriate purpose, at the discretion of the University of Oregon Development Fund Board of Directors after consultation and approval by the Dean of the School of Music.
7. The fund may be increased by further gifts from the family of Max Risinger or from any and all contributions made by any other persons or parties.

Approved by:

  
Clifton C. Cole, Acting Director  
University of Oregon Development Fund

  
Mrs. Rosemary Risinger

April 27, 1976  
Date

April 28, 1976  
Date



UNIVERSITY OF OREGON  
FOUNDATION

**Modification of Fund Agreement**

**Max Risinger Memorial Fund**

**Modification of Purpose**

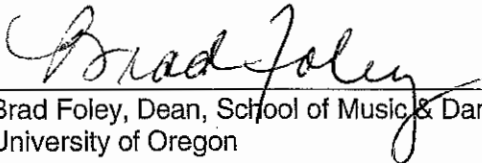
Whereas the parties entered into a prior Agreement in 1976; and

Whereas the fund current generates \$1,000 per year, so limiting the annual award to \$200 is wasteful;

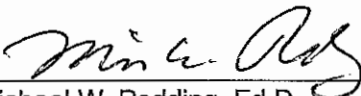
Therefore it is the parties' intent and agreement that the Foundation shall modify the purpose to become as follows:

- The scholarship[s] may be used for all standard educational expenses including tuition, fees, books, miscellaneous supplies, room and board.
- The purpose of this fund is to grant scholarship[s] to upper- division or graduate students enrolled at the University of Oregon in choral music education who show promise of outstanding success in the field.
- The recipient of the award is to be selected by a committee of the music education faculty, including the Dean of the School of Music, on the basis of observed talent and performance in music education.
- If for any reason the award is not made for a given academic year, then it shall be added to the endowment principal.

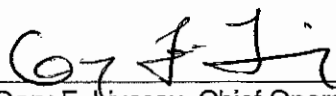
All other terms and conditions of the previous agreement remain in effect.

Signature:   
 Brad Foley, Dean, School of Music & Dance  
 University of Oregon

7/8/2010  
 Date

Signature:   
 Michael W. Redding, Ed.D.  
 Vice President University Relations  
 University of Oregon

8/30/10  
 Date

Signature:   
 Gary F. Livesay, Chief Operating Officer  
 University of Oregon Foundation

9-2-10  
 Date

**Exhibit B**

August 15, 2011

Ms. Susan Miller  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue, # 410  
Portland, Oregon 97201

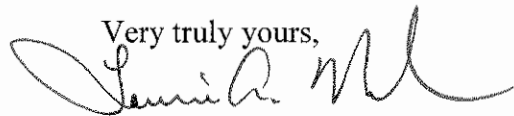
Re: University of Oregon Foundation  
Frank X. Wegmann Scholarship for Chinese Studies

Dear Susan:

I am enclosing for your review a proposed Non-Judicial Settlement Agreement and Agreement Modifying Institutional Fund in the Frank X. Wegmann Scholarship for Chinese Studies. This Fund was established in August, 2004. The original purpose was to provide study-abroad scholarships for junior Chinese language majors. Now the parties wish to remove the restriction requiring the student to have completed sophomore year, and to provide for a preference rather than a requirement that the student be a Chinese major. The sole original donor has signed the Modification Agreement, so we will not need court approval for this modification.

If the documents meet with your approval, please sign where indicated and return the originals to us in the enclosed envelope. If you have questions or need additional information please do not hesitate to let me know. Once the Non-Judicial Settlement Agreement has been fully executed by the donor and University and Foundation officials, we will send you a copy for your file.

Very truly yours,



Laurie A. Nelson  
[nelson@gleaveslaw.com](mailto:nelson@gleaveslaw.com)

LAN:gdm  
Enclosures

cc: Paul Weinhold (w/o encls.)  
Erika Funk (w/o encls.)  
Thomas P.E. Herrmann (w/o encls.)  
Jon V. Buerstatte (w/o encls.)  
Ian Richardson (w/o encls.)

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Frederick A. Batson  
Jon V. Buerstatte  
Patricia L. Chapman\*\*  
Michael T. Faulconer\*\*  
Howard F. Feinman  
Thomas P. E. Herrmann\*  
Dan Webb Howard\*\*  
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Ian T. Richardson  
Martha J. Rodman  
Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman

\*Also admitted  
in Washington

\*\*Also admitted  
in California



April 11, 2011

*OK - signed  
& returned  
4/13/11 JSM*

Ms. Susan Miller  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue, # 410  
Portland, Oregon 97201

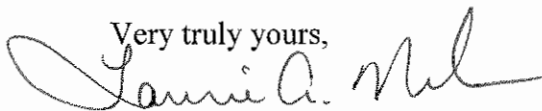
Re: University of Oregon Foundation  
Antoinette S. Stanton Memorial Scholarship

Dear Susan:

I am enclosing for your review a proposed Agreement Modifying Institutional Fund in the Antoinette S. Stanton Memorial Scholarship. We originally submitted a proposed modification in this matter last year. After some discussion with you, we revised the language of the proposed agreement modifying this fund. I am enclosing for your reference a copy of an email exchange you and I had on the subject. We now have the necessary signatures and are sending the revised Agreement for your review.

If the Modification Agreement meets with your approval, please sign where indicated and return the originals to us in the enclosed envelope. Court approval of the modification will be necessary, since the original donor is not available to consent. If you have questions or need additional information please do not hesitate to let me know.

Very truly yours,



Laurie A. Nelson  
[nelson@gleaveslaw.com](mailto:nelson@gleaveslaw.com)

LAN:gdm  
Enclosures

cc: Paul Weinhold (w/o encls.)  
Thomas P.E. Herrmann (w/o encls.)  
Jon V. Buerstatte (w/o encls.)

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Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman

\*Also admitted  
in Washington

\*\*Also admitted  
in California

## Laurie A Nelson

---

**From:** Miller Susan A [Susan.A.Miller@doj.state.or.us]  
**Sent:** Monday, June 07, 2010 2:15 PM  
**To:** Laurie A Nelson  
**Subject:** RE: U of O Foundation - Stanton

Okay, thank you.

-----Original Message-----

**From:** Laurie A Nelson [mailto:nelson@gleaveslaw.com]  
**Sent:** Friday, June 04, 2010 11:28 AM  
**To:** Miller Susan A  
**Subject:** Re: U of O Foundation - Stanton

Susan,

After I sent you the email the other day, exhibit B was revised to put the preference in the first paragraph so that it wouldn't seem so lost at the bottom of paragraph 2. No change in substance, but I wanted to let you know that the final version has that slight change. We will route for signature and get back to you.

Thanks,  
Laurie

---

**From:** Miller Susan A  
**To:** Laurie A Nelson  
**Sent:** Thu Jun 03 15:01:43 2010  
**Subject:** RE: U of O Foundation - Stanton

Laurie,

The revised modification is fine. Thank you.

*Susan A. Miller*  
*Assistant Attorney General*  
*Charitable Activities Section*  
*1515 SW 5th Ave, Suite 410*  
*Portland, Oregon 97201*  
*(971) 673-1940*  
*Fax: (971) 673-1882*

-----Original Message-----

**From:** Laurie A Nelson [mailto:nelson@gleaveslaw.com]  
**Sent:** Wednesday, June 02, 2010 5:11 PM

**To:** Miller Susan A  
**Cc:** Jon V Buerstatte  
**Subject:** U of O Foundation - Stanton

Dear Susan,

Some time ago we submitted the Stanton request for modification. The modification removed the donor's preference for unmarried students, and you did not approve the modification. I am attaching a revised modification agreement for Stanton for your review. As you will see on Exhibit B, the donor's preference for unmarried students is retained. There is some additional nondiscrimination language that the University has approved in other similar situations (and would like to see here). Our position is that this additional language may clarify the donor's language in the gift instrument, but that the new language does not change the preference, thus maintaining the donor's intent. I would very much appreciate your reviewing this revised draft and letting us know if it is acceptable. Once we have the document in final form, we will circulate it for signature.

Please let me know if you have questions or need additional information. I will be out of the office the rest of this week and next week, but I will have access to email. Thanks for your assistance.

Laurie

<<Modify Stanton Revised Draft pdf - Adobe Acrobat Pro.pdf>>

Laurie A. Nelson  
Gleaves Swearingen Potter & Scott LLP  
975 Oak St., Suite 800  
Eugene, Oregon 97401  
Tel. 541-686-8833  
Fax 541-345-2034  
nelson@gleaveslaw.com

Any statements contained herein are not intended or written to be used, and cannot be used, for the purpose of avoiding penalties under the federal tax law.

This e-mail (including any attachments) may contain confidential or privileged information. It is intended only for the use of the recipient named above. If you are not the intended recipient, any use or disclosure of this transmission is strictly prohibited. If you have received this in error, please immediately notify us and delete this email.

\*\*\*\*\*CONFIDENTIALITY NOTICE\*\*\*\*\*

This e-mail may contain information that is privileged, confidential, or otherwise exempt from disclosure under applicable law. If you are not the addressee or it appears from the context or otherwise that you have received this e-mail in error, please advise me immediately by reply e-mail, keep the contents confidential, and immediately delete the message and any attachments from your system.

\*\*\*\*\*

March 28, 2011

Ms. Susan Miller  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue, # 410  
Portland, Oregon 97201

*OK - returned  
4/7/11  
sm*

Re: University of Oregon Foundation  
Tzedek Lectureship Endowment Fund Modification

Dear Susan:

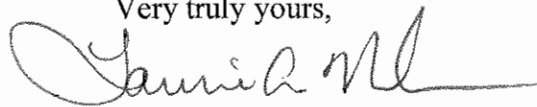
As we discussed by phone on March 15, 2011, I am enclosing for your review a proposed Agreement Modifying Institutional Fund in the Tzedek Lectureship Endowment Fund. The Tzedek Lectureship brings distinguished thinkers and teachers in the study of moral, ethical and righteous behavior to Eugene and Portland for lectures and other formal and informal gatherings with students, faculty, and others. The endowment fund agreement called for the Tzedek Lecturer to spend approximately a week engaged in these activities. However, over time this has become impractical, and the Foundation proposes to modify the agreement to provide for a schedule of one to three days. The lectures would continue to be published.

David B. Stern and Nancy E. Guitteau, the donors, consent to the modification and have signed the Agreement. You will see in the endowment fund agreement that the initial plan was to obtain additional funding from the Oregon State System of Higher Education and possibly other sources. However, private donations to the fund did not meet the minimum required for receipt of matching funds from the State of Oregon or other sources, and no funds were received from those sources.

As we talked about by phone, in addition to the modification agreement itself, I am enclosing a form of proposed Nonjudicial Settlement Agreement so that we can avoid a court proceeding in this case, in which we have donor consent. If the two forms meet with your approval, please sign where indicated and return the originals to us in the enclosed envelope. Once all the necessary parties have signed, I will send you a copy of the fully executed Nonjudicial Settlement Agreement for your files.

If you have questions or need additional information please do not hesitate to let me know.

Very truly yours,



Laurie A. Nelson  
[nelson@gleaveslaw.com](mailto:nelson@gleaveslaw.com)

LAN:gdm  
Enclosures

cc: Paul Weinhold (w/o encls.)  
Thomas P.E. Herrmann (w/o encls.)  
Jon V. Buerstatte (w/o encls.)

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Martha J. Rodman  
Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman

\*Also admitted  
in Washington

\*\*Also admitted  
in California

March 30, 2011

OIC -  
returned  
4/7/11  
sm

Ms. Susan Miller  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue, # 410  
Portland, Oregon 97201

Re: University of Oregon Foundation  
Kritikos Professorship Endowment Fund Modification

Dear Susan:

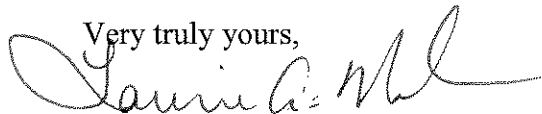
As we discussed by phone on March 15, 2011, I am enclosing for your review a proposed Agreement Modifying Institutional Fund in the Kritikos Professorship Endowment Fund. The Kritikos Professorship brings distinguished scholars, critics and leaders to Eugene and Portland for lectures and other formal and informal gatherings with students, faculty, and others. The endowment fund agreement called for the Kritikos Professor to spend approximately a week to ten days engaged in these activities. However, over time this has become impractical, and the Foundation proposes to modify the agreement to provide for a schedule of one to three days. The lectures would continue to be published.

David B. Stern, the donor, consents to the modification and has signed the Agreement. You will see in the endowment fund agreement that the initial plan was to obtain additional funding from the National Endowment for the Humanities (NEH), and the State of Oregon. However, private donations to the fund did not meet the minimum required for receipt of matching funds from NEH or the State of Oregon, and no funds were received from those sources. Therefore, we have not sought NEH's consent to the modification.

As we talked about by phone, in addition to the modification agreement itself, I am enclosing a form of proposed Nonjudicial Settlement Agreement so that we can avoid a court proceeding in this case, in which we have donor consent. If the two forms meet with your approval, please sign where indicated and return the originals to us in the enclosed envelope. Once all the necessary parties have signed, I will send you a copy of the fully executed Nonjudicial Settlement Agreement for your files.

If you have questions or need additional information please do not hesitate to let me know.

Very truly yours,



Laurie A. Nelson  
[nelson@gleaveslaw.com](mailto:nelson@gleaveslaw.com)

LAN:ghm  
Enclosures

cc: Paul Weinhold (w/ encls.)  
Thomas P.E. Herrmann (w/ encls.)  
Jon V. Buerstatte (w/ encls.)

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Web-Site:  
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Frederick A. Batson  
Jon V. Buerstatte  
Patricia L. Chapman\*\*  
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Ian T. Richardson  
Martha J. Rodman  
Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman

\*Also admitted  
in Washington

\*\*Also admitted  
in California

✓  
*(done)*

**RECEIVED**

NOV 25 2011

DEPARTMENT OF JUSTICE  
PORTLAND LEGAL

November 22, 2011

*Gleaves  
Swearingen  
Potter &  
Scott LLP*



ATTORNEYS  
AT LAW

Ms. Susan A. Miller  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue, Suite 410  
Portland, OR 97201

Re: University of Oregon Foundation  
Harold E. Lannom and Adrienne D. Lannom Charitable Remainder  
Unitrust

Dear Susan:

I am pleased to report that Judge Holland signed the General Judgment for Modification of Charitable Remainder Unitrust on November 21, 2011, in the Harold E. Lannom and Adrienne D. Lannom Charitable Remainder Unitrust modification case. I am enclosing a conformed copy of that General Judgment for your records.

Very truly yours,

Laurie A. Nelson  
[nelson@gleaveslaw.com](mailto:nelson@gleaveslaw.com)

LAN/gdm  
Enclosures

- cc: Paul Weinhold (w/ encls.)
- Erika Funk (w/o encls.)
- Tom Herrmann (w/ encls.)
- Jon V. Buerstatte (w/o encls.)
- Ian Richardson (w/o encls.)

Phone:  
(541) 686-8833  
Fax:  
(541) 345-2034

975 Oak Street  
Suite 800  
Eugene, Oregon  
97401-3156

Mailing Address:  
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Eugene, Oregon  
97440-1147

Email:  
[info@gleaveslaw.com](mailto:info@gleaveslaw.com)  
Web-Site:  
[www.gleaveslaw.com](http://www.gleaveslaw.com)

- Frederick A. Batson
- Jon V. Buerstatte
- Patricia L. Chapman\*\*
- Michael T. Faulconer\*\*
- Thomas P. E. Herrmann\*
- Dan Webb Howard\*\*
- Cassie K. Jones
- Stephen O. Lane
- William H. Martin\*
- Laura T. Z. Montgomery\*
- Thomas K. N. Moseman
- Laurie A. Nelson
- Ian T. Richardson
- Martha J. Rodman
- Robert S. Russell
- Douglas R. Schultz
- Malcolm H. Scott
- Joshua K. Smith
- James W. Spickerman

\*Also admitted  
in Washington

\*\*Also admitted  
in California

FILED

2011 NOV 21 AM 10:46

CIRCUIT COURT OF OREGON  
FOR LANE COUNTY

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5 IN THE CIRCUIT COURT OF THE STATE OF OREGON  
6 FOR LANE COUNTY  
7

8 In the Matter of the Harold E. Lannom and  
9 Adrienne D. Lannom Charitable Remainder  
10 Unitrust dated April 1, 1993

Case No. 52-11-20601

GENERAL JUDGMENT FOR  
MODIFICATION OF CHARITABLE  
REMAINDER UNITRUST

11 University of Oregon Foundation,  
12 Petitioner.

13 This matter having come before the court on the Petition of Petitioner University of Oregon  
14 Foundation, an Oregon nonprofit corporation, by and through its President and Chief Executive Officer,  
15 Paul Weinholt, for the modification of the Harold E. Lannom and Adrienne D. Lannom Charitable  
16 Remainder Unitrust dated April 1, 1993, and it appearing to the court from the records and files herein  
17 that:

18 1.

19 Service was made and perfected by regular mail to the persons entitled to notice as follows:

<u>Name</u>	<u>Date</u>
Susan A. Miller, Assistant Attorney General, State of Oregon	October 3, 2011
Randolph Geller, General Counsel, University of Oregon	October 3, 2011
Harold E. and Adrienne D. Lannom, Donors	October 3, 2011
Rev. Bingham Powell St. Mary's Episcopal Church of Eugene, Oregon	October 3, 2011

25 2.

26 Notice as required by Oregon law has been waived by all persons entitled thereto.

3.

Venue is properly in this court and no other court in this state has acquired jurisdiction in this matter.

4.

Petitioner has obtained the consent of the Attorney General to the modification as required by Oregon law. The Consent and Waiver of Assistant Attorney General Susan A. Miller is filed herewith.

Additionally, the Consents and Waivers of Settlers/Donors Harold E. Lannom and Adrienne D. Lannom are filed herewith, along with the Consent and Waiver of Beneficiary St. Mary's Episcopal Church of Eugene, Oregon.

Petitioner has obtained consent to the modification from Randolph Geller, General Counsel for the University of Oregon, beneficiary.

5.

ORS 130.200(1) authorizes court modification of a material purpose of an irrevocable charitable trust with consent of the settlors/donors, all beneficiaries, and the Attorney General.

NOW, THEREFORE, it is hereby adjudged that a general judgment is entered as follows:

The Harold E. Lannom and Adrienne D. Lannom Charitable Remainder Unitrust Agreement dated April 1, 1993 shall be modified as set forth in Exhibit 1 attached to the Petition filed herein.

DATED this 21 day of November, 2011.

LS Lauren S. Holland  
Circuit Court Judge

PETITIONER  
University of Oregon Foundation  
1720 E 13<sup>th</sup> Ave., Suite 410  
Eugene, Oregon 97403-1905

ATTORNEYS FOR PETITIONER  
Jon V. Buerstatte, OSB # 822070  
Gleaves Swearingen Potter & Scott LLP  
P.O. Box 1147  
Eugene, Oregon 97440-1147  
(541) 686-8833  
(541) 345-2034 (Fax)  
email: [buerstatte@gleaveslaw.com](mailto:buerstatte@gleaveslaw.com)



## CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing General Judgment for Modification of Charitable Remainder Unitrust on the following persons on October 3, 2011, by depositing same in the United States Post Office at Eugene, Oregon, enclosed in a sealed envelope, with postage paid to the address noted below:

Randolph Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

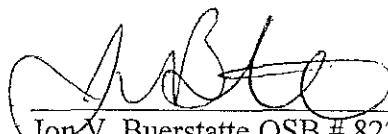
Susan A. Miller  
Assistant Attorney General  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue Suite 410  
Portland, OR 97201

Harold E. Lannom  
c/o Paul Elstone, Director  
Donor Relations  
University of Oregon  
1720 E. 13<sup>th</sup>, Suite 310  
Eugene, OR 97403-2253

Adrienne D. Lannom  
c/o Paul Elstone, Director  
Donor Relations  
University of Oregon  
1720 E. 13<sup>th</sup>, Suite 310  
Eugene, OR 97403-2253

Rev. Bingham Powell  
St. Mary's Episcopal Church  
P.O. Box 50428  
Eugene, OR 97401

DATED: October 3, 2011.



---

Jon V. Buerstatte OSB # 822070  
Of Attorneys for Petitioner

Gleaves  
Swearingen  
Potter &  
Scott LLP



ATTORNEYS  
AT LAW

November 22, 2011

The Rev. Bingham Powell  
St. Mary's Episcopal Church  
P.O. Box 50428  
Eugene, OR 97401

Re: Modification of the Harold E. Lannom and Adrienne D. Lannom Charitable  
Remainder Unitrust

Dear Rev. Powell:

I am pleased to report that Judge Holland has now signed the General Judgment for Modification of Charitable Remainder Unitrust in the above entitled matter. I enclose a copy of the Judgment for your records. Thank you once again for your cooperation during the modification process.

Happy Thanksgiving.

Very truly yours,

Jon V. Buerstatte  
[buerstatte@gleaveslaw.com](mailto:buerstatte@gleaveslaw.com)

JVB:gdm  
Enclosures

cc: Paul Weinhold (w/o encls.)  
Erika Funk (w/o encls.)  
Susan Miller (w/o encls.)  
Randy Geller (w/o encls.)  
Tom Herrmann (w/o encls.)  
Ian Richardson (w/o encls.)

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Michael T. Faulconer\*\*  
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Dan Webb Howard\*\*  
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Thomas K. N. Moseman  
Laurie A. Nelson  
Ian T. Richardson  
Martha J. Rodman  
Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman

\*Also admitted  
in Washington

\*\*Also admitted  
in California

1  
2  
3  
4 IN THE CIRCUIT COURT OF THE STATE OF OREGON  
5 FOR LANE COUNTY

6 In the Matter of the Harold E. Lannom and Adrienne  
7 D. Lannom Charitable Remainder Unitrust dated  
8 April 1, 1993

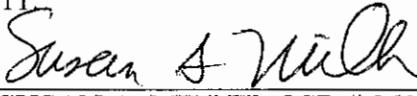
Case No. 52-11-20601

9 ACCEPTANCE OF SERVICE  
10 (Attorney General)

11 University of Oregon Foundation,  
12 Petitioner.

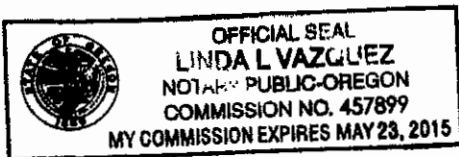
13 I, Susan A. Miller, Assistant Attorney General for the State of Oregon, Civil Enforcement  
14 Division, Charitable Activities, do hereby accept personal and legal service of a true copy of the  
15 Petition for Modification of Charitable Remainder Unitrust and Notice of Filing of Petition for  
16 Modification of Charitable Remainder Unitrust filed in the above-entitled matter, certified to be  
17 such by Jon V. Buerstette, lawyer for Petitioner.


18 DATED this 10<sup>th</sup> day of October, 2011.

19   
20 \_\_\_\_\_  
21 SUSAN A. MILLER OSB # 960960  
22 Assistant Attorney General for the State of Oregon

23 STATE OF OREGON )  
24 ) ss:  
25 County of Multnomah )

26 On this 10<sup>th</sup> day of October, 2011, the foregoing instrument was personally  
acknowledged before me by Susan A. Miller, Assistant Attorney General, State of Oregon.



27   
28 \_\_\_\_\_  
29 Notary Public for Oregon  
30 My commission expires: May 23, 2015

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5 IN THE CIRCUIT COURT OF THE STATE OF OREGON  
6 FOR LANE COUNTY  
7

8 In the Matter of the Harold E. Lannom and  
9 Adrienne D. Lannom Charitable Remainder  
Unitrust dated April 1, 1993

Case No. 52-11-20601

CONSENT AND WAIVER  
OF ATTORNEY GENERAL

10 University of Oregon Foundation,  
11 Petitioner.

12 I, Susan A. Miller, Assistant Attorney General for the State of Oregon, Civil Enforcement  
13 Division, Charitable Activities, have read the Petition for Modification of Charitable Remainder  
14 Unitrust herein. I approve the contents thereof, waive receipt of any required statutory notice and  
15 the right to object to the modification, and consent to the immediate entry of a judgment as  
16 requested in the Petition.

17 DATED this 10 day of October, 2011.

18  
19 

20 Susan A. Miller OSB# 960960  
21 Assistant Attorney General for the State of Oregon  
22  
23  
24  
25  
26

*notary*

October 3, 2011

*OK*

**RECEIVED**

OCT 06 2011

DEPARTMENT OF JUSTICE  
PORTLAND LEGAL

Susan A. Miller  
Assistant Attorney General  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue Suite 410  
Portland, OR 97201

Re: University of Oregon Foundation  
Harold E. Lannom and Adrienne D. Lannom Charitable Remainder  
Unitrust

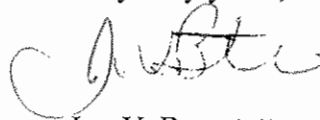
Dear Susan:

I am enclosing for your review certified true copies of the Petition for Modification of Charitable Remainder Unitrust, the Notice of Filing of Petition for Modification of Charitable Remainder Unitrust, and proposed General Judgment for Modification of Charitable Remainder Unitrust in the Harold E. Lannom and Adrienne D. Lannom Charitable Remainder Unitrust Charitable Remainder Unitrust modification proceeding which we have filed on behalf of the University of Oregon Foundation.

If the documents meet with your approval, we would appreciate your signing and returning to us in the enclosed return envelope the Acceptance of Service and Consent and Waiver. We will then file the Acceptances and Consents received from you, from the donors, from the remainder beneficiary (of the other one-half remainder interest) and from Randy Geller with the court and submit the General Judgment for the judge's signature.

Thank you for your assistance in this matter.

Very truly yours,



Jon V. Buerstatte  
[buerstatte@gleaveslaw.com](mailto:buerstatte@gleaveslaw.com)

JVB:gdm  
Enclosures

cc: Randy Geller (w/o encls.)  
Paul Weinhold (w/ encls.)  
Erika Funk (w/o encls.)  
Tom Herrmann (w/ encls.)  
Ian Richardson (w/o encls.)

Gleaves  
Swearingen  
Potter &  
Scott LLP



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Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman

\*Also admitted  
in Washington

\*\*Also admitted  
in California

October 3, 2011

Harold E. and Adrienne D. Lannom  
c/o Paul Elstone, Director  
UO Donor Relations  
1720 E. 13<sup>th</sup>, Suite 310  
Eugene, OR 97403-2253

Re: Modification of the Harold E. Lannom and Adrienne D. Lannom Charitable  
Remainder Unitrust

Dear Mr. and Mrs. Lannom:

As you know, you recently signed an Agreement Modifying Charitable Remainder Unitrust with regard to the Harold E. Lannom and Adrienne D. Lannom Charitable Remainder Unitrust. In addition to that document, Oregon law requires this modification to be approved by the Lane County Circuit Court. Therefore, we have filed on behalf of the University of Oregon Foundation the enclosed Petition for Modification of Charitable Remainder Unitrust.

Each person who signed the Agreement Modifying Charitable Remainder Unitrust is entitled to notice and an opportunity to object to the Petition for Modification of Charitable Remainder Unitrust. For that reason, we have enclosed for you certified true copies of the Petition for Modification of Charitable Remainder Unitrust, the Notice of Petition for Modification of Charitable Remainder Unitrust, and the proposed General Judgment Modifying Charitable Remainder Unitrust.

We would very much appreciate your reviewing these documents and signing the enclosed Acceptance of Service and Consent and Waiver if you approve of the documents. We have enclosed a return envelope for your convenience.

Please do not hesitate to call if you should have any questions about this matter. We are not permitted, however, to give you legal advice about this matter since we

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\*Also admitted  
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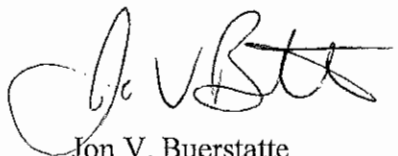
September 30, 2011

Page - 2

represent the University of Oregon Foundation. If you would prefer that we speak with your attorney about this matter, we would be pleased to do so.

Best regards.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Jon V. Buerstatte', written in a cursive style.

Jon V. Buerstatte

[buerstatte@gleaveslaw.com](mailto:buerstatte@gleaveslaw.com)

JVB:gdm

Enclosures

cc: Paul Weinhold (w/o encls.)  
Erika Funk (w/o encls.)  
Susan Miller (w/o encls.) ✓  
Randy Geller (w/o encls.)  
Tom Herrmann (w/o encls.)  
Ian Richardson (w/o encls.)

October 3, 2011

Randy Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Re: University of Oregon Foundation  
Harold E. Lannom and Adrienne D. Lannom Charitable Remainder  
Unitrust

Dear Randy:


I am enclosing for your review certified true copies of the Petition for Modification of Charitable Remainder Unitrust, the Notice of Filing of Petition for Modification of Charitable Remainder Unitrust, and proposed General Judgment for Modification of Charitable Remainder Unitrust in the Harold E. Lannom and Adrienne D. Lannom Charitable Remainder Unitrust Charitable Remainder Unitrust modification proceeding which we have filed on behalf of the University of Oregon Foundation.

If the documents meet with your approval, we would appreciate your signing and returning to us in the enclosed return envelope the Acceptance of Service and Consent and Waiver.

Once we receive the Acceptances and Consents from you, the donors, the remainder beneficiary (of the other one-half of the remainder interest) and from Susan Miller of the AG's office, we will file those with the court and submit the General Judgment for the judge's signature.

Thank you for your assistance in this matter.

Very truly yours,

  
Jon V. Buerstatte  
[buerstatte@gleaveslaw.com](mailto:buerstatte@gleaveslaw.com)

JVB:gdm  
Enclosures

cc: Susan Miller (w/o encls.) ✓  
Paul Weinhold (w/ encls.)  
Erika Funk (w/o encls.)  
Tom Herrmann (w/ encls.)  
Ian Richardson (w/o encls.)

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Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman

\*Also admitted  
in Washington

\*\*Also admitted  
in California



Gleaves  
Swearingen  
Potter &  
Scott LLP



ATTORNEYS  
AT LAW

October 3, 2011

The Rev. Bingham Powell  
St. Mary's Episcopal Church  
P.O. Box 50428  
Eugene, OR 97401

Re: Modification of the Harold E. Lannom and Adrienne D. Lannom Charitable  
Remainder Unitrust

Dear Rev. Powell:

As you will recall, recently you signed an Agreement Modifying Charitable Remainder Unitrust with regard to the Harold E. Lannom and Adrienne D. Lannom Charitable Remainder Unitrust. In addition to that document, Oregon law requires this modification to be approved by the Lane County Circuit Court. Therefore, we have filed on behalf of the University of Oregon Foundation the enclosed Petition for Modification of Charitable Remainder Unitrust.

As you know, the modification does not change the gift to your church. However, because St. Mary's is a one-half remainder beneficiary of the trust, St. Mary's is entitled to notice and an opportunity to object to the Petition for Modification of Charitable Remainder Unitrust. For that reason, we have enclosed for you certified true copies of the Petition for Modification of Charitable Remainder Unitrust, the Notice of Petition for Modification of Charitable Remainder Unitrust, and the proposed General Judgment Modifying Charitable Remainder Unitrust.

We would very much appreciate your reviewing these documents and signing and returning to us the enclosed Acceptance of Service and Consent and Waiver if you approve of the documents. We have enclosed a return envelope for your convenience.

Please do not hesitate to call if you should have any questions about this matter. We are not permitted, however, to give you legal advice about this matter since we

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Malcolm H. Scott  
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James W. Spickerman

\*Also admitted  
in Washington

\*\*Also admitted  
in California


September 30, 2011

Page - 2

represent the University of Oregon Foundation. If you would prefer that we speak with your attorney about this matter, we would be pleased to do so.

Best regards.

Very truly yours,

A handwritten signature in black ink, appearing to read 'JVB', with a long horizontal stroke extending to the right.

Jon V. Buerstatte

[buerstatte@gleaveslaw.com](mailto:buerstatte@gleaveslaw.com)

JVB:gdm

Enclosures

cc: Paul Weinhold (w/o encls.)  
Erika Funk (w/o encls.)  
Susan Miller (w/o encls.) ✓  
Randy Geller (w/o encls.)  
Tom Herrmann (w/o encls.)  
Ian Richardson (w/o encls.)

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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

In the Matter of the Harold E. Lannom and Adrienne  
D. Lannom Charitable Remainder Unitrust dated  
April 1, 1993

Case No. 52-11-20601

ACCEPTANCE OF SERVICE  
(Attorney General)

University of Oregon Foundation,  
Petitioner.

I, Susan A. Miller, Assistant Attorney General for the State of Oregon, Civil Enforcement Division, Charitable Activities, do hereby accept personal and legal service of a true copy of the Petition for Modification of Charitable Remainder Unitrust and Notice of Filing of Petition for Modification of Charitable Remainder Unitrust filed in the above-entitled matter, certified to be such by Jon V. Buerstatte, lawyer for Petitioner.

DATED this \_\_\_\_ day of October, 2011.

\_\_\_\_\_  
SUSAN A. MILLER OSB # 960960  
Assistant Attorney General for the State of Oregon

STATE OF OREGON            )  
  ) ss:  
County of Multnomah        )

On this \_\_\_\_ day of October, 2011, the foregoing instrument was personally acknowledged before me by Susan A. Miller, Assistant Attorney General, State of Oregon.

\_\_\_\_\_  
Notary Public for Oregon  
My commission expires: \_\_\_\_\_

1  
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5 IN THE CIRCUIT COURT OF THE STATE OF OREGON  
6 FOR LANE COUNTY  
7

8 In the Matter of the Harold E. Lannom and  
9 Adrienne D. Lannom Charitable Remainder  
Unitrust dated April 1, 1993

Case No. 52-11-20601

CONSENT AND WAIVER  
OF ATTORNEY GENERAL

10 University of Oregon Foundation,  
11 Petitioner.

12 I, Susan A. Miller, Assistant Attorney General for the State of Oregon, Civil Enforcement  
13 Division, Charitable Activities, have read the Petition for Modification of Charitable Remainder  
14 Unitrust herein. I approve the contents thereof, waive receipt of any required statutory notice and  
15 the right to object to the modification, and consent to the immediate entry of a judgment as  
16 requested in the Petition.

17 DATED this \_\_\_\_\_ day of October, 2011.  
18  
19

20 \_\_\_\_\_  
Susan A. Miller OSB# 960960  
21 Assistant Attorney General for the State of Oregon  
22  
23  
24  
25  
26

VERIFIED A TRUE COPY  
*[Signature]*

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF LANE

In the Matter of the Harold E. Lannom and  
Adrienne D. Lannom Charitable Remainder  
Unitrust dated April 1, 1993,  
  
University of Oregon Foundation,  
Petitioner.

Case No. 52-11-20601  
  
NOTICE OF FILING OF PETITION  
FOR MODIFICATION OF  
CHARITABLE REMAINDER  
UNITRUST

To: Susan A. Miller, Assistant Attorney General for the State of Oregon, Civil  
Enforcement Division, Charitable Activities, Randolph Geller, General Counsel for the  
University of Oregon, Harold E. Lannom, Adrienne D. Lannom, and Rev. Bingham Powell of St.  
Mary's Episcopal Church of Eugene, Oregon.

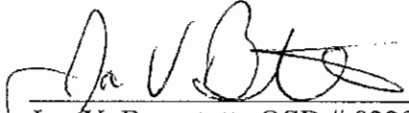
You are hereby notified that the attached document was filed by the undersigned in the  
above entitled court on the 30th day of September, 2011. Unless you file objections to the  
petition within 120 days after that date, the petition will be granted and the resulting judgment  
will be binding on all persons interested in the trust.

If you file objections within the 120 day period, the court will fix a time and place for a  
hearing. At least 10 days before the date of that hearing, you must serve a copy of your  
objections and give notice of the time and place of the hearing to all persons interested in the

///

1 trust. See ORS 130.200.

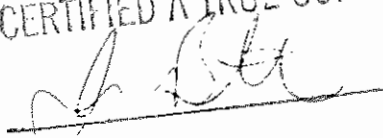
2 DATED this 3rd day of October, 2011.

3   
4 Jon V. Buerstatte OSB # 822070  
Of Attorneys for Petitioner

5 PETITIONER  
6 University of Oregon Foundation  
7 1720 E 13<sup>th</sup> Ave., Suite 410  
8 Eugene, OR 97403-1905

ATTORNEY FOR PETITIONER  
9 Jon V. Buerstatte  
10 OSB # 822070  
11 Gleaves Swearingen Potter & Scott LLP  
12 975 Oak Street, Suite 800  
13 Eugene, OR 97401  
14 541-345-2034 (fax no.)  
15 [buerstatte@gleaveslaw.com](mailto:buerstatte@gleaveslaw.com)

CERTIFIED A TRUE COPY



FILED

2011 SEP 30 PM 8:28

CIRCUIT COURT OF OREGON  
FOR LANE COUNTY

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

In the Matter of the Harold E. Lannom and Adrienne  
D. Lannom Charitable Remainder Unitrust dated  
April 1, 1993

Case No. 52-11-20601

PETITION FOR MODIFICATION OF  
CHARITABLE REMAINDER  
UNITRUST

University of Oregon Foundation,  
Petitioner.

UNIVERSITY OF OREGON FOUNDATION, an Oregon nonprofit corporation, by and through its President and Chief Executive Officer, Paul Weinholt, petitioner, represents to and petitions the court as follows:

1. Attorney General Consent. The Attorney General's consent to the modification requested herein is required by ORS 130.200(1). Petitioner has received consent to the Agreement Modifying Charitable Remainder Unitrust attached hereto and incorporated herein as Exhibit 1 and will seek a signed Consent for filing in this proceeding.

2. Venue. Venue for this matter lies in Lane County because the Charitable Remainder Unitrust is administered in Lane County, Oregon.

3. Historical Background of Charitable Remainder Unitrust. Settlers Harold E. Lannom and Adrienne D. Lannom established a Charitable Remainder Unitrust dated April 1, 1993 (the "CRUT"). The Settlers are the lifetime beneficiaries of the CRUT. Upon the death of

1 the surviving Settlor, the CRUT designates one-half of the charitable remainder for the benefit of  
2 the University of Oregon Foundation for the purpose of funding a Conducting Chair for the  
3 University of Oregon School of Music's Bach Festival. The University of Oregon Foundation  
4 also acts as Trustee of the CRUT. The remaining one-half of the charitable remainder will pass  
5 to St. Mary's Episcopal Church of Eugene, Oregon, for its general endowment fund. A copy of  
6 the trust agreement establishing the CRUT is attached hereto and incorporated herein as Exhibit  
7 A to Exhibit 1, the Agreement Modifying Charitable Remainder Unitrust.

8 The CRUT was modified in 1999 to incorporate a "flip" provision pursuant to a change  
9 in Treasury Regulation. A copy of the Agreement Modifying Charitable Remainder Unitrust is  
10 attached hereto and incorporated herein as Exhibit B to Exhibit 1, the Agreement Modifying  
11 Charitable Remainder Unitrust.

12 4. Reason for Modification. Since the time the Settlers established the CRUT,  
13 the Bach Festival's relationship with the School of Music has changed, becoming more  
14 performance based and less closely tied to the School of Music at the University of Oregon.  
15 While the Bach Festival remains a program of the University, the Settlers believe the Festival  
16 has come to emphasize performance rather than education, conducts many of its events off  
17 campus, and in general has become independent of and separate from the School of Music. In  
18 particular, the donors' intent was to add to an endowment fund for a conducting chair at the  
19 School of Music in support of the Festival, but no such fund, or any such chair, has been created.  
20 For these and other reasons, the Settlers no longer feel that the charitable purpose provided for  
21 one-half of the remainder interest in the CRUT will be served as originally intended.

22 Therefore, the Settlers have requested that the charitable purpose of the one-half  
23 remainder gift to the University of Oregon Foundation be changed to support the University of  
24 Oregon's Museum of Natural and Cultural History. The specific fund to be benefitted is the  
25 Museum of Natural History Director's Endowed Fund. The purpose of the Fund is to support  
26 educational and scholarly endeavors of the museum and would be a valuable asset in recruitment



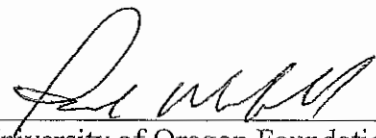
1 and retention of museum directors.

2 No change is sought in the provision for the gift to St. Mary's Episcopal Church of  
3 Eugene, Oregon.

4 5. Statutory Basis for Modification. ORS 130.200(1) permits the modification of  
5 the material purpose of an irrevocable trust with court approval in addition to consent of the  
6 settlors and all beneficiaries. Additionally, the consent of the Attorney General is required in the  
7 modification of charitable trusts such as the CRUT in question. Petitioner will seek the formal  
8 consent of both Settlers, the Attorney General, the beneficiary of the other one-half of the  
9 charitable remainder interest, and of the appropriate University of Oregon officials for filing in  
10 this modification proceeding.

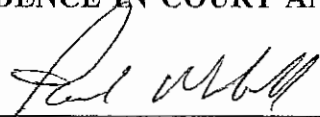
11 WHEREFORE, petitioner prays for a general judgment approving the modification of the  
12 Charitable Remainder Unitrust to provide that the charitable purpose of the one-half of the  
13 charitable remainder interest destined for the University of Oregon Foundation shall be changed  
14 to designate the Museum of Natural History Director's Endowed Fund as recipient in place of  
15 the Bach Festival Conducting Chair. Except as specifically provided herein and as previously  
16 modified, the Harold E. Lannom and Adrienne D. Lannom Charitable Remainder Unitrust dated  
17 April 1, 1993, should remain in full force and effect.

18 Dated this 29<sup>th</sup> day of September 2011.

19   
University of Oregon Foundation  
By: Paul Weinhold  
President and Chief Executive Officer  
Petitioner

22 **I, PAUL WEINHOLD, HEREBY DECLARE THAT THE ABOVE STATEMENT**  
23 **IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I**  
24 **UNDERSTAND IT IS MADE FOR USE AS EVIDENCE IN COURT AND IS SUBJECT**  
25 **TO PENALTY FOR PERJURY.**

26 Dated: 9/29, 2011.

  
University of Oregon Foundation  
By: Paul Weinhold

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President and Chief Executive Officer  
Petitioner

PETITIONER  
University of Oregon Foundation  
1720 E 13<sup>th</sup> Ave., Suite 410  
Eugene, OR 97403-1905

ATTORNEYS FOR PETITIONER  
Jon V. Buerstatte, OSB # 822070  
Gleaves Swearingen Potter & Scott LLP  
P.O. Box 1147  
Eugene, Oregon 97440-1147  
(541) 686-8833  
(541) 345-2034 (Fax)  
Email: [buerstatte@gleaveslaw.com](mailto:buerstatte@gleaveslaw.com)

**AGREEMENT MODIFYING CHARITABLE REMAINDER UNITRUST**

**PARTIES:**

**Settlors/Donors:**

Harold E. Lannom and Adrienne D. Lannom

**Trustee:**

University of Oregon Foundation, an Oregon nonprofit corporation (A.K.A. University of Oregon Development Fund)

**Beneficiaries:**

C. Brad Foley, Dean, University of Oregon School of Music

Jon Erlandson, Director, University of Oregon Museum of Natural and Cultural History

Michael C. Andreasen, Vice President for University Development, University of Oregon

The Rev Bingham, Powell of St. Mary's Episcopal Church, Eugene

**RECITALS:**

- A. The Parties desire to modify the **Harold E. Lannom and Adrienne D. Lannom Charitable Remainder Unitrust Agreement**, dated April 1, 1993 (the "CRUT"), a copy of which is attached hereto as Exhibit "A." The CRUT was subsequently modified by Agreement Modifying Charitable Remainder Unitrust on August 5, 1999, a copy of which is attached hereto as Exhibit "B."
- B. The Parties and the Oregon Attorney General constitute all persons and entities whose signatures are required for this Agreement to be effective pursuant to ORS Chapter 130, subject to approval of the Circuit Court of the State of Oregon for Lane County.

**AGREEMENT:**

NOW, THEREFORE, in consideration of the foregoing recitals that are by this reference expressly made a part hereof, and in consideration of the terms hereinafter contained, the Parties agree as follows:

1. Modification of CRUT

On the Effective Date, the CRUT shall be modified as set forth below:

a. Section 6.1 shall be modified to read:

"6.1 Upon the death of the survivor of the Donors, the Trustee shall distribute all of the then income and principal of the unitrust, other than any amount due to

the Donors or the survivor of them, in equal shares to the UNIVERSITY OF OREGON FOUNDATION and ST. MARY'S EPISCOPAL CHURCH of Eugene, Oregon. The amount distributed to the University of Oregon Foundation shall be added to the Museum of Natural History Director's Endowed Fund ("Director's Fund") for the purpose contained in the governing instrument of the Director's Fund. The amount distributed to the St. Mary's Episcopal Church shall be added to the general endowment fund of the Church."

b. Section 6.3 shall be modified to read:

"6.4 Solely with respect to the University of Oregon Foundation, if at some time a change of circumstances should render the designated purpose of the Museum of Natural History Director's Endowed Fund no longer of reasonable benefit to the University of Oregon, as determined by the Foundation and the President of the University of Oregon, then, and only then, the Board of Trustees of the Foundation in consultation with the President of the University of Oregon, without seeking approval of the Oregon Attorney General or any court, may otherwise use the gift to further the objectives and purposes of the University of Oregon, giving due consideration to the Donors' purpose and intent as described in Section 6.1."

2. Effective Date

This Agreement shall be effective on the date that all Parties and the Oregon Attorney General have each signed this Agreement and this Agreement has been approved by the Circuit Court of the State of Oregon for Lane County.

3. Tax Consequences

Donors accept sole responsibility for tax consequences, if any, that result from the aforesaid modification of the CRUT.

4. Number, Gender and Captions

As used herein, the singular shall include the plural and the plural the singular, as the context requires. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this Agreement.

5. Counterparts

This Agreement has been prepared and may be executed in multiple counterparts, each of which shall constitute an original. Each party may execute a separate counterpart, all of which when assembled shall constitute this Agreement, fully executed.

6. Original Agreement

The CRUT, as amended, and each term and provision thereof shall remain in full force and effect, except as herein modified, amended or restated.

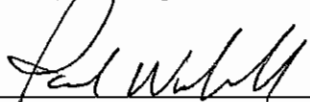
7. Entire Agreement

This Agreement and the exhibit hereto constitute the final written expression of all terms of the CRUT and when read together they constitute the complete and exclusive statement of those terms.

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on the date set opposite their respective signatures below.

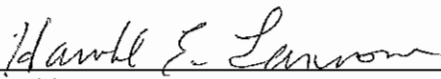
**Trustee:**

**University of Oregon Foundation:**

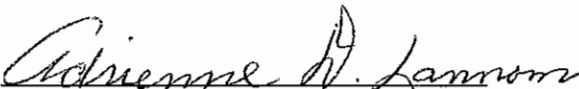
By:   
Paul Weinhold  
President and CEO

8/19/2011  
Date

**Settlers/Donors:**

  
Harold E. Lannom

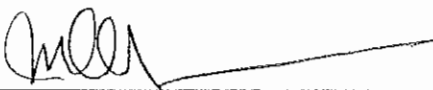
14 August 2011  
Date

  
Adrienne D. Lannom

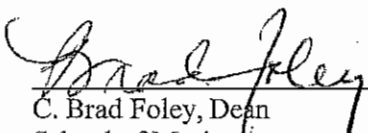
14 Aug 2011  
Date

**Beneficiaries:**

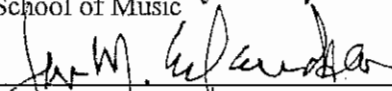
**University of Oregon:**

By:   
Michael C. Andreasen, Vice President  
for University Development

8/19/2011  
Date

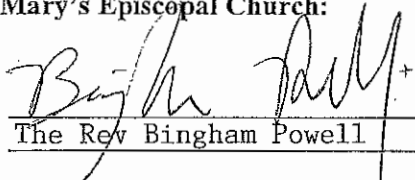
  
C. Brad Foley, Dean  
School of Music

8/29/2011  
Date

  
Jon Erlandson, Director  
Museum of Natural and Cultural History

1 SEPT 2011  
Date

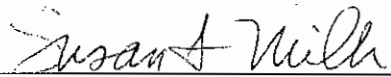
St. Mary's Episcopal Church:

  
\_\_\_\_\_  
The Rev Bingham Powell  
\_\_\_\_\_

9/6/11  
\_\_\_\_\_  
Date

ORS 130.200(1) provides that, in order for an agreement modifying charitable funds held in trust to be effective, the Attorney General for the State of Oregon must consent to the agreement. The Attorney General hereby consents to the foregoing Agreement Modifying Charitable Remainder Unitrust.

**Attorney General:**

By:   
\_\_\_\_\_  
Susan A. Miller OSB# 960960  
Assistant Attorney General

9/20/11  
\_\_\_\_\_  
Date

# CHARITABLE REMAINDER UNITRUST

HAROLD E. LANNOM & ADRIENNE D. LANNOM

UNITRUST AGREEMENT made this 1st day of April, 1993, between HAROLD E. AND ADRIENNE D. LANNOM, residing at 2720 Lawrence Street, Eugene, Oregon 97405, (hereinafter called "Donors") and UNIVERSITY OF OREGON FOUNDATION, an Oregon nonprofit corporation, located at Eugene, Oregon, (hereinafter called "Trustee").

## SECTION 1. TRANSFER OF PROPERTY.

Donors transfer and deliver to Trustee the property described in the annexed Schedule "A." This property and all receipts of every kind shall be managed and invested by Trustee as a single fund (hereinafter called the "unitrust").

## SECTION 2. TRUST PAYMENTS.

During the lifetimes of Donors, Trustee shall pay (in cash, in kind or partly in each) to them jointly and then to the survivor for life, in each taxable year of the unitrust a unitrust amount equal to the lesser of (a) the trust income for such taxable year (as defined in section 643(b) of the Internal Revenue Code of 1986 and the regulations thereunder) and (b) seven percent (7%) of the net fair market value of the trust assets valued as of the first day of such taxable year (decreased as provided in Section 3 in the case where the taxable year is a short taxable year or is the taxable year in which the survivor of the Donors dies and increased as provided in Section 4 in the case where there are additional contributions in the taxable year). If the trust income for any taxable year exceeds the amount determined under (b), the payment to Donors and the survivor of them shall also include such excess income to the extent that the aggregate of the amounts paid to Donors and the survivor of them in prior years is less than seven percent (7%) of the aggregate net fair market value of the trust assets for such years. Payments to Donors and the survivor of them shall be in quarterly installments (on the last day of March, June, September, and December, with the first installment to be on the last day of the month of June, 1993). Any income of the unitrust in excess of such payments shall be added to principal. Notwithstanding any existing or hereafter enacted state law, no amount other than the unitrust amount may be paid to or for the use of any person other than an organization described in each of section 170(b)(1)(A), section 170(c), section 2055(a), and section 2522(a) of the Internal Revenue Code of 1986 (hereinafter called the "Code"). However, an amount shall not be deemed to be paid to or for the use of any person other than an organization described in the aforesaid Code sections if the amount is transferred for full and adequate consideration.

## SECTION 3. TAXABLE YEARS.

The first taxable year of the unitrust begins with the date of this Agreement and shall end on December 31, 1993. Subsequent taxable years shall be on a calendar year basis. In the case of a taxable year which is for a period of less than 12 months (other than the taxable year in which the survivor of the Donors dies), the amount described in Section 2 shall be such amount multiplied by a fraction the numerator of which is the

number of days in the taxable year of the unitrust and the denominator of which is 365 (366 if February 29 is a day included in the numerator). In the case of the taxable year in which the survivor of the Donors dies, the amount described in Section 2 shall be such amount multiplied by a fraction the numerator of which is the number of days in the period beginning on the first day of such taxable year and ending on the date of death of the survivor of the Donors and the denominator of which is 365 (366 if February 29 is a day included in the numerator). Notwithstanding the foregoing, the obligation of Trustee to pay the unitrust amount shall terminate with the regular quarterly installment next preceding the death of the survivor of the Donors.

#### SECTION 4. ADDITIONAL CONTRIBUTIONS.

The Donors and others may, from time to time, add property acceptable to Trustee to the unitrust.

- 4.1 If any additional contributions are made to the unitrust after the initial contribution in trust, the amount described in Section 2 for the taxable year in which the assets are added to the trust shall be seven percent (7%) of the sum of (a) the net fair market value of the trust assets (excluding the assets so added and any income from, or appreciation on, such assets), and (b) that proportion of the value of the assets so added that was excluded under (a) which the number of days in the period which begins with the date of contribution and ends with the earlier of the last day of the taxable year or the death of the survivor of the Donors bears to the number of days in the period which begins on the first day of such taxable year and ends with the earlier of the last day of such taxable year or the death of the survivor of the Donors. The assets so added shall be valued at the time of contribution.
- 4.2 If any additional contribution is made by Will, the obligation to pay the unitrust amount with respect to such additional contribution shall commence with the date of death of the person under whose Will the additional contribution is made, but payment of such unitrust amount may be deferred from such date of death to the end of the taxable year of the unitrust in which occurs the complete funding of the additional contribution. Within a reasonable period after such time, the Trustee shall pay, in the case of an underpayment, or shall receive from the Donors or the survivor of them, as the case may be, in the case of an overpayment, the difference between any unitrust amounts actually paid to the Donors or the survivor of them, as the case may be, plus interest, compounded annually, computed for any period at the rate of interest that the federal income tax regulations (Treasury Regulations) under section 664 of the Code prescribe for the trust for such computation for such period, and the unitrust amounts payable determined under the method described in section 1.664-1(a)(5)(ii) of the Treasury Regulations, plus interest, compounded annually, computed for any period at the rate of interest that the Treasury Regulations under section 664 of the Code prescribe for the trust for such computation for such period. Any payments required to be made because of an underpayment shall be paid to the person (or his estate) who received the underpayment. Any repayments required to be made because of an overpayment shall be repaid by the person (or his estate) who received the overpayment.



SECTION 5. DETERMINATION OF NET FAIR MARKET VALUE.

- 5.1 If the net fair market value of the unitrust assets is incorrectly determined by Trustee for any taxable year, then within a reasonable period after the final determination of the correct value Trustee shall pay to the Donors or the survivor of them, in the case of an undervaluation, or shall receive from the Donors or the survivor of them, in the case of an overvaluation, an amount equal to the difference between the unitrust amount properly payable and the unitrust amount actually paid. Any payments required to be made because of an undervaluation shall be paid to the person (or his estate) who received the underpayment. Any repayments required to be made because of an overvaluation shall be repaid by the person (or his estate) who received the overpayment.
- 5.2 In computing the net fair market value of the unitrust assets there shall be taken into account all assets and liabilities without regard to whether particular items are taken into account in determining the income of the unitrust. All determinations of the unitrust's net fair market value shall be in accordance with generally accepted fiduciary accounting principles and any United States Treasury requirements governing charitable remainder unitrusts. In any conflict Treasury requirements shall prevail over generally accepted fiduciary accounting principles and any inconsistent provisions of this Agreement.

SECTION 6. DISTRIBUTION ON DEATH OF DONOR.

- 6.1 Upon the death of the survivor of the Donors, the Trustee shall distribute all of the then income and principal of the unitrust, other than any amount due to the Donors or the survivor of them, in equal shares to the UNIVERSITY OF OREGON FOUNDATION and ST. MARY'S EPISCOPAL CHURCH of Eugene, Oregon. The amount distributed to the University of Oregon Foundation shall be added to an endowment fund established for the purpose of funding a Conducting Chair for the University of Oregon School of Music's Bach Festival. The amount distributed to the St. Mary's Episcopal Church shall be added to the general endowment fund of the Church.
- 6.2 Notwithstanding any of the foregoing provisions of this Agreement:
- 6.2.1 HAROLD E. LANNOM hereby expressly reserves the power, exercisable only by his Will, to revoke and terminate the survivorship payments for ADRIENNE D. LANNOM from his interest in the joint property in the unitrust. If he effectively exercises his testamentary power:
- (a) Trustee shall upon his death distribute one-half of the then income and principal of the unitrust, other than any amounts due to the Donors, in equal shares to UNIVERSITY OF OREGON FOUNDATION and ST. MARY'S EPISCOPAL CHURCH of Eugene, Oregon, to be used for the purposes described in Section 6.1;

- (b) Trustee's obligation to make payments to him shall cease with the payment next preceding his death and one-half of any accruals for the period beginning with the payment date next preceding his death and ending with the date of his death shall on his death be paid in equal shares to UNIVERSITY OF OREGON FOUNDATION and ST. MARY'S EPISCOPAL CHURCH of Eugene, Oregon, to be used for the purposes described in Section 6.1; and
- (c) Trustee shall thereafter pay to ADRIENNE D. LANNOM for her life the unitrust amounts in each taxable year of the trust described in Sections 3 and 4.

6.2.2 ADRIENNE D. LANNOM hereby expressly reserves the power, exercisable only by her Will, to revoke and terminate the survivorship payments for HAROLD E. LANNOM from her interest in the joint property in the unitrust. If she effectively exercises her testamentary power:

- (a) Trustee shall upon her death distribute one-half of the then income and principal of the unitrust, other than any amounts due to the Donors, in equal shares to UNIVERSITY OF OREGON FOUNDATION and ST. MARY'S EPISCOPAL CHURCH of Eugene, Oregon, to be used for the purposes described in Section 6.1; and
- (b) Trustee's obligation to make payments to her shall cease with the payment next preceding her death and one-half of any accruals for the period beginning with the payment date next preceding her death and ending with the date of her death shall on her death be paid in equal shares to UNIVERSITY OF OREGON FOUNDATION and ST. MARY'S EPISCOPAL CHURCH of Eugene, Oregon, to be used for the purposes described in Section 6.1; and
- (c) Trustee shall thereafter pay to HAROLD E. LANNOM for his life the unitrust amounts in each taxable year of the trust described in Sections 3 and 4.

6.2.3 In the case of any distributions in kind to UNIVERSITY OF OREGON FOUNDATION or ST. MARY'S EPISCOPAL CHURCH of Eugene, Oregon, the adjusted basis of the property distributed shall be fairly representative of the adjusted basis of the property available for distribution on the date of distribution.

6.3 If either the UNIVERSITY OF OREGON FOUNDATION or ST. MARY'S EPISCOPAL CHURCH of Eugene, Oregon, is not an organization described in each of section 170(b)(1)(A), section 170(c), section 2055(a), and section 2522(a) of the Code at the time when any principal or income of the unitrust is to be distributed to it, Trustee shall distribute such principal or income to one or more organizations then so described as Trustee shall select in its sole discretion and in such shares as it shall determine.

- 6.4 Solely with respect to the University of Oregon Foundation, if at some time a change of circumstances should render the designated purpose of the endowment fund for the Bach Festival Conducting Chair no longer practical, then, and only then, the Board of Trustees of the Foundation and the President of the University of Oregon shall use the expendable proceeds from that portion of the endowment fund attributable to this unitrust as deemed prudent to further the objectives and purposes of the University, giving due consideration to the special interest expressed above.

#### SECTION 7. TRUSTEE'S POWERS.

In addition to the powers conferred upon it by law, Trustee is authorized to:

- 7.1 Retain the property described in Schedule "A," or may sell the property and invest and reinvest the unitrust in any kind of property without diversification as to kind or amount and without regard to the limitations imposed by law on investments. Nothing in this Agreement shall be construed to restrict the Trustee from investing the unitrust assets in a manner which could result in the annual realization of a reasonable amount of income or gain from the sale or disposition of trust assets.
- 7.2 Sell, exchange or otherwise dispose of any unitrust asset at either public or private sale, for cash or on credit; to exchange any such property and to grant options for the purchase thereof without any limitation on the period of any such option.
- 7.3 Consent to and participate in, or to oppose, any foreclosure, liquidation or plan of reorganization, consolidation, merger, combination or other similar plan and to consent to any contract, lease, mortgage, purchase, sale or other action by any other corporation pursuant to such plan.
- 7.4 Deposit any unitrust asset with any protective, reorganizational or similar committee, to delegate discretionary power thereto, to pay part of its expenses and compensation and any assessments levied with respect to such asset.
- 7.5 Exercise all conversion, subscription, voting and other rights of whatsoever nature pertaining to any such unitrust asset and to grant proxies, discretionary or otherwise, with respect thereto.
- 7.6 Extend the time of payment of any obligation held hereunder and to compromise, settle or submit to arbitration or to release any claim in favor of or against any unitrust asset.
- 7.7 Register and hold any unitrust asset in the name of a nominee and the liability of the Trustee shall be neither increased nor decreased thereby.
- 7.8 Do all such acts, take all such proceedings and exercise all such rights and privileges, although not hereinbefore specifically mentioned with respect to any unitrust asset as if the absolute owner thereof and in connection therewith to make, execute and deliver any instruments and to enter into any covenants or agreements binding the unitrust; provided that the

Trustee shall take no such action as shall violate the provisions of Code Section 664 and the regulations thereunder.

**SECTION 8. TRUSTEE'S COMPENSATION.**

Trustee shall not receive compensation for services rendered under this Agreement, although a reasonable fee may be charged by and paid to Trustee or its designee to cover the cost of direct and indirect administrative expenses incurred on behalf of the Unitrust, which fees shall be charged in a manner consistent with Trustee's policy generally applicable to similar Charitable Remainder Trusts. No bond or other security shall be required of Trustee in any jurisdiction.

**SECTION 9. TAX BENEFITS/PROHIBITED TRANSACTIONS.**

In creating this unitrust, the Donors intend to obtain the full benefit of any income, gift and estate tax charitable contribution deductions to which they (and their estates) may be entitled under the Code and for the unitrust to qualify as a charitable remainder unitrust under section 664 of the Code and the regulations thereunder. Accordingly, this unitrust shall be interpreted, valued, managed, invested, administered, and in all other respects governed consistent with the Donors' intent. Without limiting the generality of the foregoing, Trustee is prohibited (except for the payment of the unitrust amount to the Donors and the survivor of them) from engaging in any act of self-dealing as defined in section 4941(d) of the Code, from retaining any excess business holdings as defined in section 4943(c) of the Code which would subject the unitrust to tax under section 4943 of the Code, from making any investments which would subject the unitrust to tax under section 4944 of the Code, and from making any taxable expenditures as defined in section 4945(d) of the Code. If section 4942 of the Code is deemed applicable to the unitrust by reason of section 508(e) of the Code or otherwise, Trustee shall make distributions at such time and in such manner as not to subject the unitrust to tax under section 4942 of the Code.

**SECTION 10. MISCELLANEOUS.**

- 10.1 No federal estate taxes, state death taxes, or any other estate, death, or inheritance taxes ("death taxes") with respect to the unitrust shall be allocated to or be recoverable from the unitrust. The Donors impose an obligation on their respective estates to pay any death taxes from sources other than the unitrust and agree to so provide in their respective Wills or in another way. This provision may be enforced by the UNIVERSITY OF OREGON FOUNDATION, in its capacity as trustee or charitable remainderman, or by each Donor, acting alone or together.
- 10.2 Each Donor has provided for the payment of any death taxes from sources other than the unitrust. Nevertheless, if for any reason, the unitrust becomes liable for death taxes on the death of the first of the Donors to die, the interest of the surviving Donor in the one-half interest of the deceased Donor shall take effect only if the surviving Donor furnishes the funds for payment of any death taxes for which the unitrust may be liable. If the survivor fails to furnish those funds, it shall be deemed for all purposes of this Agreement that the first of the Donors to die exercised the right in his or her Will described in Section 6.2.1 and 6.2.2.
- 10.3 This Agreement is irrevocable.

10.4 Trustee shall have the power to amend this Agreement for the sole purpose of complying with the requirements of section 664 of the Code and Treasury Regulations sections 1.664-1 and 1.664-3.

10.5 This Agreement is made pursuant to, and shall be interpreted in accordance with, the laws of the State of Oregon. However, in any conflict with section 664 of the Code, the regulations thereunder or any other existing or hereafter promulgated legislative or Treasury requirements for the qualification of the unitrust and for the Donors' obtaining the full benefit of any income, gift, and estate tax charitable deductions to which they (and their respective estates) may be entitled, section 664 of the Code, the regulations thereunder, and the legislative and Treasury requirements shall govern.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the date first above written.

UNIVERSITY OF OREGON FOUNDATION,  
an Oregon nonprofit corporation

By: Paul Eberle

PAUL EBERLE  
Title: Acting Executive Director

TRUSTEE

Harold E. Lannom  
HAROLD E. LANNOM  
Adrienne D. Lannom  
ADRIENNE D. LANNOM

DONORS

SCHEDULE "A"

HAROLD E. LANNOM AND ADRIENNE D. LANNOM  
CHARITABLE REMAINDER UNITRUST

Real Property located at 310 East 14th Avenue, Eugene, Oregon.  
Tax Lot 17-03-31-41-2700

Initial net fair market value: \$120,000.00

AGREEMENT MODIFYING CHARITABLE REMAINDER UNITRUST

**PARTIES:**

**TRUSTEE:** University of Oregon Foundation (A.K.A.  
University of Oregon Development Fund)

**DONORS:** Harold E. Lannom  
Adrienne D. Lannom

**BENEFICIARIES:**

**Income Beneficiaries:** Harold E. Lannom  
Adrienne D. Lannom

**Remainder Beneficiaries:** University of Oregon Foundation  
University of Oregon  
St. Mary's Episcopal Church

**DATE:** August 5, 1999

**RECITALS:**

- A. Pursuant to ORS 128.177-128.185, the Parties desire to modify certain provisions of the Harold E. Lannom and Adrienne D. Lannom Charitable Remainder Unitrust, dated April 1, 1993 ("the CRUT"), a copy of which is attached hereto as Exhibit "A" and by reference incorporated herein.
- B. The Parties want to modify the CRUT because of a newly amended Treasury Regulation, Treas. Reg. § 1.664-3(a) ("the Regulation"), which is herein incorporated by reference. Prior to the Regulation, Section 664 of the Internal Revenue Code of 1986, as amended, and the regulations thereunder, required that the computation of the unitrust amount paid to the income beneficiaries of a charitable remainder unitrust had to be based on either the fixed percentage method ("Fixed Percentage Method") or one of two income exception methods ("Income Exception Method") and a charitable remainder unitrust could not convert from the Income Exception Method to the Fixed Percentage Method.
- C. The Regulation now provides that a newly created charitable remainder unitrust may provide for a conversion from the Income Exception Method of computing the unitrust amount to the Fixed Percentage Method, provided that the terms of the trust agreement comply with the provisions of the Regulation. A charitable remainder unitrust that provides for such a conversion is termed a "Flip Unitrust."

EXHIBIT B  
PAGE 1

- D. In addition, the Regulation allows an existing charitable remainder unitrust utilizing the Income Exception Method to compute the unitrust amount to be modified in accordance with state law through legal proceedings initiated on or before June 8, 1999, for the purpose of converting to the Fixed Percentage Method, subject to the requirements of the Regulation. The Internal Revenue Service, in Internal Revenue Service Notice 99-31 ("the Notice"), extended the deadline for reformation from June 8, 1999 until June 30, 2000. Additionally, the Notice clarified the term "legal proceedings" to include judicial and non-judicial reformation as provided under state law.
- E. The Regulation provides three (3) requirements for a Flip Unitrust: (1) unitrust payments must be made on an annual (or more frequent) basis; (2) the conversion from the Income Exception Method to the Fixed Percentage Method must be governed by a triggering event or date that is not discretionary or within the control of any person; and (3) the conversion from the Income Exception Method to the Fixed Percentage Method must occur at the beginning of the taxable year that follows the taxable year during which the triggering event or date occurs. The CRUT qualifies under the Regulation for reformation to a Flip Unitrust.
- F. The Parties constitute all persons and entities whose signatures are required for this Agreement to be effective pursuant to ORS 128.177(2).

**AGREEMENT:**

NOW, THEREFORE, in consideration of the foregoing recitals that are by this reference expressly made a part hereof, and in consideration of the terms hereinafter contained, the Parties agree as follows:

1. Modification of CRUT

On January 1 following the triggering event or date described in Paragraph 2 below, the original Section 2 of the CRUT shall be deemed and construed to be deleted in its entirety and shall be replaced in its entirety with the following new Section 2:

"During the lifetimes of the Donors, the Trustee shall pay (in cash, in kind or partly in each) to the Donors jointly, and then to the survivor of them for life, in each taxable year of the unitrust, a unitrust amount equal to seven percent (7%) of the net fair market value of the trust assets valued on the first day of such taxable year (decreased as provided in Section 3 in the case where the taxable year is a short taxable year or is the taxable year in which the survivor of the Donors dies and increased as provided in Section 4 in the case where there are additional contributions in the taxable year). The unitrust amount shall be paid in equal quarterly installments (as of the last day of March, June, September and December of each year, with the first installment to be on the last day of the month of March, 2000) from income and, to the extent income is insufficient, from principal. Any income of the unitrust for a taxable year in excess of the unitrust amount shall be added to principal. Notwithstanding any existing or

EXHIBIT   B



hereafter enacted state law, no amount other than the unitrust amount may be paid to or for the use of any person other than an organization described in each of section 170(b)(1)(A), section 170(c), section 2055(a) and section 2522(a) of the Internal Revenue Code of 1986 (hereinafter called the "Code"). However, an amount shall not be deemed to be paid to or for the use of any person other than an organization described in the aforesaid Code sections if the amount is transferred for full and adequate consideration."

2. Triggering Event or Date

December 31, 1999 shall constitute the "triggering event or date" as that term is defined by the Regulation.

3. Waiver of Make-Up Payment

Effective January 1, 2000, Donors waive the right to payment of any deficiency that has accrued under the second sentence of the original Section 2.

4. Number, Gender and Captions

As used herein, the singular shall include the plural and the plural the singular. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this Agreement.

5. Counterparts

This Agreement has been prepared and may be executed in multiple counterparts, each of which shall constitute an original. Each party may execute a separate counterpart, all of which when assembled shall constitute this Agreement, fully executed.

6. Compliance with Regulation and Notice

The Parties intend that this Agreement comply and be interpreted in accordance with the Regulation and Notice. In the event of any conflict between this Agreement and the Regulation and Notice, the Regulation and Notice shall prevail.

7. Original Agreement

The CRUT and each term and provision thereof shall remain in full force and effect, except as herein modified, amended or restated.

8. Entire Agreement

This Agreement and the CRUT constitute the final written expression of all terms of the Harold E. Lannom and Adrienne D. Lannom Charitable Remainder Unitrust and when read together they constitute the complete and exclusive statement of those terms.

EXHIBIT B  
PAGE 3

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on the date set opposite their respective signatures below.

TRUSTEE

University of Oregon Foundation

By Karri Pargeter  
Karri Pargeter, Director of Finance

6/25/99  
Date

DONORS

Harold E. Lannom  
Harold E. Lannom

6-8-99  
Date

Adrienne D. Lannom  
Adrienne D. Lannom

6/8/99  
Date

BENEFICIARIES

Income Beneficiaries

Harold E. Lannom  
Harold E. Lannom

6-8-99  
Date

Adrienne D. Lannom  
Adrienne D. Lannom

6/8/99  
Date

Remainder Beneficiaries

University of Oregon Foundation

By Karri Pargeter  
Karri Pargeter, Director of Finance

6/25/99  
Date

University of Oregon

By Dave Frohnmayer  
Dave Frohnmayer, President

7/2/99  
Date

St. Mary's Episcopal Church

By \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Date

EXHIBIT B  
PAGE 4

ORS 128.135(2) and 128.177(2)(d) state that, in order for an agreement modifying a charitable trust subject to the enforcement or supervisory powers of the state or the Attorney General under ORS 128.610 to 128.750 to be effective, the Attorney General for the State of Oregon must approve the agreement. The CRUT is an agreement subject to that requirement. The foregoing Agreement Modifying Charitable Remainder Unitrust is hereby approved.

ATTORNEY GENERAL

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

\_\_\_\_\_ Date

EXHIBIT   B    
PAGE   5

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on the date set opposite their respective signatures below.

TRUSTEE

University of Oregon Foundation

By \_\_\_\_\_  
Karri Pargeter, Director of Finance Date \_\_\_\_\_

DONORS

\_\_\_\_\_  
Harold E. Lannom Date \_\_\_\_\_

\_\_\_\_\_  
Adrienne D. Lannom Date \_\_\_\_\_

BENEFICIARIES

Income Beneficiaries

\_\_\_\_\_  
Harold E. Lannom Date \_\_\_\_\_

\_\_\_\_\_  
Adrienne D. Lannom Date \_\_\_\_\_

Remainder Beneficiaries

University of Oregon Foundation

By \_\_\_\_\_  
Karri Pargeter, Director of Finance Date \_\_\_\_\_

University of Oregon

By \_\_\_\_\_  
Dave Frohnmayer, President Date \_\_\_\_\_

St. Mary's Episcopal Church

By Nancy R. Crawford \_\_\_\_\_  
Treasurer Date August 5, 1999

EXHIBIT B  
PAGE 6

ORS 128.135(2) and 128.177(2)(d) state that, in order for an agreement modifying a charitable trust subject to the enforcement or supervisory powers of the state or the Attorney General under ORS 128.610 to 128.750 to be effective, the Attorney General for the State of Oregon must approve the agreement. The CRUT is an agreement subject to that requirement. The foregoing Agreement Modifying Charitable Remainder Unitrust is hereby approved.

ATTORNEY GENERAL

Ross Laybourn, AAG  
By: Ross L. Laybourn

6/15/99  
Date

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PAGE 7

# CHARITABLE REMAINDER UNITRUST

HAROLD E. LANNOM & ADRIENNE D. LANNOM

UNITRUST AGREEMENT made this 1st day of April, 1993, between HAROLD E. AND ADRIENNE D. LANNOM, residing at 2720 Lawrence Street, Eugene, Oregon 97405, (hereinafter called "Donors") and UNIVERSITY OF OREGON FOUNDATION, an Oregon nonprofit corporation, located at Eugene, Oregon, (hereinafter called "Trustee").

## SECTION 1. TRANSFER OF PROPERTY.

Donors transfer and deliver to Trustee the property described in the annexed Schedule "A." This property and all receipts of every kind shall be managed and invested by Trustee as a single fund (hereinafter called the "unitrust").

## SECTION 2. TRUST PAYMENTS.

During the lifetimes of Donors, Trustee shall pay (in cash, in kind or partly in each) to them jointly and then to the survivor for life, in each taxable year of the unitrust a unitrust amount equal to the lesser of (a) the trust income for such taxable year (as defined in section 643(b) of the Internal Revenue Code of 1986 and the regulations thereunder) and (b) seven percent (7%) of the net fair market value of the trust assets valued as of the first day of such taxable year (decreased as provided in Section 3 in the case where the taxable year is a short taxable year or is the taxable year in which the survivor of the Donors dies and increased as provided in Section 4 in the case where there are additional contributions in the taxable year). If the trust income for any taxable year exceeds the amount determined under (b), the payment to Donors and the survivor of them shall also include such excess income to the extent that the aggregate of the amounts paid to Donors and the survivor of them in prior years is less than seven percent (7%) of the aggregate net fair market value of the trust assets for such years. Payments to Donors and the survivor of them shall be in quarterly installments (on the last day of March, June, September, and December, with the first installment to be on the last day of the month of June, 1993). Any income of the unitrust in excess of such payments shall be added to principal. Notwithstanding any existing or hereafter enacted state law, no amount other than the unitrust amount may be paid to or for the use of any person other than an organization described in each of section 170(b)(1)(A), section 170(c), section 2055(a), and section 2522(a) of the Internal Revenue Code of 1986 (hereinafter called the "Code"). However, an amount shall not be deemed to be paid to or for the use of any person other than an organization described in the aforesaid Code sections if the amount is transferred for full and adequate consideration.

## SECTION 3. TAXABLE YEARS.

The first taxable year of the unitrust begins with the date of this Agreement and shall end on December 31, 1993. Subsequent taxable years shall be on a calendar year basis. In the case of a taxable year which is for a period of less than 12 months (other than the taxable year in which the survivor of the Donors dies), the amount described in Section 2 shall be such amount multiplied by a fraction the numerator of which is the

EXHIBIT B

number of days in the taxable year of the unitrust and the denominator of which is 365 (366 if February 29 is a day included in the numerator). In the case of the taxable year in which the survivor of the Donors dies, the amount described in Section 2 shall be such amount multiplied by a fraction the numerator of which is the number of days in the period beginning on the first day of such taxable year and ending on the date of death of the survivor of the Donors and the denominator of which is 365 (366 if February 29 is a day included in the numerator). Notwithstanding the foregoing, the obligation of Trustee to pay the unitrust amount shall terminate with the regular quarterly installment next preceding the death of the survivor of the Donors.

#### SECTION 4. ADDITIONAL CONTRIBUTIONS.

The Donors and others may, from time to time, add property acceptable to Trustee to the unitrust.

- 4.1 If any additional contributions are made to the unitrust after the initial contribution in trust, the amount described in Section 2 for the taxable year in which the assets are added to the trust shall be seven percent (7%) of the sum of (a) the net fair market value of the trust assets (excluding the assets so added and any income from, or appreciation on, such assets), and (b) that proportion of the value of the assets so added that was excluded under (a) which the number of days in the period which begins with the date of contribution and ends with the earlier of the last day of the taxable year or the death of the survivor of the Donors bears to the number of days in the period which begins on the first day of such taxable year and ends with the earlier of the last day of such taxable year or the death of the survivor of the Donors. The assets so added shall be valued at the time of contribution.
- 4.2 If any additional contribution is made by Will, the obligation to pay the unitrust amount with respect to such additional contribution shall commence with the date of death of the person under whose Will the additional contribution is made, but payment of such unitrust amount may be deferred from such date of death to the end of the taxable year of the unitrust in which occurs the complete funding of the additional contribution. Within a reasonable period after such time, the Trustee shall pay, in the case of an underpayment, or shall receive from the Donors or the survivor of them, as the case may be, in the case of an overpayment, the difference between any unitrust amounts actually paid to the Donors or the survivor of them, as the case may be, plus interest, compounded annually, computed for any period at the rate of interest that the federal income tax regulations (Treasury Regulations) under section 664 of the Code prescribe for the trust for such computation for such period, and the unitrust amounts payable determined under the method described in section 1.664-1(a)(5)(ii) of the Treasury Regulations, plus interest, compounded annually, computed for any period at the rate of interest that the Treasury Regulations under section 664 of the Code prescribe for the trust for such computation for such period. Any payments required to be made because of an underpayment shall be paid to the person (or his estate) who received the underpayment. Any repayments required to be made because of an overpayment shall be repaid by the person (or his estate) who received the overpayment.

SECTION 5. DETERMINATION OF NET FAIR MARKET VALUE.

- 5.1 If the net fair market value of the unitrust assets is incorrectly determined by Trustee for any taxable year, then within a reasonable period after the final determination of the correct value Trustee shall pay to the Donors or the survivor of them, in the case of an undervaluation, or shall receive from the Donors or the survivor of them, in the case of an overvaluation, an amount equal to the difference between the unitrust amount properly payable and the unitrust amount actually paid. Any payments required to be made because of an undervaluation shall be paid to the person (or his estate) who received the underpayment. Any repayments required to be made because of an overvaluation shall be repaid by the person (or his estate) who received the overpayment.
- 5.2 In computing the net fair market value of the unitrust assets there shall be taken into account all assets and liabilities without regard to whether particular items are taken into account in determining the income of the unitrust. All determinations of the unitrust's net fair market value shall be in accordance with generally accepted fiduciary accounting principles and any United States Treasury requirements governing charitable remainder unitrusts. In any conflict Treasury requirements shall prevail over generally accepted fiduciary accounting principles and any inconsistent provisions of this Agreement.

SECTION 6. DISTRIBUTION ON DEATH OF DONOR.

- 6.1 Upon the death of the survivor of the Donors, the Trustee shall distribute all of the then income and principal of the unitrust, other than any amount due to the Donors or the survivor of them, in equal shares to the UNIVERSITY OF OREGON FOUNDATION and ST. MARY'S EPISCOPAL CHURCH of Eugene, Oregon. The amount distributed to the University of Oregon Foundation shall be added to an endowment fund established for the purpose of funding a Conducting Chair for the University of Oregon School of Music's Bach Festival. The amount distributed to the St. Mary's Episcopal Church shall be added to the general endowment fund of the Church.
- 6.2 Notwithstanding any of the foregoing provisions of this Agreement:
- ~~6.2.1 HAROLD E. LANNOM hereby expressly reserves the power, exercisable only by his Will, to revoke and terminate the survivorship payments for ADRIENNE D. LANNOM from his interest in the joint property in the unitrust. If he effectively exercises his testamentary power:~~
- (a) Trustee shall upon his death distribute one-half of the then income and principal of the unitrust, other than any amounts due to the Donors, in equal shares to UNIVERSITY OF OREGON FOUNDATION and ST. MARY'S EPISCOPAL CHURCH of Eugene, Oregon, to be used for the purposes described in Section 6.1;

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- (b) Trustee's obligation to make payments to him shall cease with the payment next preceding his death and one-half of any accruals for the period beginning with the payment date next preceding his death and ending with the date of his death shall on his death be paid in equal shares to UNIVERSITY OF OREGON FOUNDATION and ST. MARY'S EPISCOPAL CHURCH of Eugene, Oregon, to be used for the purposes described in Section 6.1; and
- (c) Trustee shall thereafter pay to ADRIENNE D. LANNOM for her life the unitrust amounts in each taxable year of the trust described in Sections 3 and 4.

6.2.2 ADRIENNE D. LANNOM hereby expressly reserves the power, exercisable only by her Will, to revoke and terminate the survivorship payments for HAROLD E. LANNOM from her interest in the joint property in the unitrust. If she effectively exercises her testamentary power:

- (a) Trustee shall upon her death distribute one-half of the then income and principal of the unitrust, other than any amounts due to the Donors, in equal shares to UNIVERSITY OF OREGON FOUNDATION and ST. MARY'S EPISCOPAL CHURCH of Eugene, Oregon, to be used for the purposes described in Section 6.1; and
- (b) Trustee's obligation to make payments to her shall cease with the payment next preceding her death and one-half of any accruals for the period beginning with the payment date next preceding her death and ending with the date of her death shall on her death be paid in equal shares to UNIVERSITY OF OREGON FOUNDATION and ST. MARY'S EPISCOPAL CHURCH of Eugene, Oregon, to be used for the purposes described in Section 6.1; and
- (c) Trustee shall thereafter pay to HAROLD E. LANNOM for his life the unitrust amounts in each taxable year of the trust described in Sections 3 and 4.

6.2.3 In the case of any distributions in kind to UNIVERSITY OF OREGON FOUNDATION or ST. MARY'S EPISCOPAL CHURCH of Eugene, Oregon, the adjusted basis of the property distributed shall be fairly representative of the adjusted basis of the property available for distribution on the date of distribution.

6.3 If either the UNIVERSITY OF OREGON FOUNDATION or ST. MARY'S EPISCOPAL CHURCH of Eugene, Oregon, is not an organization described in each of section 170(b)(1)(A), section 170(c), section 2055(a), and section 2522(a) of the Code at the time when any principal or income of the unitrust is to be distributed to it, Trustee shall distribute such principal or income to one or more organizations then so described as Trustee shall select in its sole discretion and in such shares as it shall determine.

- 6.4 Solely with respect to the University of Oregon Foundation, if at some time a change of circumstances should render the designated purpose of the endowment fund for the Bach Festival Conducting Chair no longer practical, then, and only then, the Board of Trustees of the Foundation and the President of the University of Oregon shall use the expendable proceeds from that portion of the endowment fund attributable to this unitrust as deemed prudent to further the objectives and purposes of the University, giving due consideration to the special interest expressed above.

#### SECTION 7. TRUSTEE'S POWERS.

In addition to the powers conferred upon it by law, Trustee is authorized to:

- 7.1 Retain the property described in Schedule "A," or may sell the property and invest and reinvest the unitrust in any kind of property without diversification as to kind or amount and without regard to the limitations imposed by law on investments. Nothing in this Agreement shall be construed to restrict the Trustee from investing the unitrust assets in a manner which could result in the annual realization of a reasonable amount of income or gain from the sale or disposition of trust assets.
- 7.2 Sell, exchange or otherwise dispose of any unitrust asset at either public or private sale, for cash or on credit; to exchange any such property and to grant options for the purchase thereof without any limitation on the period of any such option.
- 7.3 Consent to and participate in, or to oppose, any foreclosure, liquidation or plan of reorganization, consolidation, merger, combination or other similar plan and to consent to any contract, lease, mortgage, purchase, sale or other action by any other corporation pursuant to such plan.
- 7.4 Deposit any unitrust asset with any protective, reorganizational or similar committee, to delegate discretionary power thereto, to pay part of its expenses and compensation and any assessments levied with respect to such asset.
- 7.5 Exercise all conversion, subscription, voting and other rights of whatsoever nature pertaining to any such unitrust asset and to grant proxies, discretionary or otherwise, with respect thereto.
- 7.6 Extend the time of payment of any obligation held hereunder and to compromise, settle or submit to arbitration or to release any claim in favor of or against any unitrust asset.
- 7.7 Register and hold any unitrust asset in the name of a nominee and the liability of the Trustee shall be neither increased nor decreased thereby.
- 7.8 Do all such acts, take all such proceedings and exercise all such rights and privileges, although not hereinbefore specifically mentioned with respect to any unitrust asset as if the absolute owner thereof and in connection therewith to make, execute and deliver any instruments and to enter into any covenants or agreements binding the unitrust; provided that the

Trustee shall take no such action as shall violate the provisions of Code Section 664 and the regulations thereunder.

SECTION 8. TRUSTEE'S COMPENSATION.

Trustee shall not receive compensation for services rendered under this Agreement, although a reasonable fee may be charged by and paid to Trustee or its designee to cover the cost of direct and indirect administrative expenses incurred on behalf of the Unitrust, which fees shall be charged in a manner consistent with Trustee's policy generally applicable to similar Charitable Remainder Trusts. No bond or other security shall be required of Trustee in any jurisdiction.

SECTION 9. TAX BENEFITS/PROHIBITED TRANSACTIONS.

In creating this unitrust, the Donors intend to obtain the full benefit of any income, gift and estate tax charitable contribution deductions to which they (and their estates) may be entitled under the Code and for the unitrust to qualify as a charitable remainder unitrust under section 664 of the Code and the regulations thereunder. Accordingly, this unitrust shall be interpreted, valued, managed, invested, administered, and in all other respects governed consistent with the Donors' intent. Without limiting the generality of the foregoing, Trustee is prohibited (except for the payment of the unitrust amount to the Donors and the survivor of them) from engaging in any act of self-dealing as defined in section 4941(d) of the Code, from retaining any excess business holdings as defined in section 4943(c) of the Code which would subject the unitrust to tax under section 4943 of the Code, from making any investments which would subject the unitrust to tax under section 4944 of the Code, and from making any taxable expenditures as defined in section 4945(d) of the Code. If section 4942 of the Code is deemed applicable to the unitrust by reason of section 508(e) of the Code or otherwise, Trustee shall make distributions at such time and in such manner as not to subject the unitrust to tax under section 4942 of the Code.

SECTION 10. MISCELLANEOUS.

10.1 No federal estate taxes, state death taxes, or any other estate, death, or inheritance taxes ("death taxes") with respect to the unitrust shall be allocated to or be recoverable from the unitrust. The Donors impose an obligation on their respective estates to pay any death taxes from sources other than the unitrust and agree to so provide in their respective Wills or in another way. This provision may be enforced by the UNIVERSITY OF OREGON FOUNDATION, in its capacity as trustee or charitable remainderman, or by each Donor, acting alone or together.

10.2 Each Donor has provided for the payment of any death taxes from sources other than the unitrust. Nevertheless, if for any reason, the unitrust becomes liable for death taxes on the death of the first of the Donors to die, the interest of the surviving Donor in the one-half interest of the deceased Donor shall take effect only if the surviving Donor furnishes the funds for payment of any death taxes for which the unitrust may be liable. If the survivor fails to furnish those funds, it shall be deemed for all purposes of this Agreement that the first of the Donors to die exercised the right in his or her Will described in Section 6.2.1 and 6.2.2.

10.3 This Agreement is irrevocable.

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10.4 Trustee shall have the power to amend this Agreement for the sole purpose of complying with the requirements of section 664 of the Code and Treasury Regulations sections 1.664-1 and 1.664-3.

10.5 This Agreement is made pursuant to, and shall be interpreted in accordance with, the laws of the State of Oregon. However, in any conflict with section 664 of the Code, the regulations thereunder or any other existing or hereafter promulgated legislative or Treasury requirements for the qualification of the unitrust and for the Donors' obtaining the full benefit of any income, gift, and estate tax charitable deductions to which they (and their respective estates) may be entitled, section 664 of the Code, the regulations thereunder, and the legislative and Treasury requirements shall govern.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the date first above written.

UNIVERSITY OF OREGON FOUNDATION,  
an Oregon nonprofit corporation

By: *Paul Eberle*  
PAUL EBERLE  
Title: Acting Executive Director

TRUSTEE

*Harold E. Lannom*  
HAROLD E. LANNOM  
*Adrienne D. Lannom*  
ADRIENNE D. LANNOM

DONORS

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SCHEDULE "A"

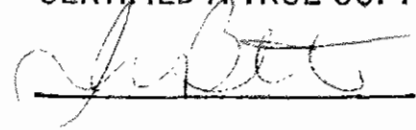
HAROLD E. LANNOM AND ADRIENNE D. LANNOM  
CHARITABLE REMAINDER UNITRUST

Real Property located at 310 East 14th Avenue, Eugene, Oregon.  
Tax Lot 17-03-31-41-2700

Initial net fair market value: \$120,000.00

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CERTIFIED A TRUE COPY



IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

In the Matter of the Harold E. Lannom and  
Adrienne D. Lannom Charitable Remainder  
Unitrust dated April 1, 1993

Case No. 52-11-20601

GENERAL JUDGMENT FOR  
MODIFICATION OF CHARITABLE  
REMAINDER UNITRUST

University of Oregon Foundation,  
Petitioner.

This matter having come before the court on the Petition of Petitioner University of Oregon Foundation, an Oregon nonprofit corporation, by and through its President and Chief Executive Officer, Paul Weinhold, for the modification of the Harold E. Lannom and Adrienne D. Lannom Charitable Remainder Unitrust dated April 1, 1993, and it appearing to the court from the records and files herein that:

1.

Service was made and perfected by regular mail to the persons entitled to notice as follows:

Name	Date
Susan A. Miller, Assistant Attorney General, State of Oregon	October 3, 2011
Randolph Geller, General Counsel, University of Oregon	October 3, 2011
Harold E. and Adrienne D. Lannom, Donors	October 3, 2011
Rev. Bingham Powell St. Mary's Episcopal Church of Eugene, Oregon	October 3, 2011

2.

Notice as required by Oregon law has been waived by all persons entitled thereto.

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3.

Venue is properly in this court and no other court in this state has acquired jurisdiction in this matter.

4.

Petitioner has obtained the consent of the Attorney General to the modification as required by Oregon law. The Consent and Waiver of Assistant Attorney General Susan A. Miller is filed herewith.

Additionally, the Consents and Waivers of Settlers/Donors Harold E. Lannom and Adrienne D. Lannom are filed herewith, along with the Consent and Waiver of Beneficiary St. Mary's Episcopal Church of Eugene, Oregon.

Petitioner has obtained consent to the modification from Randolph Geller, General Counsel for the University of Oregon, beneficiary.

5.

ORS 130.200(1) authorizes court modification of a material purpose of an irrevocable charitable trust with consent of the settlors/donors, all beneficiaries, and the Attorney General.

NOW, THEREFORE, it is hereby adjudged that a general judgment is entered as follows:

The Harold E. Lannom and Adrienne D. Lannom Charitable Remainder Unitrust Agreement dated April 1, 1993 shall be modified as set forth in Exhibit I attached to the Petition filed herein.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Circuit Court Judge

PETITIONER  
University of Oregon Foundation  
1720 E 13<sup>th</sup> Ave., Suite 410  
Eugene, Oregon 97403-1905

ATTORNEYS FOR PETITIONER  
Jon V. Buerstatte, OSB # 822070  
Gleaves Swearingen Potter & Scott LLP  
P.O. Box 1147  
Eugene, Oregon 97440-1147  
(541) 686-8833  
(541) 345-2034 (Fax)  
email: [buerstatte@gleaveslaw.com](mailto:buerstatte@gleaveslaw.com)

## CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing General Judgment for Modification of Charitable Remainder Unitrust on the following persons on October 3, 2011, by depositing same in the United States Post Office at Eugene, Oregon, enclosed in a sealed envelope, with postage paid to the address noted below:

Randolph Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

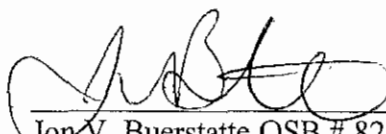
Susan A. Miller  
Assistant Attorney General  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue Suite 410  
Portland, OR 97201

Harold E. Lannom  
c/o Paul Elstone, Director  
Donor Relations  
University of Oregon  
1720 E. 13<sup>th</sup>, Suite 310  
Eugene, OR 97403-2253

Adrienne D. Lannom  
c/o Paul Elstone, Director  
Donor Relations  
University of Oregon  
1720 E. 13<sup>th</sup>, Suite 310  
Eugene, OR 97403-2253

Rev. Bingham Powell  
St. Mary's Episcopal Church  
P.O. Box 50428  
Eugene, OR 97401

DATED: October 3, 2011.



Jon V. Buerstatte OSB # 822070  
Of Attorneys for Petitioner





September 6, 2011

Ms. Susan Miller  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue, # 410  
Portland, Oregon 97201

Re: University of Oregon Foundation  
Kritkos Professorship Endowment Fund Modification

Dear Susan:

I am now able to enclose for your records a photocopy of the fully executed Non-judicial Settlement Agreement modifying the institutional fund in the Kritkos Professorship Endowment Fund matter. Thank you once again for your assistance.

Very truly yours,

Laurie A. Nelson  
[nelson@gleaveslaw.com](mailto:nelson@gleaveslaw.com)

LAN:gdm  
Enclosures

cc: Paul Weinhold (w/o encls.)  
Erika Funk (w/o encls.)  
Thomas P.E. Herrmann (w/o encls.)  
Jon V. Buerstatte (w/o encls.)  
Ian T. Richardson (w/o encls.)

Phone:  
(541) 686-8833  
Fax:  
(541) 345-2034

975 Oak Street  
Suite 800  
Eugene, Oregon  
97401-3156

Mailing Address:  
P.O. Box 1147  
Eugene, Oregon  
97440-1147

Email:  
[info@gleaveslaw.com](mailto:info@gleaveslaw.com)  
Web-Site:  
[www.gleaveslaw.com](http://www.gleaveslaw.com)

Frederick A. Batson  
Jon V. Buerstatte  
Patricia L. Chapman\*\*  
Michael T. Faulconer\*\*  
Thomas P. E. Herrmann\*  
Dan Webb Howard\*\*  
Cassie K. Jones  
Stephen O. Lane  
William H. Martin\*  
Laura T. Z. Montgomery\*  
Thomas K. N. Moseman  
Laurie A. Nelson  
Ian T. Richardson  
Martha J. Rodman  
Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman

\*Also admitted  
in Washington

\*\*Also admitted  
in California

**NON-JUDICIAL SETTLEMENT AGREEMENT  
MODIFICATION OF INSTITUTIONAL FUND**

**Recitals:**

- A. On April 2, 1993, David B. Stern as Donor/Settlor and the University of Oregon Foundation, an Oregon nonprofit corporation, as Trustee executed the Kritikos Professorship Endowment Fund Agreement (the "Fund Agreement").
- B. The original Fund Agreement contemplated that Kritikos Professors would spend a week to ten days engaged in Kritikos Professorship activities. This length of time has become impractical, and the parties agree to reduce the schedule for the Kritikos Professorship to one to three days.
- C. Pursuant to ORS §130.045(4)(i), "interested persons" may enter into a binding nonjudicial settlement agreement with respect to any matter involving a trust, including the modification of the terms of the trust.
- D. Pursuant to ORS § 128.328(1), governing modification of institutional funds, the terms of an institutional fund may be modified with consent of the donor and the Attorney General.
- E. The interested persons with respect to the Fund are: David B. Stern, Donor/Settlor, Paul Weinhold, President/CEO of the University of Oregon Foundation, Trustee, Barbara K. Altmann, Director, Oregon Humanities Center, University of Oregon, Michael C. Andreasen, Vice President University Development, University of Oregon, and Susan A. Miller, Office of the Attorney General, State of Oregon (collectively "Interested Persons" and individually "Interested Person").

**Agreement**

- 1. The Recitals appearing above and the Fund Agreement are incorporated herein by reference.
- 2. The parties agree that the Fund Agreement shall be modified as provided in Exhibit B of the Agreement Modifying Institutional Fund herein, a copy of which is attached hereto as Exhibit 1 and incorporated herein by this reference.
- 3. Except as specifically provided herein, the original Fund Agreement shall remain in full force and effect.

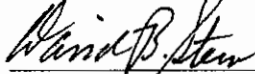
**Waiver**

Each of the undersigned parties hereby waives the notice required by subsection 5 of ORS 130.045 and consent and agree that this non-judicial settlement is effective and binding upon execution of this Agreement pursuant to ORS 130.045, and upon execution of the

Agreement Modifying Institutional Fund herein, a copy of which is attached hereto as Exhibit 1 and incorporated herein by this reference.

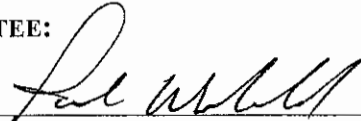
IN WITNESS WHEREOF, each of the undersigned has executed this Nonjudicial Settlement Agreement on the date set opposite their respective signatures below.

**DONOR/SETTLOR:**

  
\_\_\_\_\_  
David B. Stern

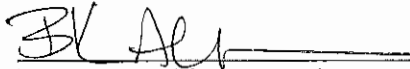
4-17-11  
\_\_\_\_\_  
Date

**TRUSTEE:**

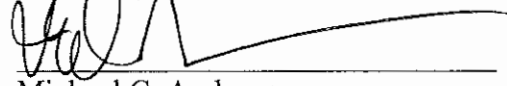
  
\_\_\_\_\_  
Paul Weinhold, President/CEO  
University of Oregon Foundation

9/1/2011  
\_\_\_\_\_  
Date

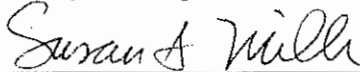
**INTERESTED PERSONS:**

  
\_\_\_\_\_  
Barbara K. Altmann, Director  
Oregon Humanities Center  
University of Oregon

15 Aug. 2011  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Michael C. Andreasen  
Vice President University Development  
University of Oregon

8/25/2011  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Susan A. Miller, OSB #960960  
Office of the Attorney General  
State of Oregon

4/7/11  
\_\_\_\_\_  
Date

**AGREEMENT MODIFYING INSTITUTIONAL FUND**

**PARTIES:**

University of Oregon Foundation (A.K.A. University of Oregon Development Fund) (the "Foundation")

University of Oregon, Oregon Humanities Center

David B. Stern, Donor

**RECITALS:**

- A. The Parties desire to modify the Kritikos Professorship Endowment in the Humanities Institutional Fund Agreement, dated April 1993 (the "Institutional Fund"), a copy of which is attached hereto as Exhibit "A."
- B. The Parties and the Oregon Attorney General constitute all persons and entities whose signatures are required for this Agreement to be effective pursuant to ORS Chapter 130.

**AGREEMENT:**

NOW, THEREFORE, in consideration of the foregoing recitals that are by this reference expressly made a part hereof, and in consideration of the terms hereinafter contained, the Parties agree as follows:

1. Modification of Institutional Fund

On the Effective Date, the Institutional Fund shall be modified as set forth in Exhibit "B" attached hereto and by this reference incorporated herein.

2. Effective Date

This Agreement shall be effective on the date that all Parties and the Oregon Attorney General have each signed this Agreement and, if required by law, this Agreement has been approved by the Circuit Court of the State of Oregon for Lane County.

3. Tax Consequences

Donor accepts sole responsibility for tax consequences, if any, that result from the aforesaid modification of the Institutional Fund.

4. Number, Gender and Captions

As used herein, the singular shall include the plural and the plural the singular, as the context requires. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this Agreement.

5. Counterparts

This Agreement has been prepared and may be executed in multiple counterparts, each of which shall constitute an original. Each party may execute a separate counterpart, all of which when assembled shall constitute this Agreement, fully executed.

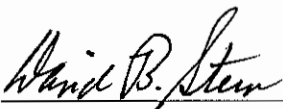
6. Original Agreement

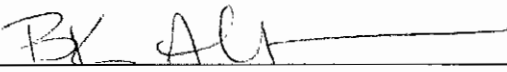
The Institutional Fund, as amended, and each term and provision thereof shall remain in full force and effect, except as herein modified, amended or restated.

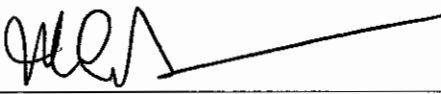
7. Entire Agreement

This Agreement and the exhibit hereto constitute the final written expression of all terms of the Institutional Fund and when read together they constitute the complete and exclusive statement of those terms.

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on the date set opposite their respective signatures below.

Signature:  11.1.10  
David B. Stern, Donor Date

Signature:  11 Feb. 2011  
Barbara K. Altmann, Director  
Oregon Humanities Center  
University of Oregon Date

Signature:  02/18/2011  
Michael C. Andreasen  
Vice President University Development  
University of Oregon Date

Signature:  2/21/11  
Paul Weinhold, President/CEO  
University of Oregon Foundation Date

ORS 130.200 provides that, in certain instances, in order for an agreement modifying charitable funds held in trust subject to the enforcement or supervisory powers of the state or the Attorney General under ORS 128.610 to 128.750 to be effective, the Attorney General for the State of Oregon must consent to the agreement. The Institutional Fund is an agreement that may be

subject to that requirement. The foregoing Agreement Modifying Institutional Fund is hereby consented to.

ATTORNEY GENERAL

By Susan A. Miller 4/7/11  
Susan A. Miller, Assistant Attorney General Date  
OSB 960960

# UNIVERSITY OF OREGON FOUNDATION



University of Oregon Foundation  
Endowment Fund Agreement  
TO ESTABLISH THE KRITIKOS PROFESSORSHIP  
ENDOWMENT IN THE HUMANITIES  
at the  
University of Oregon

1992-1993

**Officers**

Carolyn Silva Chambers  
*President*

Charles E. Warren  
*Chairman*

Arthur C. Carmichael, Jr.  
*First Vice-President*

Richard A. Bray  
*Second Vice-President*

Gretchen Hult Pierce  
*Secretary*

James F. Rippey  
*Treasurer*

**Trustees-at-Large**

Lester E. Ajderson

David N. Andrews

Edwin L. Artzt

Robert H. Atkinson, Jr.

Fitzhugh L. Brewer, Jr.

Richard M. Cole

J. Bass Dyer

Roger Engemann

John D. Eskildsen

Jeffrey L. Grayson

John H. Herman

Thomas F. Herman

Glen A. Holden

Thomas H. Hoyt

Michael L. Humphreys

Richard D. Jernstedt

James L. Johnson

John A. Kageyama

R.A. (Gus) Keller

Robert D. Kraus

Margaret McBride Lehman

William B. Loch

Ann Gerlinger Lyman

James C. Lynch

Sally Haseltine McCready

Ray C. Miller

Arthur R. Moshofsky

David M. Petrone

Hope Hughes Pressman

Peter Rothschild

Norman H. Ruecker

David G. Sparks

George C. Spencer

George P. Stadelman, Jr.

David B. Stern

Harold N. Taylor

Robert W. Thomas

Norman R. Walker

Douglas G. White

Karen Warren Wickstrand

Norman J. Wiener

Peter D. Williams

Tom R. Williams

Thomas Wrightson

## ARTICLE I

I, David B. Stern, pledge \$100,000, to the UNIVERSITY OF OREGON FOUNDATION ("Foundation") to create a perpetual endowment fund to provide support for the Humanities Center (the "Center") at the University of Oregon (the "University"). This pledge will be fulfilled by June 30, 1998; the first installment of at least \$20,000 will be paid by June 30, 1993, and future installments will be in accord with the requirements of the State of Oregon matching gifts program.

The University agrees to apply for matching funds from the National Endowment for the Humanities (NEH), in the ratio of \$1 of NEH funds for each \$3 of privately donated funds. The University also agrees to apply for matching funds from the State of Oregon, in a ratio of \$1 annually in State funds for each \$1 in annual income from privately donated funds.

The University agrees to combine all of the funds or assets described in the preceding paragraphs to establish the Kritikos Professorship in the Humanities Endowment (the "Fund"), located in and administered by the Center, as a permanent endowment. The net income and as much of the appreciation of the Fund as may be deemed prudent shall be expended annually for the following uses and purposes:

- A. The Kritikos Professorship will foster the education of students and faculty across the University and promote intelligent, critical public discourse across Oregon by

The Kritikos Professorship in the Humanities - 1

**Exhibit A**

bringing to the University and the State, visiting distinguished scholars, critics and leaders. Over the course of their stay on campus, Kritikos Professors will meet with students and faculty at the University in classes, special seminars and informal get-togethers, and will deliver one major public lecture or presentation. In addition, Kritikos Professors will meet with friends, alumni and interested persons in the Portland area, and will deliver one major public lecture during their stay.

While the specific schedule of these events will vary, it is expected that Kritikos Professors will spend approximately a week or ten days in these activities. And while the specific content of the public lectures will vary so as to respond to ongoing intellectual, political, economic, social and cultural developments and University priorities, all Kritikos Professors' lectures will be published for distribution and reference.

All Kritikos Professors' activities will share: a commitment to intellectual honesty and freedom; common sense, common decency and moderation; good humor, good sportsmanship and fair play; a recognition of the worth of open and honest civic discussion and critical analysis of differing viewpoints and values; dedication to training for wisdom and character, not for service and power, which arises from concern with problems of inner life and principles of inner control and individual responsibility.

- B. The Fund shall be used for honoraria, travel and related expenses, and publishing lectures of the Kritikos Professors. In addition, the Fund shall be used for other needs related to the public lectures at the University and in the Portland area, and for other needs that directly further the above purposes.



C. Selection of Kritikos Professors shall be the responsibility of the Director of the Center (with guidance from the Center Advisory Board) and advice from the Dean of the College of Arts and Sciences and the Vice President for Research.

## ARTICLE II

The Fund shall be entered on the books and records of the Foundation and shall be known, and always so designated, as the Kritikos Professorship Endowment in the Humanities. Additions to the Fund in any form acceptable to the Foundation may be made at any time by any person or entity. Such additions shall thereafter be subject in all respects to the terms, provisions and conditions of this Agreement. For its services in holding and managing the Fund, a reasonable fee may be charged by and paid to the Foundation to cover the cost of administrative expenses incurred on behalf of this endowment fund.

## ARTICLE III

All or any part of the Fund may be invested separately or jointly as a part of a common trust investment fund. The Fund shall be permanently endowed and only the net income thereof and so much of the principal appreciation as the Foundation may deem prudent shall be provided annually for the uses and purposes specified in this Agreement.

## ARTICLE IV

Any net income or expendable principal appreciation not utilized in any given year may either be retained for expenditure in a future year or added to the principal of the Fund, as determined by the Foundation, after consulting with the Director of the Center, to best further the purposes of the Fund. Income from the Fund cannot be used by the Dean

of the College of Arts and Sciences, the Vice President for Research, or others, to replace or reduce State funds budgeted to the Center.

ARTICLE V

If, at some future time, a change in circumstances should render the designated purposes of the Fund no longer practicable, then, and only then, the Foundation, in concert with the Dean of the College of Arts and Sciences and Vice President for Research, shall use the net income and expendable principal appreciation, but not the principal, of the Fund for the closest appropriate purposes, retaining the name of the Fund, with due consideration to the Donor's special interest in the Humanities Center.

IN WITNESS WHEREOF, the parties to this agreement have subscribed their names hereto:

DATED THIS 2 DAY OF  
April, 1993

David B. Stern  
David B. Stern

APPROVED THIS 6 DAY OF  
April, 1993

Risa Palm  
Risa Palm  
Dean  
College of Arts and Sciences

Paul Eberle  
Paul Eberle  
Acting Executive Director  
University of Oregon Foundation



UNIVERSITY OF OREGON  
FOUNDATION

## Modification of Fund Agreement

### Kritikos Professorship Endowment in the Humanities

#### Modification of Purpose

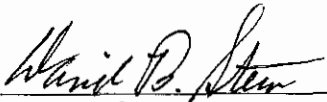
Whereas the parties entered into a prior Agreement in April 1993; and

Whereas it is not always practical to arrange week-long visits for lecturers;

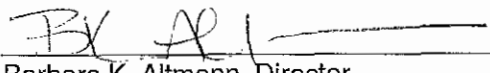
Therefore it is the parties' intent and agreement that the Foundation shall modify paragraph two of section A in Article I to read as follows:

While the specific schedule of these events will vary, it is expected that Kritikos Professors will spend one to three days in these activities. And while the specific content of the public lectures will vary so as to respond to ongoing intellectual, political, economic, social and cultural developments and University priorities, all Kritikos Professors' lectures will be published for distribution and reference.

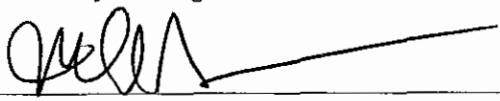
All other terms and conditions of the previous agreement remain in effect.

Signature:   
David B. Stern, Donor

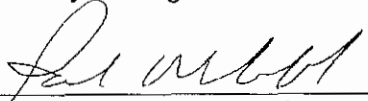
11.1.10  
Date

Signature:   
Barbara K. Altmann, Director  
Oregon Humanities Center  
University of Oregon

11 Feb 2011  
Date

Signature:   
Michael C. Andreasen  
Vice President University Development  
University of Oregon

02/18/2011  
Date

Signature:   
Paul Weinhold, President/CEO  
University of Oregon Foundation

2/21/11  
Date

**Exhibit B**



September 6, 2011

Ms. Susan Miller  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue, # 410  
Portland, Oregon 97201

Re: University of Oregon Foundation  
Tzedek Lectureship Endowment Fund Modification

Dear Susan:

I am now able to enclose for your records a photocopy of the fully executed Non-judicial Settlement Agreement modifying the institutional fund in the Tzedek Lectureship Endowment Fund matter. Thank you once again for your assistance.

Very truly yours,

Laurie A. Nelson  
[nelson@gleaveslaw.com](mailto:nelson@gleaveslaw.com)

LAN:gdm  
Enclosures

cc: Paul Weinhold (w/o encls.)  
Erika Funk (w/o encls.)  
Thomas P.E. Herrmann (w/o encls.)  
Jon V. Buerstatte (w/o encls.)  
Ian T. Richardson (w/o encls.)

Phone:  
(541) 686-8833  
Fax:  
(541) 345-2034

975 Oak Street  
Suite 800  
Eugene, Oregon  
97401-3156

Mailing Address:  
P.O. Box 1147  
Eugene, Oregon  
97440-1147

Email:  
[info@gleaveslaw.com](mailto:info@gleaveslaw.com)  
Web-Site:  
[www.gleaveslaw.com](http://www.gleaveslaw.com)

Frederick A. Batson  
Jon V. Buerstatte  
Patricia L. Chapman\*\*  
Michael T. Faulconer\*\*  
Thomas P. E. Herrmann\*  
Dan Webb Howard\*\*  
Cassie K. Jones  
Stephen O. Lane  
William H. Martin\*  
Laura T. Z. Montgomery\*  
Thomas K. N. Moseman  
Laurie A. Nelson  
Ian T. Richardson  
Martha J. Rodman  
Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman

\*Also admitted  
in Washington

\*\*Also admitted  
in California

RECEIVED

SEP 12 2011

DEPARTMENT OF JUSTICE  
PORTLAND LEGAL

**NON-JUDICIAL SETTLEMENT AGREEMENT  
MODIFICATION OF INSTITUTIONAL FUND**

**Recitals:**

- A. In May, 1996, Nancy E. Guitteau and David B. Stern as Donors/Settlers and the University of Oregon Foundation, an Oregon nonprofit corporation, as Trustee executed the Tzedek Lectureship Endowment Fund Agreement (the "Fund Agreement").
- B. The original Fund Agreement contemplated that Tzedek Lecturers would spend a week to ten days engaged in Tzedek Lectureship activities. This length of time has become impractical, and the parties agree to reduce the schedule for the Tzedek Lectureship to one to three days. Additionally, while it is desired that the Lectures occur annually, sufficient funds must be accumulated to pay for Lectureship expenses, meaning that Lectures may occur less frequently than annually.
- C. Pursuant to ORS §130.045(4)(i), "interested persons" may enter into a binding nonjudicial settlement agreement with respect to any matter involving a trust, including the modification of the terms of the trust.
- D. Pursuant to ORS § 128.328(1), governing modification of institutional funds, the terms of an institutional fund may be modified with consent of the donor and the Attorney General.
- E. The interested persons with respect to the Fund are: Nancy E. Guitteau, Donor/Settlor, David B. Stern, Donor/Settlor, Paul Weinhold, President/CEO of the University of Oregon Foundation, Trustee, Barbara K. Altmann, Director, Oregon Humanities Center, University of Oregon, Richard Linton, Vice President for Research, University of Oregon, Michael C. Andreasen, Vice President University Development, University of Oregon, and Susan A. Miller, Office of the Attorney General, State of Oregon (collectively "Interested Persons" and individually "Interested Person").

**Agreement**

- 1. The Recitals appearing above and the Fund Agreement are incorporated herein by reference.
- 2. The parties agree that the Fund Agreement shall be modified as provided in Exhibit B of the Agreement Modifying Institutional Fund herein, a copy of which is attached hereto as Exhibit 1 and incorporated herein by this reference.
- 3. Except as specifically provided herein, the original Fund Agreement shall remain in full force and effect.

**Waiver**

Each of the undersigned parties hereby waives the notice required by subsection 5 of ORS 130.045 and consent and agree that this non-judicial settlement is effective and binding upon execution of this Agreement pursuant to ORS 130.045, and upon execution of the Agreement Modifying Institutional Fund herein, a copy of which is attached hereto as Exhibit 1 and incorporated herein by this reference.

IN WITNESS WHEREOF, each of the undersigned has executed this Nonjudicial Settlement Agreement on the date set opposite their respective signatures below.

**DONORS/SETTLORS:**

Nancy E. Guitteau 4/14/11  
Nancy E. Guitteau Date  
David B. Stern 4.17.11  
David B. Stern Date

**TRUSTEE:**

Paul Weinhold 9/1/2011  
Paul Weinhold, President/CEO Date  
University of Oregon Foundation

**INTERESTED PERSONS:**

Barbara K. Altmann 15 August 2011  
Barbara K. Altmann, Director Date  
Oregon Humanities Center  
University of Oregon  
Kimberly Espy 8-22-11  
Richard Linton Kimberly ~~Espy~~ ~~Andrews~~ Espy Date  
Vice President for Research & Innovation  
University of Oregon  
Michael C. Andreassen 8/25/2011  
Michael C. Andreassen Date  
Vice President University Development  
University of Oregon  
Susan A. Miller 4/7/11  
Susan A. Miller, OSB #960960 Date  
Office of the Attorney General  
State of Oregon

**AGREEMENT MODIFYING INSTITUTIONAL FUND**

**PARTIES:**

University of Oregon Foundation (A.K.A. University of Oregon Development Fund) (the "Foundation")  
University of Oregon, Oregon Humanities Center  
University of Oregon, VP for Research  
Nancy E. Guitteau, Donor  
David B. Stern, Donor

**RECITALS:**

- A. The Parties desire to modify the Tzedek Lectureship Endowment Fund Agreement, dated May 1996 (the "Institutional Fund"), a copy of which is attached hereto as Exhibit "A."
- B. The Parties and the Oregon Attorney constitute all persons and entities whose signatures are required for this Agreement to be effective pursuant to ORS Chapter 130.

**AGREEMENT:**

NOW, THEREFORE, in consideration of the foregoing recitals that are by this reference expressly made a part hereof, and in consideration of the terms hereinafter contained, the Parties agree as follows:

1. Modification of Institutional Fund

On the Effective Date, the Institutional Fund shall be modified as set forth in Exhibit "B" attached hereto and by this reference incorporated herein.

2. Effective Date

This Agreement shall be effective on the date that all Parties and the Oregon Attorney General have each signed this Agreement and, if required by law, this Agreement has been approved by the Circuit Court of the State of Oregon for Lane County.

3. Tax Consequences

Donor accepts sole responsibility for tax consequences, if any, that result from the aforesaid modification of the Institutional Fund.

4. Number, Gender and Captions

As used herein, the singular shall include the plural and the plural the singular, as the context requires. The masculine and neuter shall each include the masculine, feminine and neuter, as

the context requires. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this Agreement.

5. Counterparts

This Agreement has been prepared and may be executed in multiple counterparts, each of which shall constitute an original. Each party may execute a separate counterpart, all of which when assembled shall constitute this Agreement, fully executed.

6. Original Agreement

The Institutional Fund, as amended, and each term and provision thereof shall remain in full force and effect, except as herein modified, amended or restated.

7. Entire Agreement

This Agreement and the exhibit hereto constitute the final written expression of all terms of the Institutional Fund and when read together they constitute the complete and exclusive statement of those terms.

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on the date set opposite their respective signatures below.

Signature: Nancy E. Guiteau 11/1/10  
Nancy E. Guiteau, Donor Date

Signature: David B. Stern 11.1.10  
David B. Stern, Donor Date

Signature: Barbara K. Altmann 11 Feb. 2011  
Barbara K. Altmann, Director Date  
Oregon Humanities Center  
University of Oregon

Signature: Richard Linton 2/19/11  
Richard Linton, VP for Research Date  
University of Oregon

Signature: Michael C. Andreasen 02/24/2011  
Michael C. Andreasen Date  
Vice President University Development  
University of Oregon

Signature: Paul Weinhold 2/28/11  
Paul Weinhold, President/CEO Date  
University of Oregon Foundation

ORS 130.200 provides that, in certain instances, in order for an agreement modifying charitable funds held in trust subject to the enforcement or supervisory powers of the state or the Attorney



General under ORS 128.610 to 128.750 to be effective, the Attorney General for the State of Oregon must consent to the agreement. The Institutional Fund is an agreement that may be subject to that requirement. The foregoing Agreement Modifying Institutional Fund is hereby consented to.

ATTORNEY GENERAL

By Susan A. Miller 4/7/11  
Susan A. Miller, Assistant Attorney General Date  
OSB 960960

## **ENDOWMENT FUND AGREEMENT**

### **THE TZEDEK LECTURESHIP ENDOWMENT OREGON HUMANITIES CENTER UNIVERSITY OF OREGON**

#### **ARTICLE I**

We, Nancy E. Guitteau and David B. Stern, pledge \$100,000 to the UNIVERSITY OF OREGON FOUNDATION (the Foundation) to create a perpetual endowment fund to provide support for the Tzedek Lectureship in the Oregon Humanities Center (the Center) at the University of Oregon (the UO). This pledge will be fulfilled by 30 June 2006. The first installment of at least \$33,333 will be paid by 30 June 2004. An installment of at least \$33,333 will be paid by 30 June 2005. A final installment of at least \$33,333 will be paid by 30 June 2006.

If matching funds are available through the Oregon State System of Higher Education, or any other source, the UO will designate our gift as its highest priority in qualifying for matching support.

The UO agrees to combine all of the funds or assets described in the preceding paragraphs to establish The Tzedek Lectureship Endowment (the Fund), located in and administered by the Center, as a permanent endowment. (Tzedek refers to the Hebrew word for justice and righteousness.) One year after it is fully funded (after 30 June 2007), the net income and as much of the appreciation of the Fund as may be deemed prudent may be expended for the following uses and purposes:

- A. The Tzedek Lectureship will foster the education of UO students and faculty, and Oregon citizens generally, by bringing to the UO and the State visiting distinguished thinkers and teachers whose life's work is the study of moral, ethical and righteous behavior and issues, from biblical times to the present.

The Tzedek Lectureship will be inspired by the life and work of Emmanuel Levinas, 1905-1995, Lithuanian-French philosopher, religious thinker, Nazi prisoner of war, who made personal ethical responsibility to others the starting point and primary focus for philosophy. "Ethics precedes ontology" summarizes his thinking.

Over the course of their stay on campus, Tzedek Lecturers will meet with UO students and faculty in classes, special seminars and informal get-togethers, and will deliver one major public lecture or presentation. Also, Tzedek Lecturers will meet with friends, alumni and interested persons in the Portland area, and will deliver one major public lecture there.

#### **Exhibit A**

Property of the University of Oregon Foundation.

**CONFIDENTIAL**

Any reproduction, dissemination or disclosure is prohibited.

While the schedule of these events will vary, it is expected that Tzedek Lecturers will spend a week in these activities. Although desirable annually, the Tzedek Lectures may be delivered at whatever interval permits the accumulation of sufficient funds to pay lectureship expenses. All Tzedek Lectures will be published for distribution, reference and permanence.

- B. The Fund shall be used for honoraria, travel and related expenses, and publishing Tzedek Lectures. Also, the Fund shall be used for other needs related to the public lectures at UO and in Portland, and for needs that directly further the above purposes.
- C. Selection of Tzedek Lecturers shall be the responsibility of the Center's Director, with guidance from the Center's Advisory Board and advice from the UO Vice Provost for Research.

## ARTICLE II

The Fund shall be entered on the books and records of the Foundation and shall be known, and always so designated, as the Tzedek Lectureship Endowment in the Oregon Humanities Center. Additions to the Fund in any form acceptable to the Foundation may be made at any time by any person or entity. Such additions shall thereafter be subject in all respects to the terms, provisions and conditions of this Agreement. For its services in holding and managing the Fund, the Foundation may charge and be paid a reasonable fee for the administrative expenses incurred on behalf of the Fund. The UO may record this pledge in its totals for The Oregon Campaign.

## ARTICLE III

The Foundation will manage the Fund in its Willamette Investment Pool, or any successor pool invested to preserve capital and to appreciate over a long term. The Fund shall be permanently endowed: Only the net income and so much of the principal appreciation as the Foundation may deem prudent shall be provided at appropriate intervals for the uses and purposes specified in this Agreement. The Foundation will provide the donors with an annual report of the Pool's and the Fund's investment performance.

## ARTICLE IV

Any net income or expendable principal appreciation not spent in any given year may be retained for expenditure in a future year or added to the Fund's principal, as the Foundation decides after consulting with the Center's Director, to further the Fund's purposes. Neither the Center's Director nor the UO Vice Provost for Research can use Fund income to replace or reduce State funds budgeted to the Center.

## **Exhibit A**

ARTICLE V

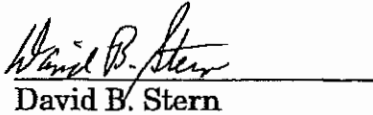
*practicably*

If, in the future, circumstances should change and render the Fund's designated purposes no longer practical, then, and only then, the Foundation, in concert with the Center's Director and the UO's Vice Provost for Research, shall use the net income and expendable principal appreciation, but not the Fund's principal, for the closest appropriate purposes, retaining the Fund's name, with due consideration of the Donors' special interest in the Humanities Center.


IN WITNESS WHEREOF, the parties to this Agreement have subscribed their names hereto:

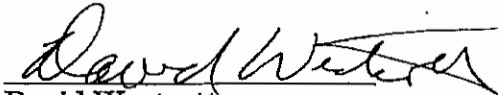
DATED THIS 2 DAY OF  
May, 1996

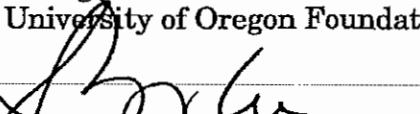
  
Nancy E. Guitteau

  
David B. Stern

APPROVED THIS 29 DAY OF  
May, 1996

  
Steven Shankman  
Director  
Oregon Humanities Center

  
David Westcott  
Acting Executive Director  
University of Oregon Foundation

  
Steadman Upham  
Vice Provost for Research  
University of Oregon

**Exhibit A**

Property of the University of Oregon Foundation.  
**CONFIDENTIAL**  
Any reproduction, dissemination or disclosure is prohibited.



UNIVERSITY OF OREGON  
FOUNDATION

**Modification of Fund Agreement**

**Tzedek Lectureship Endowment**

**Modification of Purpose**

Whereas the parties entered into a prior Agreement in May 1996; and

Whereas it is not always practical to arrange week-long visits for lecturers;

Therefore it is the parties' intent and agreement that the Foundation shall modify paragraph four of section A of Article I as follows:

While the schedule of these events will vary, it is expected that Tzedek Lecturers will spend one to three days in these activities. Although desirable annually, the Tzedek Lectures may be delivered at whatever interval permits the accumulation of sufficient funds to pay lectureship expenses. All Tzedek Lectures will be published for distribution, reference and permanence.

All other terms and conditions of the previous agreement remain in effect.

Signature: Nancy E. Guitteau  
Nancy E. Guitteau, Donor

11/1/10  
Date

Signature: David B. Stern  
David B. Stern, Donor

11.1.10  
Date

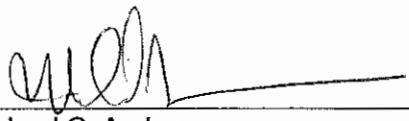
Signature: Barbara K. Altmann  
Barbara K. Altmann  
Director, Oregon Humanities Center  
University of Oregon

11 Feb 2011  
Date

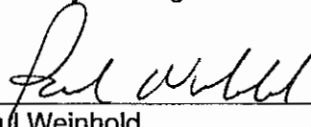
Signature: Richard Linton  
Richard Linton  
Vice President for Research  
University of Oregon

2/19/11  
Date

**Exhibit B**

Signature:   
Michael C. Andreasen  
Vice President University Development  
University of Oregon

02/24/2011  
Date

Signature:   
Paul Weinhold  
President/CEO  
University of Oregon Foundation

2/25/11  
Date

**Exhibit B**

June 3, 2011

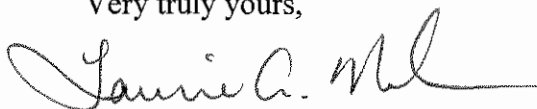
Ms. Susan A. Miller  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue, Suite 410  
Portland, OR 97201

Re: University of Oregon Foundation  
Antoinette S. Stanton Memorial Scholarship Institutional Fund

Dear Susan:

I am pleased to report that Judge Holland signed the General Judgment for Modification of Institutional Fund on June 1, 2011, in the Antoinette S. Stanton Memorial Scholarship Institutional Fund modification case. I am enclosing a conformed copy of that General Judgment for your records.

Very truly yours,



Laurie A. Nelson  
[nelson@gleaveslaw.com](mailto:nelson@gleaveslaw.com)

LAN/gdm  
Enclosures

cc: Paul Weinhold (w/ encls.)  
Tom Herrmann (w/ encls.)  
Jon V. Buerstatte (w/o encls.)

Phone:  
(541) 686-8833  
Fax:  
(541) 345-2034

975 Oak Street  
Suite 800  
Eugene, Oregon  
97401-3156

Mailing Address:  
P.O. Box 1147  
Eugene, Oregon  
97440-1147

Email:  
[info@gleaveslaw.com](mailto:info@gleaveslaw.com)  
Web-Site:  
[www.gleaveslaw.com](http://www.gleaveslaw.com)

Frederick A. Batson  
Jon V. Buerstatte  
Patricia L. Chapman\*\*  
Michael T. Faulconer\*\*  
Howard F. Feinman  
Thomas P. E. Herrmann\*  
Dan Webb Howard\*\*  
Cassie K. Kellogg  
Stephen O. Lane  
Valeri L. Love  
William H. Martin\*  
Laura T. Z. Montgomery\*  
Thomas K. N. Moseman  
Laurie A. Nelson  
Ian T. Richardson  
Martha J. Rodman  
Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman

\*Also admitted  
in Washington

\*\*Also admitted  
in California

17

FILED

2011 JUN -1 AM 10:36

CIRCUIT COURT OF OREGON  
FOR LANE COUNTY

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

In the Matter of the Antoinette S. Stanton  
Memorial Scholarship Institutional Fund

Case No. 52-11-09502

GENERAL JUDGMENT FOR  
MODIFICATION OF  
INSTITUTIONAL FUND

University of Oregon Foundation,  
Petitioner.

This matter having come before the Court on the Petition of Petitioner University of Oregon Foundation, an Oregon nonprofit corporation, by and through its President and Chief Executive Officer, Paul Weinhold, for the modification of the Antoinette S. Stanton Memorial Scholarship Institutional Fund, and it appearing to the Court from the records and files herein that:

1.

Service was made and perfected by regular mail to the persons entitled to notice as follows:

Name	Date
Susan A. Miller, Assistant Attorney General, State of Oregon	May 12, 2011
Randolph Geller, General Counsel, University of Oregon	May 12, 2011

2.

Notice as required by Oregon law has been waived by all persons entitled thereto.



3.

Venue is properly in this court and no other court in this state has acquired jurisdiction in this matter.

4.

Petitioner has obtained the consent of the Attorney General to the modification as required by Oregon law. The Consent and Waiver of Assistant Attorney General Susan A. Miller is filed herewith.

5.

Petitioner has obtained consent to the modification from Randolph Geller, General Counsel for the University of Oregon, beneficiary.

6.

Pursuant to ORS 128.328(3) and ORS 130.210, the donor/settlor's original charitable purpose has become impossible to achieve because the course of study for which scholarships were originally intended no longer exists. The addition of language regarding the University's nondiscrimination policy does not change a material purpose of the trust and is permissible under ORS 130.200(2).

NOW, THEREFORE, it is hereby adjudged that a general judgment is entered as follows:

The Antoinette S. Stanton Memorial Scholarship Institutional Fund shall be modified as set forth in Exhibit B of Exhibit 1 attached to the Petition filed herein.

DATED this 1 day of June, 2011.

/s/ Lauren S. Holland  
Circuit Court Judge

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PETITIONER  
University of Oregon Foundation  
360 E. 10th Avenue, Suite 202  
Eugene, OR 97401-3273  
PETITIONER'S  
New Address Beginning  
May 16, 2011:  
1720 E 13<sup>th</sup> Ave., Suite 410  
Eugene, OR 97403-1905

ATTORNEYS FOR PETITIONER  
Jon V. Buerstatte, OSB # 822070  
Gleaves Swearingen Potter & Scott LLP  
P.O. Box 1147  
Eugene, Oregon 97440-1147  
(541) 686-8833  
(541) 345-2034 (Fax)  
Email: [buerstatte@gleaveslaw.com](mailto:buerstatte@gleaveslaw.com)


**CERTIFICATE OF SERVICE**

I hereby certify that I served the foregoing General Judgment for Modification of Institutional Fund on the following persons on May 12, 2011, by depositing same in the United States Post Office at Eugene, Oregon, enclosed in a sealed envelope, with postage paid to the address noted below:

Randolph Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Susan A. Miller  
Assistant Attorney General  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue Suite 410  
Portland, OR 97201

DATED: May 12, 2011.

  
Jon V Buerstatte OSB # 822070  
Of Attorneys for Petitioner

1  
2  
3  
4 IN THE CIRCUIT COURT OF THE STATE OF OREGON  
5 FOR LANE COUNTY

6 In the Matter of the Antoinette S. Stanton Memorial  
7 Scholarship Institutional Fund

Case No. 52-11-09502

8 University of Oregon Foundation,  
9 Petitioner.

ACCEPTANCE OF SERVICE  
(Attorney General)

10 I, Susan A. Miller, Assistant Attorney General for the State of Oregon, Civil Enforcement  
11 Division, Charitable Activities, do hereby accept personal and legal service of a true copy of the  
12 Petition for Modification of Institutional Fund and Notice of Filing of Petition for Modification  
13 of Institutional Fund filed in the above-entitled matter, certified to be such by Jon V. Buerstatte,  
14 lawyer for Petitioner.  
15

16 DATED this 16 day of May, 2011.

17 *Susan A Miller*

18 SUSAN A. MILLER OSB # 960960  
Assistant Attorney General for the State of Oregon

19 STATE OF OREGON )  
20 ) ss:  
21 County of Multnomah )

22 On this 16<sup>th</sup> day of May, 2011, the foregoing instrument was personally acknowledged  
before me by Susan A. Miller, Assistant Attorney General, State of Oregon.



23 *Steven Shirey*  
24 Notary Public for Oregon  
25 My commission expires: 11/20/12  
26

1  
2  
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4  
5 IN THE CIRCUIT COURT OF THE STATE OF OREGON  
6 FOR LANE COUNTY  
7

8 In the Matter of the Antoinette S. Stanton  
9 Memorial Scholarship Institutional Fund

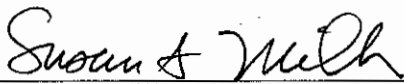
Case No. 52-11-09502

10 University of Oregon Foundation,  
11 Petitioner.

12 CONSENT AND WAIVER  
13 OF ATTORNEY GENERAL

14 I, Susan A. Miller, Assistant Attorney General for the State of Oregon, Civil Enforcement  
15 Division, Charitable Activities, have read the Petition for Modification of Institutional Fund  
16 herein. I approve the contents thereof, waive receipt of any required statutory notice and the right  
17 to object to the modification, and consent to the immediate entry of a judgment as requested in  
18 the Petition.

19 DATED this 16 day of May, 2011.

20   
21 Susan A. Miller OSB# 960960  
22 Assistant Attorney General for the State of Oregon

May 12, 2011

Susan A. Miller  
Assistant Attorney General  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue Suite 410  
Portland, OR 97201

Re: University of Oregon Foundation  
Antoinette S. Stanton Memorial Scholarship Institutional Fund

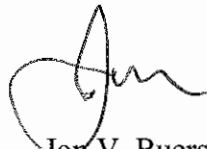
Dear Susan:

I am enclosing for your review certified true copies of the Petition for Modification of Institutional Fund, the Notice of Filing of Petition for Modification of Institutional Fund, and proposed General Judgment for Modification of Institutional Fund in the Antoinette S. Stanton Memorial Scholarship Institutional Fund institutional fund modification proceeding which we have filed on behalf of the University of Oregon Foundation.

If the documents meet with your approval, we would appreciate your signing and returning to us in the enclosed return envelope the Acceptance of Service and Consent and Waiver. We will then file the Acceptances and Consents received from you and from Randy Geller with the court and submit the General Judgment for the judge's signature.

Thank you for your assistance in this matter.

Very truly yours,



Jon V. Buerstatte  
[buerstatte@gleaveslaw.com](mailto:buerstatte@gleaveslaw.com)

JVB:gdm  
Enclosures

cc: Randy Geller (w/o encls.)  
Paul Weinhold (w/ encls.)  
Tom Herrmann (w/ encls.)

Phone:  
(541) 686-8833  
Fax:  
(541) 345-2034

975 Oak Street  
Suite 800  
Eugene, Oregon  
97401-3156

Mailing Address:  
P.O. Box 1147  
Eugene, Oregon  
97440-1147

Email:  
[info@gleaveslaw.com](mailto:info@gleaveslaw.com)  
Web-Site:  
[www.gleaveslaw.com](http://www.gleaveslaw.com)

Frederick A. Batson  
Jon V. Buerstatte  
Patricia L. Chapman\*\*  
Michael T. Faulconer\*\*  
Howard F. Feinman  
Thomas P. E. Herrmann\*  
Dan Webb Howard\*\*  
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William H. Martin\*  
Laura T. Z. Montgomery\*  
Thomas K. N. Moseman  
Laurie A. Nelson  
Ian T. Richardson  
Martha J. Rodman  
Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman

\*Also admitted  
in Washington

\*\*Also admitted  
in California

RECEIVED

MAY 14 2011

DEPARTMENT OF JUSTICE  
PORTLAND LEGAL

CERTIFIED TRUE COPY



FILED

2011 MAY 10 AM 10:53

CIRCUIT COURT OF OREGON  
FOR LAKE COUNTY



IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR LAKE COUNTY

In the Matter of the Antoinette S. Stanton Memorial  
Scholarship Institutional Fund

Case No. 52-11-09562

University of Oregon Foundation,  
Petitioner.

PETITION FOR MODIFICATION OF  
INSTITUTIONAL FUND

UNIVERSITY OF OREGON FOUNDATION, an Oregon nonprofit corporation, by and through its President and Chief Executive Officer, Paul Weinhold, Petitioner, represents to and petitions the Court as follows:

1. Attorney General Consent. The Attorney General's consent to the modification requested herein is required by ORS 130.170 and ORS 128.328(3). Petitioner has received the Attorney General's consent to the modification (see page 2 of Exhibit 1) and will seek a signed Consent for filing in this proceeding.

2. Venue. Venue for this matter lies in Lane County because the institutional fund is administered in Lane County, Oregon.

3. Historical Background of Fund. The Antoinette S. Stanton Memorial Scholarship Institutional Fund (the "Fund") was established by the late Edgar A. Stanton pursuant to a letter signed by Mr. Stanton on February 5, 1969 (the "Fund Agreement"). The

1 purpose of the Fund was to provide for a scholarship or scholarships for students enrolled in  
2 Home Economics courses at the University of Oregon (the "University"). Mr. Stanton also  
3 expressed his intention that preference be given to unmarried students.

4 4. Reason for Modification. No formal or informal home economics course of  
5 study is currently available at the University. Therefore, Petitioner wishes to modify the Fund  
6 Agreement to change the purpose of the Fund to provide scholarship support to undergraduate  
7 students enrolled in the College of Education at the University who are majoring in family and  
8 human services. Additionally, the proposed modification retains Mr. Stanton's preference for  
9 unmarried students while adding some language related to the University's nondiscrimination  
10 policy.

11 5. Statutory Basis for Modification (UPMIFA). ORS 128.328(3) authorizes a court  
12 to modify a charitable purpose or restriction contained in a gift instrument where the purpose or  
13 restriction has become impossible to achieve. The modification must be consistent with the  
14 charitable purposes expressed in the gift instrument. In this case, the original purpose of  
15 providing Home Economics scholarships has become impossible to achieve since no such course  
16 of study exists any longer at the University. The modification proposed is designed to provide  
17 for scholarships in a field of study as closely related as possible to the donor's original charitable  
18 purpose.

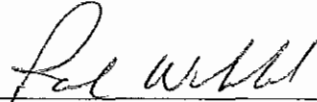
19 6. Statutory Basis for Modification (UTC). Likewise, ORS 130.210 authorizes  
20 the court modification of a charitable trust where the original purpose has become impossible to  
21 achieve provided the modification is consistent with the settlor's charitable purposes. As  
22 described above, this proposed modification is intended to provide for a new purpose which as  
23 closely as possible relates to the donor's now-impossible original charitable purpose. Addition  
24 of the language regarding the University's nondiscrimination policy does not change a material  
25 purpose of the charitable trust and thus is permissible under ORS 130.200(2).

26 WHEREFORE, Petitioner prays for a general judgment approving the modification of the



1 institutional fund as set forth in Exhibit B of Exhibit 1, attached hereto and incorporated herein.

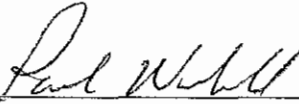
2  
3 Dated this 5<sup>th</sup> day of May, 2011.

4  
5 

6 University of Oregon Foundation  
7 By: Paul Weinhold  
8 President and Chief Executive Officer  
9 Petitioner

10 **I, PAUL WEINHOLD, HEREBY DECLARE THAT THE ABOVE STATEMENT  
11 IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I  
12 UNDERSTAND IT IS MADE FOR USE AS EVIDENCE IN COURT AND IS SUBJECT  
13 TO PENALTY FOR PERJURY.**

14 Dated: May 5<sup>th</sup>, 2011.

15 

16 University of Oregon Foundation  
17 By: Paul Weinhold  
18 President and Chief Executive Officer  
19 Petitioner

20 PETITIONER  
21 University of Oregon Foundation  
22 360 E. 10th Avenue, Suite 202  
23 Eugene, OR 97401-3273  
24 PETITIONER'S  
25 New Address Beginning  
26 May 16, 2011:  
27 1720 E 13<sup>th</sup> Ave., Suite 410  
28 Eugene, OR 97403-1905

29 ATTORNEYS FOR PETITIONER  
30 Jon V. Buerstatte, OSB # 822070  
31 Gleaves Swearingen Potter & Scott LLP  
32 P.O. Box 1147  
33 Eugene, Oregon 97440-1147  
34 (541) 686-8833  
35 (541) 345-2034 (Fax)  
36 Email: [buerstatte@gleaveslaw.com](mailto:buerstatte@gleaveslaw.com)

## AGREEMENT MODIFYING INSTITUTIONAL FUND

### PARTIES:

University of Oregon Foundation (A.K.A. University of Oregon Development Fund) (the "Foundation")

University of Oregon, College of Education

### RECITALS:

- A. The Parties desire to modify the Antoinette S. Stanton Memorial Scholarship Institutional Fund Agreement, dated February 1969 (the "Institutional Fund"), a copy of which is attached hereto as Exhibit "A."
- B. The Parties, Oregon Attorney General, and Circuit Court constitute all persons and entities whose signatures are required for this Agreement to be effective pursuant to ORS Chapter 130.

### AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing recitals that are by this reference expressly made a part hereof, and in consideration of the terms hereinafter contained, the Parties agree as follows:

1. Modification of Institutional Fund

On the Effective Date, the Institutional Fund shall be modified as set forth in Exhibit "B" attached hereto and by this reference incorporated herein.

2. Effective Date

This Agreement shall be effective on the date that all Parties and the Oregon Attorney General have each signed this Agreement and, if required by law, this Agreement has been approved by the Circuit Court of the State of Oregon for Lane County.

3. Number, Gender and Captions

As used herein, the singular shall include the plural and the plural the singular, as the context requires. ~~The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires.~~ All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this Agreement.

4. Counterparts

This Agreement has been prepared and may be executed in multiple counterparts, each of which shall constitute an original. Each party may execute a separate counterpart, all of which when assembled shall constitute this Agreement, fully executed.

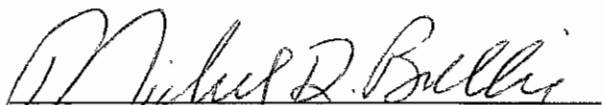
5. Original Agreement

The Institutional Fund, as amended, and each term and provision thereof shall remain in full force and effect, except as herein modified, amended or restated.

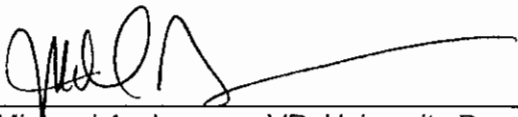
6. Entire Agreement

This Agreement and the exhibit hereto constitute the final written expression of all terms of the Institutional Fund and when read together they constitute the complete and exclusive statement of those terms.

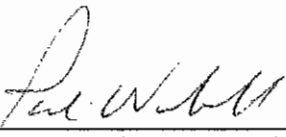
IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on the date set opposite their respective signatures below.

Signature:   
Michael D. Bullis, Dean, College of Education  
University of Oregon

3.14.11  
Date

Signature:   
Michael Andreasen, VP, University Development  
University of Oregon

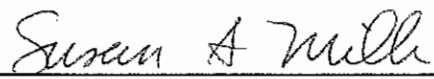
3/17/11  
Date

Signature:   
Paul Weinhold, President/CEO  
University of Oregon Foundation

4/11/2011  
Date

ORS 130.200 provides that, in certain instances, in order for an agreement modifying charitable funds held in trust subject to the enforcement or supervisory powers of the state or the Attorney General under ORS 128.610 to 128.750 to be effective, the Attorney General for the State of Oregon must consent to the agreement. The Institutional Fund is an agreement that may be subject to that requirement. The foregoing Agreement Modifying Institutional Fund is hereby consented to.

ATTORNEY GENERAL

By   
Susan A. Miller, Assistant Attorney General Date

4/13/11

OSB 960960

February 5, 1969

Board of Directors  
University of Oregon Development Fund  
P. O. Box 3346  
Eugene, Oregon 97403

Gentlemen:

Enclosed is a check in the amount of \$5,000.00 which is a gift to the University of Oregon Development Fund to establish the Antoinette Shumway Stanton Memorial Scholarship account. It is my desire that the income from this fund shall be used to provide one or more scholarships annually, on the basis of need and ability, to students of the University of Oregon who are enrolled in one or more courses in Home Economics. Preference should be given to unmarried students. Selection of recipients is to be determined by the Chairman of the Home Economics Department.

If at any time the income from this fund is no longer needed for the purpose I have indicated, then the income may be used for such other scholarship purposes as the Board of Directors of the Development Fund may determine.

Sincerely yours,

*Edgar A. Stanton*

Edgar A. Stanton

**Exhibit A**



UNIVERSITY OF OREGON  
FOUNDATION

**Modification of Fund Agreement**

**Antoinette S. Stanton Memorial Scholarship**

**Modification of Purpose**

Whereas the parties entered into a prior Agreement in February 1969; and

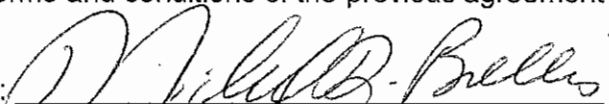
Whereas there no longer exists a formal or informal home economics course of study at the university;

Therefore it is the parties' intent and agreement that the Foundation shall modify the purpose to become as follows:


To provide scholarship support to undergraduate students enrolled in the College of Education at the University of Oregon. The selection of recipients will be based on the following criteria: undergraduate majoring in family and human services; academic merit; and financial need, with a preference for unmarried students. The scholarships may be used for all educational expenses including tuition, fees, books, miscellaneous supplies, room, and board. Recipients shall be selected by a scholarship committee for the College of Education, under the oversight of the Dean of the College of Education or her/his designee.

This scholarship is not restricted by age, gender, race, national origin or ethnicity, and each applicant shall be evaluated as an individual and not in a way that makes an applicant's gender or family background the defining feature of the scholarship application. Any undergraduate student enrolled in the College of Education and majoring in family and human services and meeting the other eligibility criteria may receive the scholarship.

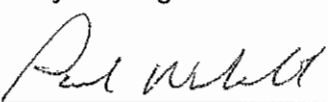
All other terms and conditions of the previous agreement remain in effect.

Signature:   
Michael D. Bullis, Dean, College of Education  
University of Oregon

3.14.11  
Date

Signature:   
Michael Andreasen, VP, University Development  
University of Oregon

4/7/11  
Date

Signature:   
Paul Weinhold, President/CEO  
University of Oregon Foundation

4/11/2011  
Date

**Exhibit B**

CERTIFIED TRUE COPY  
*[Signature]*

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF LANE

In the Matter of the Antoinette S. Stanton  
Memorial Scholarship Institutional Fund,  
  
University of Oregon Foundation,  
Petitioner.

Case No. 52-11-09502

NOTICE OF FILING OF PETITION  
FOR MODIFICATION OF  
INSTITUTIONAL FUND

To: Susan A. Miller, Assistant Attorney General for the State of Oregon, Civil Enforcement Division, Charitable Activities, and Randolph Geller, General Counsel for the University of Oregon.

You are hereby notified that the attached document was filed by the undersigned in the above entitled court on the 10th day of May, 2011. Unless you file objections to the petition within 120 days after that date, the petition will be granted and the resulting judgment will be binding on all persons interested in the trust.


If you file objections within the 120 day period, the court will fix a time and place for a hearing. At least 10 days before the date of that hearing, you must serve a copy of your objections and give notice of the time and place of the hearing to all persons interested in the

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///

1 trust.

2 DATED this 12th day of May, 2011.

3   
4 Jon V. Buerstatte OSB # 822070  
5 Of Attorneys for Petitioner

6 PETITIONER  
7 University of Oregon Foundation  
8 360 E. 10th Avenue, Suite 202  
9 Eugene, OR 97401-3273  
10 PETITIONER'S  
11 New Address Beginning  
12 May 16, 2011:  
13 1720 E 13<sup>th</sup> Ave., Suite 410  
14 Eugene, OR 97403-1905

15 ATTORNEYS FOR PETITIONER  
16 Jon V. Buerstatte, OSB # 822070  
17 Gleaves Swearingen Potter & Scott LLP  
18 P.O. Box 1147  
19 Eugene, Oregon 97440-1147  
20 (541) 686-8833  
21 (541) 345-2034 (Fax)  
22 Email: [buerstatte@gleaveslaw.com](mailto:buerstatte@gleaveslaw.com)

CERTIFIED TRUE COPY  
*J. Miller*

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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

In the Matter of the Antoinette S. Stanton  
Memorial Scholarship Institutional Fund

University of Oregon Foundation,  
Petitioner.

Case No. 52-11-09502

GENERAL JUDGMENT FOR  
MODIFICATION OF  
INSTITUTIONAL FUND

This matter having come before the Court on the Petition of Petitioner University of Oregon Foundation, an Oregon nonprofit corporation, by and through its President and Chief Executive Officer, Paul Weinhold, for the modification of the Antoinette S. Stanton Memorial Scholarship Institutional Fund, and it appearing to the Court from the records and files herein that:

1.

Service was made and perfected by regular mail to the persons entitled to notice as follows:

Name	Date
Susan A. Miller, Assistant Attorney General, State of Oregon	May 12, 2011
Randolph Geller, General Counsel, University of Oregon	May 12, 2011

2.

Notice as required by Oregon law has been waived by all persons entitled thereto.



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3.

Venue is properly in this court and no other court in this state has acquired jurisdiction in this matter.

4.

Petitioner has obtained the consent of the Attorney General to the modification as required by Oregon law. The Consent and Waiver of Assistant Attorney General Susan A. Miller is filed herewith.

5.

Petitioner has obtained consent to the modification from Randolph Geller, General Counsel for the University of Oregon, beneficiary.

6.

Pursuant to ORS 128.328(3) and ORS 130.210, the donor/settlor's original charitable purpose has become impossible to achieve because the course of study for which scholarships were originally intended no longer exists. The addition of language regarding the University's nondiscrimination policy does not change a material purpose of the trust and is permissible under ORS 130.200(2).

NOW, THEREFORE, it is hereby adjudged that a general judgment is entered as follows:

The Antoinette S. Stanton Memorial Scholarship Institutional Fund shall be modified as set forth in Exhibit B of Exhibit 1 attached to the Petition filed herein.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Circuit Court Judge

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PETITIONER  
University of Oregon Foundation  
360 E. 10th Avenue, Suite 202  
Eugene, OR 97401-3273  
PETITIONER'S  
New Address Beginning  
May 16, 2011:  
1720 E 13<sup>th</sup> Ave., Suite 410  
Eugene, OR 97403-1905

ATTORNEYS FOR PETITIONER  
Jon V. Buerstatte, OSB # 822070  
Gleaves Swearingen Potter & Scott LLP  
P.O. Box 1147  
Eugene, Oregon 97440-1147  
(541) 686-8833  
(541) 345-2034 (Fax)  
Email: [buerstatte@gleaveslaw.com](mailto:buerstatte@gleaveslaw.com)

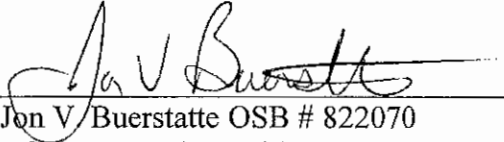
## CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing General Judgment for Modification of Institutional Fund on the following persons on May 12, 2011, by depositing same in the United States Post Office at Eugene, Oregon, enclosed in a sealed envelope, with postage paid to the address noted below:

Randolph Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Susan A. Miller  
Assistant Attorney General  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue Suite 410  
Portland, OR 97201

DATED: May 12, 2011.

  
Jon V. Buerstette OSB # 822070  
Of Attorneys for Petitioner

May 12, 2011

Randy Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Re: University of Oregon Foundation  
Antoinette S. Stanton Memorial Scholarship Institutional Fund

Dear Randy:

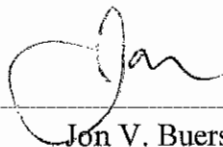
I am enclosing for your review certified true copies of the Petition for Modification of Institutional Fund, the Notice of Filing of Petition for Modification of Institutional Fund, and proposed General Judgment for Modification of Institutional Fund in the Antoinette S. Stanton Memorial Scholarship Institutional Fund institutional fund modification proceeding which we have filed on behalf of the University of Oregon Foundation.

If the documents meet with your approval, we would appreciate your signing and returning to us in the enclosed return envelope the Acceptance of Service and Consent and Waiver.

Once we receive the Acceptances and Consents from you and from Susan Miller of the AG's office, we will file those with the court and submit the General Judgment for the judge's signature.

Thank you for your assistance in this matter.

Very truly yours,



Jon V. Buerstatte  
[buerstatte@gleaveslaw.com](mailto:buerstatte@gleaveslaw.com)

JVB:gdm  
Enclosures

cc: Susan Miller (w/o encls.)  
Paul Weinhold (w/ encls.)  
Tom Herrmann (w/ encls.)

Phone:  
(541) 686-8833  
Fax:  
(541) 345-2034

975 Oak Street  
Suite 800  
Eugene, Oregon  
97401-3156

Mailing Address:  
P.O. Box 1147  
Eugene, Oregon  
97440-1147

Email:  
[info@gleaveslaw.com](mailto:info@gleaveslaw.com)  
Web-Site:  
[www.gleaveslaw.com](http://www.gleaveslaw.com)

Frederick A. Batson  
Jon V. Buerstatte  
Patricia L. Chapman\*\*  
Michael T. Faulconer\*\*  
Howard F. Feinman  
Thomas P. E. Herrmann\*  
Dan Webb Howard\*\*  
Cassie K. Kellogg  
Stephen O. Lane  
Valeri L. Love  
William H. Martin\*  
Laura T. Z. Montgomery\*  
Thomas K. N. Moseman  
Laurie A. Nelson  
Ian T. Richardson  
Martha J. Rodman  
Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman

\*Also admitted  
in Washington

\*\*Also admitted  
in California



January 31, 2011

OK  
done ✓

Ms. Susan A. Miller  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue, Suite 410  
Portland, OR 97201

Re: University of Oregon Foundation  
Miriam McFall Starlin Poetry Fund

Dear Susan:

I am pleased to report that Judge Holland signed the General Judgment for Modification of Institutional Fund on January 27, 2010, in the Miriam McFall Starlin Poetry Fund modification case. As the Judgment reflects, the award from this Fund will now be known as the Miriam McFall Starlin Poetry Award. I am enclosing a conformed copy of the General Judgment for your records.

Very truly yours,

Laurie A. Nelson  
[nelson@gleaveslaw.com](mailto:nelson@gleaveslaw.com)

LAN/gdm  
Enclosures

cc: Paul Weinhold (w/ encls.)  
Tom Herrmann (w/ encls.)  
Jon V. Buerstatte (w/o encls.)

Phone:  
(541) 686-8833  
Fax:  
(541) 345-2034

975 Oak Street  
Suite 800  
Eugene, Oregon  
97401-3156

Mailing Address:  
P.O. Box 1147  
Eugene, Oregon  
97440-1147

Email:  
[info@gleaveslaw.com](mailto:info@gleaveslaw.com)  
Web-Site:  
[www.gleaveslaw.com](http://www.gleaveslaw.com)

Frederick A. Batson  
Jon V. Buerstatte  
Patricia L. Chapman\*\*  
Michael T. Faulconer\*\*  
Howard F. Feinman  
Thomas P. E. Herrmann\*  
Dan Webb Howard\*\*  
Cassie K. Kellogg  
Stephen O. Lane  
Valeri L. Love  
William H. Martin\*  
Laura T. Z. Montgomery\*  
Thomas K. N. Moseman  
Laurie A. Nelson  
Ian T. Richardson  
Martha J. Rodman  
Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman

\*Also admitted  
in Washington

\*\*Also admitted  
in California

FILED  
2011 JAN 27 PM 1:42  
JANUARY 27 2011  
101 COURT ST  
LANE COUNTY

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

In the Matter of the Miriam McFall Starlin Poetry  
Fund,

Case No. 52-10-15398

GENERAL JUDGMENT FOR  
MODIFICATION OF  
INSTITUTIONAL FUND

University of Oregon Foundation,  
Petitioner.

This matter having come before the court on the Petition of Petitioner University of Oregon Foundation, an Oregon nonprofit corporation, by and through its Chief Operating Officer, Gary F. Livesay, for the modification of the Miriam McFall Starlin Poetry Fund, and it appearing to the court from the records and files herein that:

1.

Service was made and perfected by regular mail to the persons entitled to notice as follows:

<u>Name</u>	<u>Date</u>
Susan A. Miller, Assistant Attorney General, State of Oregon	August 9, 2010
Randolph Geller, Deputy General Counsel, University of Oregon	August 9, 2010
Miriam M. Starlin, Donor, c/o Randolph Geller Deputy General Counsel, University of Oregon	August 9, 2010

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2.

Notice as required by Oregon law has been waived by all persons entitled thereto.

3.

Petitioner has obtained the consent of the Attorney General to the modification as required by Oregon law. The Consent and Waiver of Assistant Attorney General Susan A. Miller is filed herewith.

4.

Venue is properly in this court and no other court in this state has acquired jurisdiction in this matter.

5.

ORS 128.328 permits the modification of a purpose restriction in a gift instrument upon application to the court. ORS 130.200(1) permits the modification of a charitable trust upon application to the court. Consent to the modification has been obtained from the surviving Donor, Miriam M. Starlin. Petitioner has also obtained the consent of Randolph Geller, Deputy General Counsel, University of Oregon, beneficiary herein.

NOW, THEREFORE, it is hereby adjudged that a general judgment is entered as follows:

The Miriam McFall Starlin Poetry Fund shall be modified as set forth in Exhibit B of the Agreement Modifying Institutional Fund attached to the Petition filed herein. The Fund's award shall henceforth be known as the Miriam McFall Starlin Poetry Award.

DATED this 27 day of January, 2010.

/s/ Lauren S. Holland  
Circuit Court Judge

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PETITIONER  
University of Oregon Foundation  
360 E. 10<sup>th</sup> Avenue, Suite 202  
Eugene, Oregon 97401-3273

ATTORNEYS FOR PETITIONER  
Jon V. Buerstatte, OSB # 822070  
Gleaves Swearingen Potter & Scott LLP  
P.O. Box 1147  
Eugene, Oregon 97440-1147  
(541) 686-8833  
(541) 345-2034 (Fax)  
Email: [buerstatte@gleaveslaw.com](mailto:buerstatte@gleaveslaw.com)



## CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing General Judgment for Modification of Institutional Fund on the following persons on August 9, 2010, by depositing same in the United States Post Office at Eugene, Oregon, enclosed in a sealed envelope, with postage paid to the address noted below:

Miriam M. Starlin  
c/o Randolph Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Randolph Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Susan A. Miller  
Assistant Attorney General  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue Suite 410  
Portland, OR 97201

DATED: August 9, 2010.

  
\_\_\_\_\_  
Jon V. Buerstatte OSB # 822070  
Of Attorneys for Petitioner

## AGREEMENT MODIFYING INSTITUTIONAL FUND

### PARTIES:

University of Oregon Foundation (A.K.A. University of Oregon Development Fund) (the "Foundation")

University of Oregon, College of Arts and Sciences

### RECITALS:

- A. The Parties desire to modify the Miriam McFall Starlin Poetry Endowment Fund Agreement, dated October 1995 (the "Institutional Fund"), a copy of which is attached hereto as Exhibit "A."
- B. The Parties, Oregon Attorney General, and Circuit Court constitute all persons and entities whose signatures are required for this Agreement to be effective pursuant to ORS Chapter 130.

### AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing recitals that are by this reference expressly made a part hereof, and in consideration of the terms hereinafter contained, the Parties agree as follows:

1. Modification of Institutional Fund

On the Effective Date, the Institutional Fund shall be modified as set forth in Exhibit "B" attached hereto and by this reference incorporated herein.

2. Effective Date

This Agreement shall be effective on the date that all Parties and the Oregon Attorney General have each signed this Agreement and, if required by law, this Agreement has been approved by the Circuit Court of the State of Oregon for Lane County.

3. Number, Gender and Captions

As used herein, the singular shall include the plural and the plural the singular, as the context requires. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this Agreement.

4. Counterparts

This Agreement has been prepared and may be executed in multiple counterparts, each of which shall constitute an original. Each party may execute a separate counterpart, all of which when assembled shall constitute this Agreement, fully executed.

5. Original Agreement

The Institutional Fund, as amended, and each term and provision thereof shall remain in full force and effect, except as herein modified, amended or restated.

6. Entire Agreement

This Agreement and the exhibit hereto constitute the final written expression of all terms of the Institutional Fund and when read together they constitute the complete and exclusive statement of those terms.

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on the date set opposite their respective signatures below.

Signature: Miriam M. Starlin 9/14/09  
Miriam M. Starlin, Donor Date

Signature: Scott Coltrane 9-24-09  
Scott Coltrane, Dean Date  
College of Arts and Sciences  
University of Oregon

Signature: Michael Redding 9/29/09  
Michael Redding, VP for University Advancement Date  
University of Oregon

Signature: Gary F. Livesay 10-1-09  
Gary F. Livesay, Chief Operating Officer Date  
University of Oregon Foundation

ORS 130.200 provides that, in certain instances, in order for an agreement modifying charitable funds held in trust subject to the enforcement or supervisory powers of the state or the Attorney General under ORS 128.610 to 128.750 to be effective, the Attorney General for the State of Oregon must consent to the agreement. The Institutional Fund is an agreement that may be subject to that requirement. The foregoing Agreement Modifying Institutional Fund is hereby consented to.

ATTORNEY GENERAL

By Susan A. Miller OSB 960960 2/5/10  
Susan A. Miller, Assistant Attorney General Date

**University of Oregon Foundation  
Endowment Fund Agreement  
The Miriam McFall Starlin Poetry Prize  
in Creative Writing  
in the  
College of Arts and Sciences**

Whereas, the University of Oregon Foundation shall receive cash contributions totalling \$25,000 from Glenn and Miriam Starlin, members of their family, and their friends, given with the intent of establishing an endowment to provide support for students enrolled in the Creative Writing Program at the University of Oregon,

Therefore, the University of Oregon Foundation (the Foundation) shall establish the **Miriam McFall Starlin Poetry Fund** (the Fund), as a permanent endowment. The net income and so much of the appreciation of the Fund as the Foundation may deem prudent shall be utilized annually for the purposes set forth in this agreement.

Article I

The Fund will provide an annual source of income to be used to award the *Miriam McFall Starlin Poetry Prize* to women enrolled as graduate students in Creative Writing, and whose concentration is in poetry. Recipients will be selected by the Director of the Creative Writing Program from among candidates who have shown a significant talent for poetry, and who evidence promise of additional outstanding achievement.

Article II

The Fund shall be entered on the books and records of the Foundation and shall be known, and always so designated, as **The Miriam McFall Starlin Poetry Fund**. Additions to the Fund in any form acceptable to the Foundation may be made at any time by any person or entity. Such additions shall thereafter be subject in all respects to the terms, provisions, and conditions of this Agreement. For its services in holding and managing the Fund, a reasonable fee may be charged by and paid to the Foundation to cover the cost of administrative expenses incurred on behalf of this endowment fund.

Article III

All or any part of the Fund may be invested separately or jointly as part of a common trust investment fund. The Fund shall be permanently endowed and only the net income thereof and so much of the principal appreciation as the Foundation may deem prudent shall be provided annually for the uses and purposes specified in this Agreement.

**Exhibit A**

Article IV

Any net income or expendable principal appreciation not utilized in any given year may either be retained for expenditure in a future year or added to the principal of the Fund, as determined by the Foundation, after consulting with the Creative Writing Program director, to best further purposes of the Fund.

Article V

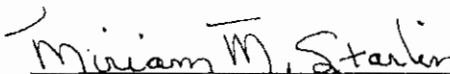
The endowment fund hereby created shall be and is expressly declared to be perpetual. However, if at some future time a change in circumstances should render the designated purposes of the Fund no longer practical, then and only then, the Board of Trustees of the Foundation, in concert with the Creative Writing Program director and the Dean of the College of Arts and Sciences shall use the net income and expendable principal appreciation, but not the principal of the Fund for the closest appropriate purposes, retaining the name of the fund, with due consideration to the Donors' special interest in supporting the work of graduate level women poets at the University.

IN WITNESS WHEREOF, the parties to this agreement have subscribed their names hereto:

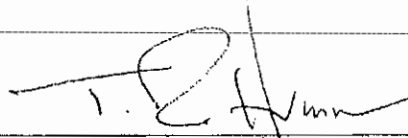
DATED THIS 26 DAY OF  
September, 1995

  
\_\_\_\_\_  
Glenn Starlin

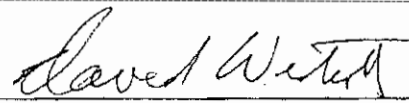
DATED THIS 26 DAY OF  
September, 1995

  
\_\_\_\_\_  
Miriam M. Starlin

APPROVED THIS 28<sup>th</sup> DAY OF Sept.  
\_\_\_\_\_, 1995

  
\_\_\_\_\_  
Terry Hummer  
Director  
Creative Writing Program

APPROVED THIS 9 DAY OF  
October, 1995

  
\_\_\_\_\_  
David Westcott  
Acting Executive Director  
University of Oregon Foundation

**Exhibit A**



UNIVERSITY OF OREGON  
FOUNDATION

**Modification of Fund Agreement**

**Miriam McFall Starlin Poetry Endowment Fund**

**Modification of Purpose**

Whereas the parties entered into a prior Agreement in October 1995; and

Whereas current law does not allow the university to award scholarships exclusively to one gender ;

Therefore it is the parties' intent and agreement that the Foundation shall modify the purpose to become as follows:

The Fund will provide an annual source of income to be used to award the Miriam McFall Starlin Poetry Prize to graduate students in Creative Writing whose concentration is in poetry. Recipients will be selected by the Director of the Creative Writing Program from among candidates who have shown a significant talent for poetry, and who evidence promise of additional outstanding achievement.

All other terms and conditions of the previous agreement remain in effect.

\* If possible I would prefer the designation as an Award not Prize

Signature: Miriam M. Starlin  
Miriam M. Starlin, Donor

9/16  
Date

Signature: Karen G. Ford  
Karen Ford, Director, Creative Writing Program  
University of Oregon

9-20-09  
Date

Signature: Michael Redding  
Michael Redding, VP for University Advancement  
University of Oregon

9/29/09  
Date

Signature: Gary F. Livesay  
Gary F. Livesay, Chief Operating Officer  
University of Oregon Foundation

10-1-09  
Date

**Exhibit B**



ATTORNEYS  
AT LAW

December 9, 2009

Ms. Susan Miller  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue, # 410  
Portland, Oregon 97201

Re: University of Oregon Foundation  
Miriam McFall Starlin Poetry Endowment Fund Modification

Dear Susan:

I am enclosing for your review a proposed Agreement Modifying Institutional Fund in the Miriam McFall Starlin Poetry Endowment Fund. The Fund was established in 1995 by Glenn and Miriam Starlin. The gift instrument required that the award be given to women only. The parties propose to modify the Fund to comply with current law which does not permit such a requirement. Additionally, you will see Ms. Starlin's handwritten addition to Exhibit B noting that she would prefer that the name be changed to award rather than prize. Court approval of the modification will be necessary because we do not have the signature of Glenn Starlin.

If the Modification Agreement meets with your approval, please sign where indicated and return the originals to us in the enclosed envelope. If you have questions or need additional information please do not hesitate to let me know.

Very truly yours,

Laurie A. Nelson  
nelson@gleaveslaw.com

LAN:gdm  
Enclosures

cc: Gary Livesay (w/o encls.)  
Paul Weinhold (w/o encls.)  
Thomas P.E. Herrmann (w/o encls.)  
Jon V. Buerstatte (w/o encls.)

Phone:  
(541) 686-8833  
Fax:  
(541) 345-2034

975 Oak Street  
Suite 800  
Eugene, Oregon  
97401-3156

Mailing Address:  
P.O. Box 1147  
Eugene, Oregon  
97440-1147

Email:  
info@gleaveslaw.com  
Web-Site:  
www.gleaveslaw.com

Frederick A. Batson  
Jon V. Buerstatte  
Patricia L. Chapman\*\*  
Joshua A. Clark  
Michael T. Faulconer\*\*  
Howard F. Feinman  
Thomas P. E. Herrmann\*  
Dan Webb Howard\*\*  
Cassie K. Kellogg  
Stephen O. Lane  
Valeri L. Love  
William H. Martin\*  
Walter W. Miller  
Laura T. Z. Montgomery\*  
Thomas K. N. Moseman  
Laurie A. Nelson  
Kirk M. Reynolds  
Ian T. Richardson  
Martha J. Rodman  
Harvey W. Rogers  
Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman  
Jane M. Yates

\*Also admitted  
in Washington

\*\*Also admitted  
in California

*Love*

December 3, 2010

RECEIVED

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DEPARTMENT OF JUSTICE  
PORTLAND LEGAL

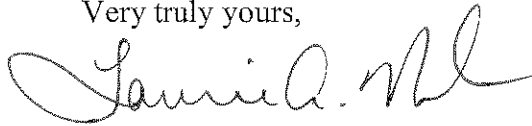
Ms. Susan A. Miller  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue, Suite 410  
Portland, OR 97201

Re: University of Oregon Foundation  
Thomas C. Stewart Business Professorship

Dear Susan:

I am pleased to report that Judge Holland signed the General Judgment for Modification of Institutional Fund on December 2, 2010, in the Thomas C. Stewart Business Professorship modification case. I am enclosing a conformed copy of that General Judgment for your records.

Very truly yours,



Laurie A. Nelson  
[nelson@gleaveslaw.com](mailto:nelson@gleaveslaw.com)

LAN/gdm  
Enclosures

cc: Paul Weinhold (w/ encls.)  
Tom Herrmann (w/ encls.)  
Jon V. Buerstatte (w/o encls.)

Gleaves  
Swearingen  
Potter &  
Scott LLP

Phone:  
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Thomas P. E. Herrmann\*  
Dan Webb Howard\*\*  
Cassie K. Kellogg  
Stephen O. Lane  
Valeri L. Love  
William H. Martin\*  
Laura T. Z. Montgomery\*  
Thomas K. N. Moseman  
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Ian T. Richardson  
Martha J. Rodman  
Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman  
Jane M. Yates

\*Also admitted  
in Washington

\*\*Also admitted  
in California



FILED

2010 DEC -2 AM 11:14

CIRCUIT COURT OF OREGON  
FOR LANE COUNTY

BY \_\_\_\_\_

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

In the Matter of the Thomas C. Stewart  
Business Professorship

Case No. 52-10-15397

GENERAL JUDGMENT FOR  
MODIFICATION OF  
INSTITUTIONAL FUND

University of Oregon Foundation,  
Petitioner.

This matter having come before the court on the Petition of Petitioner University of Oregon Foundation, an Oregon nonprofit corporation, by and through its Chief Operating Officer, Gary F. Livesay, for the modification of the Thomas C. Stewart Business Professorship, and it appearing to the court from the records and files herein that:

1.

Service was made and perfected by regular mail to the persons entitled to notice as follows:

Name	Date
Susan A. Miller, Assistant Attorney General, State of Oregon	August 9, 2010
Randolph Geller, Deputy General Counsel, University of Oregon	August 9, 2010
Thomas C. Stewart, c/o Randolph Geller, Deputy General Counsel, University of Oregon	August 9, 2010

///

///

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2.

Notice as required by Oregon law has been waived by all persons entitled thereto.

3.

Venue is properly in this court and no other court in this state has acquired jurisdiction in this matter.

4.

Petitioner has obtained the consent of the Attorney General to the modification termination as required by Oregon law. The Consent and Waiver of Assistant Attorney General Susan A. Miller is filed herewith.

5.

Petitioner has obtained consent to the modification from Donor Thomas C. Stewart and from Randolph Geller, Deputy General Counsel for the University of Oregon, beneficiary herein.

6.

ORS 128.328 permits the modification of a purpose restriction in a gift instrument when the donor, the beneficiary, and the Attorney General consent. ORS 130.200 permits modification of a charitable trust when the settlor/donor, the beneficiary, and the Attorney General consent.

NOW, THEREFORE, it is hereby adjudged that a general judgment is entered as follows:

The Thomas C. Stewart Business Professorship shall be modified as set forth in Exhibit B of the Agreement Modifying Institutional Fund attached to the Petition filed herein and shall henceforth be known as the Thomas C. Stewart Distinguished Faculty Fund.

DATED this 2 day of December, 2010.

/s/ Lauren S. Holland  
Circuit Court Judge

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PETITIONER  
University of Oregon Foundation  
360 E. 10<sup>th</sup> Avenue, Suite 202  
Eugene, Oregon 97401-3273

ATTORNEYS FOR PETITIONER  
Jon V. Buerstatte, OSB # 822070  
Gleaves Swearingen Potter & Scott LLP  
P.O. Box 1147  
Eugene, Oregon 97440-1147  
(541) 686-8833  
(541) 345-2034 (Fax)  
Email: buerstatte@gleaveslaw.com

## CERTIFICATE OF SERVICE

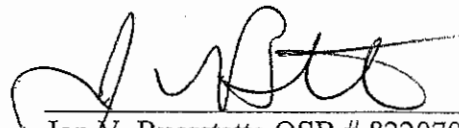
I hereby certify that I served the foregoing General Judgment for Modification of Institutional Fund on the following persons on August 9, 2010, by depositing same in the United States Post Office at Eugene, Oregon, enclosed in a sealed envelope, with postage paid to the address noted below:

Thomas C. Stewart  
c/o Randolph Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Randolph Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Susan A. Miller  
Assistant Attorney General  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue Suite 410  
Portland, OR 97201

DATED: August 9, 2010.

  
\_\_\_\_\_  
Jon V. Buerstatte OSB # 822070  
Of Attorneys for Petitioner

2010

May 20, 2010

Ms. Susan Miller  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue, # 410  
Portland, Oregon 97201

*done  
SM*

Re: University of Oregon Foundation  
Thomas C. Stewart Business Professorship

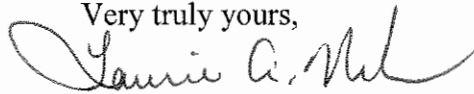
Dear Susan:

I am enclosing for your review a proposed Agreement Modifying Institutional Fund in the Thomas C. Stewart Business Professorship. This Fund was established in 1991 to support a professorship in the Lundquist College of Business. The original purpose was specifically to support the professional development of a business professor over a two-year period (with opportunity for renewal). Now the parties wish to re-work the terms of the endowment to provide for an award recognizing faculty excellence on an annual basis. Additional funds for professional development of the professor may also be awarded as funds are available. The name of the fund would be changed to the Thomas C. Stewart Distinguished Faculty Fund.

The sole original donor has signed the Modification Agreement. However, due to the change in ORS 130.200(1) effective January 1, 2010, we believe that this modification must still be submitted to the Lane County Circuit Court for approval. Please let me know if your view of the requirements differs from this position.

If the Modification Agreement meets with your approval, please sign where indicated and return the originals to us in the enclosed envelope. If you have questions or need additional information, please do not hesitate to let me know.

Very truly yours,



Laurie A. Nelson  
nelson@gleaveslaw.com

LAN:ghm  
Enclosures

cc: Gary Livesay (w/o encls.)  
Paul Weinhold (w/o encls.)  
Thomas P.E. Herrmann (w/o encls.)  
Jon V. Buerstatte (w/o encls.)

Gleaves  
Swearingen  
Potter &  
Scott LLP



2010  
MAY 20

Phone:  
(541) 686-8833  
Fax:  
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975 Oak Street  
Suite 800  
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Cassie K. Kellogg  
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Walter W. Miller  
Laura T. Z. Montgomery\*  
Thomas K. N. Moseman  
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Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman  
Jane M. Yates

\*Also admitted  
in Washington

\*\*Also admitted  
in California

**AGREEMENT MODIFYING INSTITUTIONAL FUND**

**PARTIES:**

University of Oregon Foundation (A.K.A. University of Oregon Development Fund) (the "Foundation")

University of Oregon

Thomas C. Stewart, Donor

**RECITALS:**

- A. The Parties desire to modify the Thomas C. Stewart Business Professorship, dated May, 1991 (the "Institutional Fund"), a copy of which is attached hereto as Exhibit "A."
- B. The Parties and the Oregon Attorney General constitute all persons and entities whose signatures are required for this Agreement to be effective pursuant to ORS Chapter 130.

**AGREEMENT:**

NOW, THEREFORE, in consideration of the foregoing recitals that are by this reference expressly made a part hereof, and in consideration of the terms hereinafter contained, the Parties agree as follows:

1. Modification of Institutional Fund

On the Effective Date, the Institutional Fund shall be modified as set forth in Exhibit "B" attached hereto and by this reference incorporated herein.

2. Effective Date

This Agreement shall be effective on the date that all Parties and the Oregon Attorney General have each signed this Agreement and, if required by law, this Agreement has been approved by the Circuit Court of the State of Oregon for Lane County.

3. Tax Consequences

Donor accepts sole responsibility for tax consequences, if any, that result from the aforesaid modification of the Institutional Fund.

4. Number, Gender and Captions

As used herein, the singular shall include the plural and the plural the singular, as the context requires. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this Agreement.

5. Counterparts

This Agreement has been prepared and may be executed in multiple counterparts, each of which shall constitute an original. Each party may execute a separate counterpart, all of which when assembled shall constitute this Agreement, fully executed.


6. Original Agreement

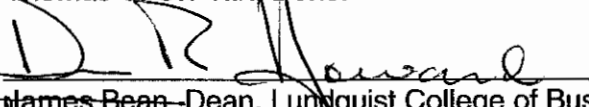
The Institutional Fund, as amended, and each term and provision thereof shall remain in full force and effect, except as herein modified, amended or restated.

7. Entire Agreement

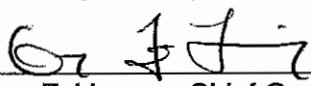
This Agreement and the exhibit hereto constitute the final written expression of all terms of the Institutional Fund and when read together they constitute the complete and exclusive statement of those terms.

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on the date set opposite their respective signatures below.

Signature:  1 OCT 2009  
Thomas C. Stewart, Donor Date

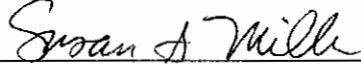
Signature:  3/4/10  
James Bean, Dean, Lundquist College of Business Date  
University of Oregon  
Dennis Howard

Signature:  2/26/10  
Michael Redding, VP for University Advancement Date  
University of Oregon

Signature:  9.12.09  
Gary F. Livesay, Chief Operating Officer Date  
University of Oregon Foundation

ORS 130.200 provides that, in certain instances, in order for an agreement modifying charitable funds held in trust subject to the enforcement or supervisory powers of the state or the Attorney General under ORS 128.610 to 128.750 to be effective, the Attorney General for the State of Oregon must consent to the agreement. The Institutional Fund is an agreement that may be subject to that requirement. The foregoing Agreement Modifying Institutional Fund is hereby consented to.

ATTORNEY GENERAL

By  OSB 960960 5/27/10  
Susan A. Miller, Assistant Attorney General Date



# UNIVERSITY OF OREGON

## UNIVERSITY OF OREGON FOUNDATION

### Endowment Fund Agreement

#### Thomas C. Stewart Business Professorship

I, Thomas C. Stewart (DONOR), hereby pledge the amount of \$250,000 to the University of Oregon Foundation (FOUNDATION) for the purpose of establishing an endowment to provide support for a Professorship within the College of Business Administration at the University of Oregon. The pledge will be paid by DONOR according to the following payment schedule:

- \* \$50,000 on or before May 15, 1991;
- \* \$50,000 on or before May 15 of each successive year from 1992 through 1995.
- \* Additional amounts at the discretion of Mr. Stewart may be provided after the completion of his \$250,000 pledge.

In the event that Thomas C. Stewart dies before the completion of the proposed payment schedule, future payments equal to the remaining balance of his pledge will not be provided by his estate.

The FOUNDATION shall establish the Stewart Endowed Professorship fund (the FUND), as a permanent endowment, and manage the payments provided by DONOR for the purposes specified below. It is assumed that the FUND will qualify for matching through the faculty endowment matching program established by the 1989 Oregon Legislature. At some future time, DONOR or his family may make payments to the FUND which are in addition to the amount currently pledged. These additional payments will be subject in all respects to the terms, provisions, and conditions of this agreement.

Therefore,

The following purposes and conditions will govern the management of the FUND by the FOUNDATION:

1. The FUND principal will be invested in a prudent manner so that the net income and an appropriate amount of FUND appreciation is used to support the intended purposes of the DONOR.

## Exhibit A



2. Annual income and appreciation from the FUND will be used to support a business faculty member known as the Thomas C. Stewart Business Professor. The Stewart Professor will be chosen by the Dean of the College of Business Administration and the President of the MBA Association, with approval required by Mr. Thomas C. Stewart or his designee. The Stewart Professorship will be awarded to a faculty member known for his/her distinction as a business teacher and scholar and is intended to assist the College of Business Administration in the retention of an outstanding business faculty member.
3. From the FUND, the Stewart Professor will receive an annual salary supplement equal to 25% of his/her university-supplied academic year base salary. The Stewart Professor will also receive \$4,000 annually to support his/her professional development needs. The term of appointment of the Stewart Professor is two years with opportunity for renewal.
4. Any income not utilized in a given year may be either retained for expenditure in a future year or added to the principal of the FUND, as determined by the FOUNDATION, after consultation with the Dean, to be in the best interest of the FUND. For its services in holding and managing the FUND, the FOUNDATION will charge a fee consistent with the costs associated with managing the FUND.
5. For investment purposes, all or any part of the FUND may be merged with the general investment assets of the FOUNDATION.
6. The endowment FUND hereby created shall be and is expressly declared to be perpetual and irrevocable and not subject to amendment or modification. However, if at some future time a change of circumstances should render the designated purpose of the FUND no longer practical (such as closure of the College of Business Administration) then, and only then, the Board of Trustees of the FOUNDATION shall use the total net income, and so much of the appreciation of the FUND as it may deem prudent, but not the principal, to further the objectives and purposes of the University, given

University of Oregon Foundation  
Endowment Fund Agreement  
Thomas C. Stewart Business Professorship

Page 3

due consideration to the special interests expressed above. If this event occurs, then the provision within Article 2 regarding approval by Mr. Stewart, or his designee, of the Stewart Professorship appointee, shall still apply.

IN WITNESS WHEREOF, the parties to this agreement have subscribed their names hereto:

DATED THIS 15<sup>th</sup> DAY OF  
[Signature], 1991  
Thomas C. Stewart

APPROVED THIS 15<sup>th</sup> DAY OF  
MAY, 1991  
[Signature]  
James E. Reinmuth, Dean  
College of Business Administration  
University of Oregon

ACCEPTED THIS 22 DAY OF  
May, 1991  
[Signature]  
Robert H. Atkinson, Jr.  
President  
University of Oregon Foundation

JER:lg  
fp\Stewart  
5/15/91

Exhibit A



## Modification of Endowment Fund Agreement

### Thomas C. Stewart Distinguished Faculty Fund

Formerly known as the Thomas C. Stewart Business Professorship

#### Modification of Name and Purpose

Whereas the parties entered into a prior Agreement in May, 1991; and

Whereas the amount of funds available can be used more strategically within the college to award faculty excellence;

Therefore it is the parties' intent and agreement that the name and purpose shall be modified to become as follows:

The Thomas C. Stewart Distinguished Faculty Fund

The purpose of the Fund shall be to utilize no more than 4% of the value of the fund on an annual basis to reward excellence in faculty performance that significantly enhances the visibility and strategic directions of the Lundquist College of Business (LCB) and University.

Title: Stewart Distinguished Professor (or Stewart Distinguished Faculty) depending on rank.

Eligibility: Tenure track faculty of any rank or (Senior) Instructors with appointments in LCB of 0.5 or above.

Duration: One year, January 1 through December 31.

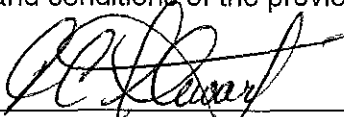
Selection Process: LCB students, faculty and staff as well as the Business Advisory Council are invited to make nominations to the Stewart Selection Committee. The nomination process will be developed by the Associate Dean for Academic Affairs. The Selection Committee is appointed by the Dean and consists of one instructor, one assistant professor, one associate professor, and two professors not nominated in the current round. The Selection Committee will make a recommendation to the Dean for approval. The Dean may approve or return the recommendation to the Selection Committee with comments. Criteria for selection will be: accomplishments that lead to distinction at a world-class level and further the strategic objectives of the College. These accomplishments may be in research, teaching, leadership, or a combination of these, and may have taken place during or across the previous three years. Nominations will be solicited in June each year and the selection committee will report to the Dean by September 30.

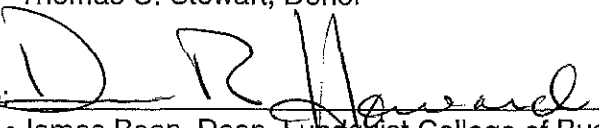
Awards: Title as above, \$10,000 minimum stipend and additional professional development funds as funds are available. Any professional development funds received by the awardee should be secondary to the award and should not take away from the primary purpose of the fund.

Announcement and Celebration: In December of each year, the Lundquist College of Business will announce the recipient of the Stewart Distinguished Professor and share the news of his or her appointment with members of the campus community. Proceeds from the endowment should be used for any event expenses related to the announcement of the Stewart Professor.

Further, it is agreed that the annual administrative fee charged by the Foundation shall not exceed 1.5%.

All other terms and conditions of the previous agreement remain in effect.

Signature:  10 OCT 2009  
Thomas C. Stewart, Donor Date

Signature:  3/4/10  
Dennis Howard James Bean, Dean, Lundquist College of Business Date  
University of Oregon

Signature:  2/26/10  
Michael Redding, VP for University Advancement Date  
University of Oregon

Signature:  9.12.09  
Gary F. Livesay, Chief Operating Officer Date  
University of Oregon Foundation

**RECEIVED**

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DEPARTMENT OF JUSTICE  
PORTLAND LEGAL

Gleaves  
Swearingen  
Potter &  
Scott LLP

November 29, 2010

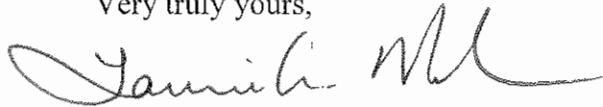
Ms. Susan A. Miller  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue, Suite 410  
Portland, OR 97201

Re: University of Oregon Foundation  
John A. and Patricia L. Gertson Scholarship Fund

Dear Susan:

I am pleased to report that Judge Holland signed the General Judgment for Modification of Institutional Fund on November 23, 2010, in the John A. and Patricia L. Gertson Scholarship Fund modification case. I am enclosing a copy of that General Judgment for your records.

Very truly yours,



Laurie A. Nelson  
[nelson@gleaveslaw.com](mailto:nelson@gleaveslaw.com)

LAN/gdm  
Enclosures

cc: Paul Weinhold (w/ encls.)  
Tom Herrmann (w/ encls.)  
Jon V. Buerstatte (w/o encls.)

Phone:  
(541) 686-8833  
Fax:  
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Suite 800  
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97401-3156

Mailing Address:  
P.O. Box 1147  
Eugene, Oregon  
97440-1147

Email:  
[info@gleaveslaw.com](mailto:info@gleaveslaw.com)  
Web-Site:  
[www.gleaveslaw.com](http://www.gleaveslaw.com)

Frederick A. Batson  
Jon V. Buerstatte  
Patricia L. Chapman\*\*  
Michael T. Faulconer\*\*  
Howard E. Feinman  
Thomas P. E. Herrmann\*  
Dan Webb Howard\*\*  
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Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman  
Jane M. Yates

\*Also admitted  
in Washington

\*\*Also admitted  
in California

FILED

2010 NOV 23 AM 10:33

CIRCUIT COURT OF OREGON  
FOR LANE COUNTY

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

In the Matter of the John A. and Patricia L.  
Gertson Scholarship Fund

Case No.52-10-24700

GENERAL JUDGMENT FOR  
MODIFICATION OF  
INSTITUTIONAL FUND

University of Oregon Foundation,  
Petitioner.

This matter having come before the court on the Petition of Petitioner University of Oregon Foundation, an Oregon nonprofit corporation, by and through its President and Chief Executive Officer, Paul Weinhold, for the modification of the John A. and Patricia L. Gertson Scholarship Fund, and it appearing to the court from the records and files herein that:

1.

Service was made and perfected by regular mail to the persons entitled to notice as follows:

<u>Name</u>	<u>Date</u>
Susan A. Miller, Assistant Attorney General, State of Oregon	November 9, 2010
Randolph Geller, General Counsel, University of Oregon	November 9, 2010

2.

Notice as required by Oregon law has been waived by all persons entitled thereto.

///

3.

Venue is properly in this court and no other court in this state has acquired jurisdiction in this matter.

4.

Petitioner has obtained the consent of the Attorney General to the modification as required by Oregon law. The Consent and Waiver of Assistant Attorney General Susan A. Miller is filed herewith.

5.

Petitioner has obtained consent to the modification from Randolph Geller, General Counsel for the University of Oregon, beneficiary.

6.

Pursuant to ORS 128.328(3), the court may modify a charitable restriction contained in a gift instrument if the restriction is impractical provided the modification is consistent with the charitable purposes expressed in the gift instrument. Modification in this case will allow petitioner to carry out the donors' charitable purposes of providing scholarships to those who might not otherwise qualify by removing the overly restrictive language that hampers administration.

Pursuant to ORS 130.200(2), the court may modify an irrevocable trust if the modification is not inconsistent with a material purpose of the trust. Here, modification is

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1 requested so that petitioner can effectively carry out the donor's intent and material purpose of  
2 providing scholarships to students who might not qualify for other private financial aid.

3 NOW, THEREFORE, it is hereby adjudged that a general judgment is entered as follows:

4 The John A. and Patricia L. Gertson Scholarship Fund shall be modified as set forth in  
5 Exhibit B of Exhibit 1 attached to the Petition filed herein.  
6

7 DATED this 23 day of November, 2010.

8  
9 ls/ Lauren S. Holland  
10 Circuit Court Judge

11 PETITIONER  
12 University of Oregon Foundation  
13 360 E. 10<sup>th</sup> Avenue, Suite 202  
14 Eugene, Oregon 97401-3273

15 ATTORNEYS FOR PETITIONER  
16 Jon V. Buerstatte, OSB # 822070  
17 Gleaves Swearingen Potter & Scott LLP  
18 P.O. Box 1147  
19 Eugene, Oregon 97440-1147  
20 (541) 686-8833  
21 (541) 345-2034 (Fax)  
22 Email: [buerstatte@gleaveslaw.com](mailto:buerstatte@gleaveslaw.com)



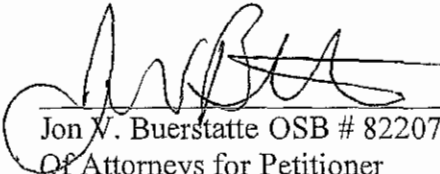
## CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing General Judgment for Modification of Institutional Fund on the following persons on November 9, 2010, by depositing same in the United States Post Office at Eugene, Oregon, enclosed in a sealed envelope, with postage paid to the address noted below:

Randolph Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Susan A. Miller  
Assistant Attorney General  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue Suite 410  
Portland, OR 97201

DATED: November 9, 2010.

  
Jon V. Buerstatte OSB # 822070  
Of Attorneys for Petitioner

**AGREEMENT MODIFYING INSTITUTIONAL FUND**

**PARTIES:**

University of Oregon Foundation (A.K.A. University of Oregon Development Fund) (the "Foundation")

University of Oregon, Lundquist College of Business

**RECITALS:**

- A. The Parties desire to modify the John A. and Patricia L. Gertson Scholarship Institutional Fund Agreement, dated October 1998 (the "Institutional Fund"), a copy of which is attached hereto as Exhibit "A."
- B. The Parties, Oregon Attorney General, and Circuit Court constitute all persons and entities whose signatures are required for this Agreement to be effective pursuant to ORS Chapter 130.

**AGREEMENT:**

NOW, THEREFORE, in consideration of the foregoing recitals that are by this reference expressly made a part hereof, and in consideration of the terms hereinafter contained, the Parties agree as follows:

1. Modification of Institutional Fund

On the Effective Date, the Institutional Fund shall be modified as set forth in Exhibit "B" attached hereto and by this reference incorporated herein.

2. Effective Date

This Agreement shall be effective on the date that all Parties and the Oregon Attorney General have each signed this Agreement and, if required by law, this Agreement has been approved by the Circuit Court of the State of Oregon for Lane County.

3. Number, Gender and Captions

As used herein, the singular shall include the plural and the plural the singular, as the context requires. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this Agreement.

4. Counterparts

This Agreement has been prepared and may be executed in multiple counterparts, each of which shall constitute an original. Each party may execute a separate counterpart, all of which when assembled shall constitute this Agreement, fully executed.

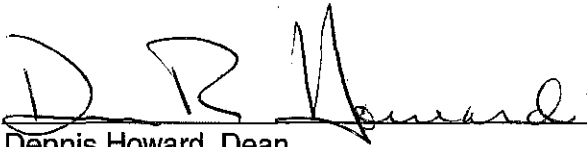
5. Original Agreement

The Institutional Fund, as amended, and each term and provision thereof shall remain in full force and effect, except as herein modified, amended or restated.

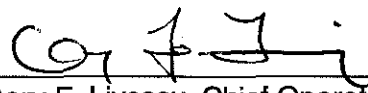
6. Entire Agreement

This Agreement and the exhibit hereto constitute the final written expression of all terms of the Institutional Fund and when read together they constitute the complete and exclusive statement of those terms.

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on the date set opposite their respective signatures below.

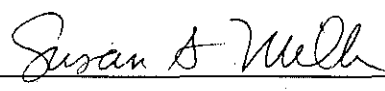
Signature:  2/18/10  
Dennis Howard, Dean, Date  
Lundquist College of Business  
University of Oregon

Signature:  2/22/10  
Michael Redding, VP for University Relations Date  
University of Oregon

Signature:  2-25-10  
Gary F. Livesay, Chief Operating Officer Date  
University of Oregon Foundation

ORS 130.200 provides that, in certain instances, in order for an agreement modifying charitable funds held in trust subject to the enforcement or supervisory powers of the state or the Attorney General under ORS 128.610 to 128.750 to be effective, the Attorney General for the State of Oregon must consent to the agreement. The Institutional Fund is an agreement that may be subject to that requirement. The foregoing Agreement Modifying Institutional Fund is hereby consented to.

ATTORNEY GENERAL

By  OSB 960960 10/13/10  
Susan A. Miller, Assistant Attorney General Date

# UNIVERSITY OF OREGON FOUNDATION

## Endowment Fund Agreement

### The John A. and Patricia L. Gertson Scholarship Fund

Whereas the University of Oregon Foundation will receive contributions from The John A. and Patricia L. Gertson Charitable Annuity Trust, given with the intent of establishing an endowment to provide support for scholarships for the Lundquist College of Business at the University of Oregon (the University)

#### Therefore

- 1) The University of Oregon Foundation (the Foundation) shall establish the **The John A. and Patricia L. Gertson Scholarship Fund** (the Fund), as a permanent endowment. The net income and so much of the appreciation of the Fund, as the Foundation may deem prudent, shall be utilized to award a scholarship to an undergraduate student at the Lundquist College of Business whose grade point average is not high enough to qualify for scholarships based on academic achievement. The student must not have been awarded other privately funded scholarships for the same academic period.
- 2) Notwithstanding paragraph 1) above, the Donors retain, during their lifetimes, the right to modify the purposes for which the Fund shall be used to the extent that such modifications shall provide support for the University of Oregon. The Donors' intent in retaining this right of modification is to provide them with flexibility in matching the purposes of the Fund to their charitable interests and the needs of the University as those interests and needs are determined over time and to the extent that the interests expressed are acceptable to the University.
- 3) Any distribution made for current use purposes not utilized in a given year may be either retained for expenditure in a future year or added to the principal of the Fund, as determined by the dean of the Lundquist College of Business, after consultation with the Foundation to be in the best interest of the Fund. For its services in holding and managing the Fund, a reasonable fee may be charged by and paid to the Foundation to cover the cost of administrative and fundraising expenses incurred on behalf of this endowment Fund.
- 4) For investment purposes all, or any part of, the Fund may be merged with the general investment assets of the Foundation and invested at the discretion of the Board of Trustees of the University of Oregon Foundation.
- 5) Additions to the Fund in the form of property acceptable to the Foundation may be made at any time, and shall thereafter be subject in all respects to the terms, provisions and conditions of this agreement.

#### Exhibit A

- 6) The endowment fund hereby created shall be and is expressly declared to be perpetual. However, if at some future time a change of circumstances should render the designated purpose of the Fund no longer practical, then, and only then, the Board of Trustees of the Foundation in agreement with the dean of the Lundquist College of Business shall use all, or any part of, the net income and so much of the appreciation of the Fund as it may deem prudent, to further the objectives and purposes of the University of Oregon with retention of the named Fund and giving due consideration to the special interests expressed above.
- 7) The endowment Fund shall be managed in accordance with the Uniform Management of Institutional Funds Act as adopted by the State of Oregon.

IN WITNESS WHERE OF, the parties to this agreement have subscribed their names hereto:

DATED THIS 3 DAY OF

Sept., 1998

John A. Gertson  
John A. Gertson

Patricia L. Gertson  
Patricia L. Gertson

APPROVED THIS 2 DAY OF

October, 1998

BY:

Jon V. Jaqua  
Jon V. Jaqua  
Executive Director

University of Oregon Foundation

Dale Morse  
Dale Morse, Dean  
Lundquist College of Business  
University of Oregon

**Exhibit A**



UNIVERSITY OF OREGON  
FOUNDATION

**Modification of Fund Agreement**

**John A. and Patricia L. Gertson Scholarship**

**Modification of Purpose**

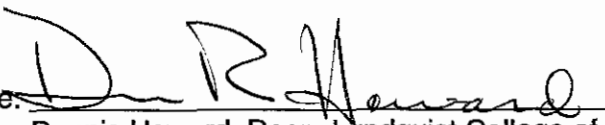
Whereas the parties entered into a prior Agreement in October 1998; and

Whereas it has become impossible to follow the selection criteria originally listed, because the scholarship currently stipulates that the award must go to an undergraduate whose grade point average is not high enough to qualify for scholarships based on academic achievement, and the student also must not be receiving other privately funded scholarships during the same academic period; however, current campus policy does not allow units to discriminate based on what other scholarships a student may be receiving, so this information is not available to the academic units and thus makes it impossible to honor the donors' restrictions;

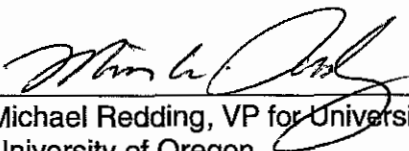
Therefore it is the parties' intent and agreement that the Foundation shall modify the purpose to become as follows:

To award a scholarship to an undergraduate student at the Lundquist College of Business who has demonstrated academic promise, but may not otherwise qualify for a merit based scholarship requiring a high grade point average.

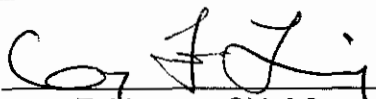
All other terms and conditions of the previous agreement remain in effect.

Signature:   
Dennis Howard, Dean, Lundquist College of Business  
University of Oregon

2/18/10  
Date

Signature:   
Michael Redding, VP for University Relations  
University of Oregon

2/22/10  
Date

Signature:   
Gary F. Livesay, Chief Operating Officer  
University of Oregon Foundation

2-25-10  
Date

**Exhibit B**

RECEIVED

OCT 12 2010

DEPARTMENT OF JUSTICE  
PORTLAND LEGAL

October 6, 2010

Gleaves  
Swearingen  
Potter &  
Scott LLP



ATTORNEYS  
AT LAW

Ms. Susan Miller  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue, # 410  
Portland, Oregon 97201

Re: University of Oregon Foundation  
John A. and Patricia L. Gertson Scholarship Fund

Dear Susan:

I am enclosing for your review a proposed Agreement Modifying Institutional Fund in the John A. and Patricia L. Gertson Scholarship Fund. This Fund represents the remainder interest in a 1998 charitable remainder annuity trust created by Mr. and Mrs. Gertson. The original purpose was to provide a scholarship at the Lundquist College of Business ("LCB") for an undergraduate student whose grade point average does not qualify the student for scholarships based on academic achievement and who has not received other privately funded scholarships for the same academic period.

Both Mr. and Mrs. Gertson are now deceased and the remainder interest is available for scholarship purposes. Unfortunately, the language governing use of the remainder interest presents problems for administering the scholarship in its current form. Both the GPA requirement and the requirement that the student must not receive another scholarship are overly restrictive, as discussed below.

Scholarship selection is quite competitive at the University of Oregon, with a very large number of applications submitted. LCB uses students' grade point averages in sorting through the applications, but requiring the school to look at every application to determine whether the student had received another scholarship would be impractical, if not impossible. Dala Gant (Associate Director of Scholarship Management in the University's Donor Relations department) reports that the different schools and colleges simply do not have that information, nor does the Central Office of Financial Aid.

Furthermore, it is expected that a student applying for the Gertson scholarship would not necessarily know whether or not he or she will be receiving another scholarship which would disqualify the student from the Gertson scholarship. Students often apply for multiple scholarships in as many places as possible (and are strongly encouraged to do so by the government and everyone else). It would not be unusual for a student to apply early in the academic year and not receive notification of an award until spring or even the following academic year.

Phone:  
(541) 686-8833  
Fax:  
(541) 345-2034

975 Oak Street  
Suite 800  
Eugene, Oregon  
97401-3156

Mailing Address:  
P.O. Box 1147  
Eugene, Oregon  
97440-1147

Email:  
info@gleaveslaw.com  
Web-Site:  
www.gleaveslaw.com

Frederick A. Batson  
Jon V. Buerstatte  
Patricia L. Chapman\*\*  
Joshua A. Clark  
Michael T. Faulconer\*\*  
Howard F. Feinman  
Thomas P. E. Herrmann\*  
Dan Webb Howard\*\*  
Cassie K. Kellogg  
Stephen O. Lane  
Valeri L. Love  
William H. Martin\*  
Walter W. Miller  
Laura T. Z. Montgomery\*  
Thomas K. N. Moseman  
Laurie A. Nelson  
Ian T. Richardson  
Martha J. Rodman  
Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman  
Janc M. Yates

\*Also admitted  
in Washington

\*\*Also admitted  
in California

Ms. Susan Miller  
October 6, 2010  
Page - 2

Therefore, the University has requested that the Foundation seek modification of this scholarship to revise the selection criteria. As proposed, it reads:

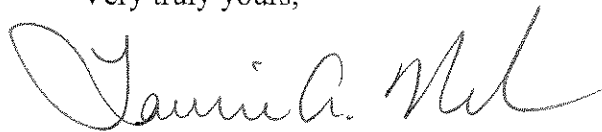
To award a scholarship to an undergraduate student at the Lundquist College of Business who has demonstrated academic promise, but may not otherwise qualify for a merit based scholarship requiring a high grade point average.

This is intended to ease the qualification restrictions slightly, but still achieving the donors' original intent as much as possible.

Academic promise can be evaluated by other tools than just a student's GPA. According to Ms. Gant, these tools could include, but not be limited to, a student résumé, faculty letters of reference, a student's written responses regarding career goals, life, work and volunteer experience, and community involvement. Use of this broader selection methodology can aid in targeting a range of students who, without the Gertson scholarship, might otherwise receive no private financial aid.

If the Modification Agreement meets with your approval, please sign where indicated and return the originals to us in the enclosed envelope. We will then proceed to seek court approval of the modification. If you have questions or need additional information please do not hesitate to let me know.

Very truly yours,



Laurie A. Nelson  
nelson@gleaveslaw.com

LAN:jck  
Enclosures

cc: Gary Livesay (w/o encls.)  
Paul Weinholt (w/o encls.)  
Thomas P.E. Herrmann (w/o encls.)  
Jon V. Buerstatte (w/o encls.)





**GLEAVES  
SWEARINGEN** LLP  
ATTORNEYS AT LAW

(541) 686-8833 | Fax (541) 345-2034 | [gleaveslaw.com](http://gleaveslaw.com)

Laurie A. Nelson  
[nelson@gleaveslaw.com](mailto:nelson@gleaveslaw.com)

October 30, 2012

Ms. Susan A. Bower  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue, # 410  
Portland, Oregon 97201

Re: University of Oregon Foundation  
Pat Lynch Charitable Remainder Unitrust

Dear Susan:

I am pleased to be able to enclose for you a copy of the fully executed Agreement Modifying Charitable Remainder Unitrust in the Pat Lynch Charitable Remainder Unitrust matter. Thank you again for your assistance in this modification process.

Very truly yours,

Laurie A. Nelson

LAN:gdm  
Enclosure

cc: Paul Weinhold (w/o encls.)  
Erika Funk (w/o encls.)  
Thomas P.E. Herrmann (w/o encls.)  
Ian Richardson (w/o encls.)

**RECEIVED**  
OCT 31 2012  
DEPARTMENT OF JUSTICE  
PORTLAND LEGAL

**MAILING ADDRESS**  
PO Box 1147  
EUGENE OREGON 97440-1147

**OFFICES**  
975 OAK STREET | SUITE 800  
EUGENE OREGON 97401-3156

## AGREEMENT MODIFYING CHARITABLE REMAINDER UNITRUST

### PARTIES:

John P. ("Pat") Lynch ("Donor")

University of Oregon Foundation (A.K.A. University of Oregon Development Fund) (the "Foundation")

Cornelis A. "Kees" de Kluyver (Dean, Charles H. Lundquist College of Business)

Michael C. Andreasen, Vice President for University Development, University of Oregon

### RECITALS:

- A. Pursuant to ORS 130.045, the Parties desire to modify the **Pat Lynch Charitable Remainder Unitrust**, dated June 21, 1996 (the "CRUT"), a copy of which is attached hereto as Exhibit "1," to allow for substitution of a new gift agreement, attached as Exhibit 4, to direct the use of the remainder interest. Additionally, the Parties wish to provide for flexibility in allowing the Donor to further direct the University's use of the remainder interest of the CRUT. The CRUT was previously modified by Agreement Modifying Charitable Remainder Unitrust and Endowment Fund Agreement dated November 14, 2000, a copy of which is attached hereto as Exhibit "2." By Agreement Renouncing Partial Income Interest dated December 31, 2000, a copy of which is attached hereto as Exhibit "3," the Donor renounced a partial interest in the CRUT.
- B. The Parties and the Oregon Attorney General constitute all persons and entities whose signatures are required for this Agreement to be effective pursuant to ORS Chapter 130.

### AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing recitals that are by this reference expressly made a part hereof, and in consideration of the terms hereinafter contained, the Parties agree as follows:

1. Modification of CRUT

On the Effective Date, Section 6 of the CRUT agreement shall be amended to provide that the remainder interest of the CRUT shall be as set forth in Gift Agreement dated July 2012, a copy of which is attached hereto as Exhibit "4" and by this reference incorporated herein. Additionally, the following paragraph shall be added to Section 6:

The Donor, by written agreement signed by the Donor, and by the Foundation, may from time to time designate uses and purposes for the funds distributed to the Foundation pursuant hereto in addition to or different from those uses and purposes described herein, provided that any such designation is for the sole benefit of the University, and that any such uses and purposes must be subject to and permitted by

the Foundation's Articles of Incorporation and Bylaws as in effect at the time of the designation.

2. Effective Date

This Agreement shall be effective on the date that all Parties and the Oregon Attorney General have each signed this Agreement and, if required by law, this Agreement has been approved by the Circuit Court of the State of Oregon for Lane County.

3. Tax Consequences

Donor accepts sole responsibility for tax consequences, if any, that result from the aforesaid modification of the CRUT.

4. Number, Gender and Captions

As used herein, the singular shall include the plural and the plural the singular, as the context requires. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this Agreement.

5. Counterparts

This Agreement has been prepared and may be executed in multiple counterparts, each of which shall constitute an original. Each party may execute a separate counterpart, all of which when assembled shall constitute this Agreement, fully executed.

6. Original Agreement

The CRUT, as amended, and each term and provision thereof shall remain in full force and effect, except as herein modified, amended or restated.

7. Entire Agreement

This Agreement and the exhibit hereto constitute the final written expression of all terms of the CRUT and when read together they constitute the complete and exclusive statement of those terms.

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on the date set opposite their respective signatures below.

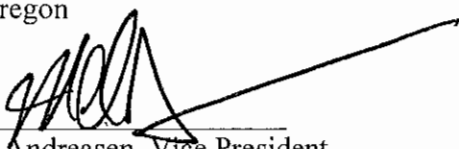
University of Oregon Foundation

By: Paul Weinhold  
Paul Weinhold

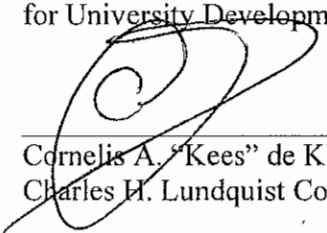
10/9/2012  
Date

University of Oregon

By:

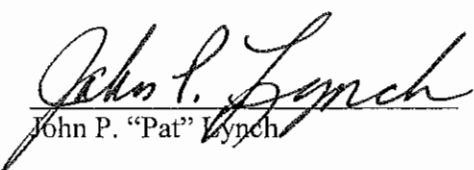
  
Michael C. Andreasen, Vice President  
for University Development

10.5.12  
Date

  
Cornelis A. "Kees" de Kluiver, Dean  
Charles H. Lundquist College of Business

9/24/12  
Date

Donor

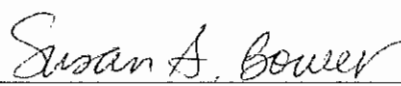
  
John P. "Pat" Lynch

09/13/12  
Date

ORS 130.045 provides that, in certain instances, in order for an agreement modifying charitable funds held in trust subject to the enforcement or supervisory powers of the state or the Attorney General under ORS 128.610 to 128.750 to be effective, the Attorney General for the State of Oregon must consent to the agreement. The CRUT is an agreement that may be subject to that requirement. The Attorney General hereby consents to the foregoing Agreement Modifying Charitable Remainder Unitrust.

ATTORNEY GENERAL

By:

  
Susan A. Bower, OSB # 960960  
Assistant Attorney General

9/5/12  
Date

CHARITABLE REMAINDER UNITRUST

THE PAT LYNCH UNITRUST

UNITRUST AGREEMENT made this 21<sup>st</sup> day of June, 1996, between John P. Lynch, whose address is P.O. Box 6174, Santa Rosa, California, 95406-0174, (hereinafter called the "Donor") and UNIVERSITY OF OREGON FOUNDATION, an Oregon nonprofit corporation, located at Eugene, Oregon, (hereinafter called the "Trustee") for the purpose of creating a charitable remainder unitrust (within the meaning of Rev. Proc. 90-31 and section 664(d)(2)) of the Internal Revenue Code of 1986, as amended (the "Code") for the lifetime benefit of Donor. The trust created by this Agreement shall be known as the "Pat Lynch Unitrust".

SECTION 1. TRANSFER OF PROPERTY.

The Donor has transferred and delivered to the Trustee the property described in the annexed Schedule "A". This property and all receipts of every kind shall be managed and invested by the Trustee as a single fund (hereinafter called the "unitrust").

SECTION 2. TRUST PAYMENTS.

The Trustee shall pay to the Donor (in cash, in kind, or partly in each) in each taxable year of the unitrust during his life a unitrust amount equal to six percent (6%) of the net fair market value of the trust assets valued as of the first day of each taxable year of the unitrust (decreased as provided in Section 3 in the case where the taxable year is a short taxable year or is the taxable year in which the Donor dies and increased as provided in Section 4 in the case where there are additional contributions in the taxable year). The unitrust amount shall be paid in equal quarterly installments (on the last day of March, June, September and December, with the first installment to be on the last day of the month of June, 1996) from income and, to the extent income is insufficient, from principal. Any income of the unitrust for a taxable year in excess of the unitrust amount shall be added to principal. Notwithstanding any existing or hereafter enacted state law, no amount other than the unitrust amount may be paid to or for the use of any person other than an organization described in each of section 170(b)(1)(A), section 170(c), section 2055(a) and section 2522(a) of the Code. However, an amount shall not be deemed to be paid to or for the use of any person other than an organization described in the aforesaid Code sections if the amount is transferred for full and adequate consideration.

SECTION 3. TAXABLE YEARS.

The first taxable year of the unitrust begins with the date of this Agreement and shall end on December 31, 1996. Subsequent taxable years shall be on a calendar year basis. In the case of a taxable year which is for a period of less than 12 months (other than the taxable year in which the Donor dies), the unitrust amount which must be distributed under Section 2 shall be such amount multiplied by a fraction the numerator of which is the number of days in the taxable year of the unitrust and the denominator of which is 365 (366 if February 29 is a day included in the numerator). In the case of the taxable year in which the Donor dies, the unitrust amount which must be distributed under Section 2 shall be such amount multiplied by a fraction the numerator of which is the number of days in the period beginning on the first day of such taxable year and ending on the date of the Donor's

death and the denominator of which is 365 (366 if February 29 is a day included in the numerator). Notwithstanding the foregoing, the obligation of the Trustee to pay the unitrust amount shall terminate with the regular quarterly installment next preceding the death of the Donor.

#### SECTION 4. ADDITIONAL CONTRIBUTIONS.

The Donor and others may, from time to time, add property acceptable to the Trustee to the unitrust.

- 4.1 If any additional contributions are made to the unitrust after the initial contribution set forth in Schedule "A", the unitrust amount for the taxable year in which the assets are added to the trust shall be six percent (6%) of the sum of (a) the net fair market value of the trust assets (excluding the assets so added and any income from, or appreciation on, such assets), and (b) that proportion of the value of the assets so added that was excluded under (a) which the number of days in the period which begins with the date of contribution and ends with the earlier of the last day of the taxable year or the Donor's death bears to the number of days in the period which begins on the first day of such taxable year and ends with the earlier of the last day in such taxable year or the Donor's death. The assets so added shall be valued at the time of contribution.
- 4.2 If any additional contribution is made by Will, the obligation to pay the unitrust amount with respect to such additional contribution shall commence with the date of death of the person under whose Will the additional contribution is made, but payment of such unitrust amount may be deferred from such date of death to the end of the taxable year of the unitrust in which occurs the complete funding of the additional contribution. Within a reasonable period after such time, the Trustee shall pay, in the case of an underpayment, or shall receive from the Donor, in the case of an overpayment, the difference between any unitrust amounts actually paid to the Donor, plus interest on such amounts computed at the rate of interest prescribed in the Federal Income Tax Regulations (Treasury Regulations) under section 664 of the Code, compounded annually, and the unitrust amounts payable. The unitrust amounts payable shall be retroactively determined by using the unitrust's taxable year, valuation method and valuation date and following the rules specified in section 1.664-1(a)(5)(ii) of the Treasury Regulations. Any payments required to be made because of an underpayment shall be paid to the Donor or his estate. Any repayments required to be made because of an overpayment shall be repaid by Donor or his estate.

#### SECTION 5. DETERMINATION OF NET FAIR MARKET VALUE.

- 5.1 If the net fair market value of the unitrust assets is incorrectly determined by the Trustee for any taxable year, then within a reasonable period after the final determination of the correct value, the Trustee shall pay to the Donor in the case of an undervaluation or shall receive from the Donor in the case of an overvaluation an amount equal to the difference between the unitrust amount properly payable and the unitrust amount actually paid.
- 5.2 In computing the net fair market value of the unitrust assets there shall be taken into account all assets and liabilities without regard to whether

particular items are taken into account in determining the income of the unitrust. All determinations of the unitrust's net fair market value shall be in accordance with generally accepted fiduciary accounting principles and any United States Treasury requirements governing charitable remainder unitrusts. In any conflict Treasury requirements shall prevail over generally accepted fiduciary accounting principles and any inconsistent provisions of this Agreement.

#### SECTION 6. DISTRIBUTION ON DEATH OF DONOR.

Upon the Donor's death, the Trustee shall distribute all of the then principal and income of the unitrust, other than any amount due to the Donor, to UNIVERSITY OF OREGON FOUNDATION to be added to and administered and distributed in accordance with that certain endowment fund agreement dated June \_\_\_\_, 1996, between Donor and UNIVERSITY OF OREGON FOUNDATION, which agreement establishes the Pat Lynch Endowed Scholarship Fund for Women's Golf and the Pat Lynch Endowed Fund for Business. If UNIVERSITY OF OREGON FOUNDATION is not an organization described in each of section 170(b)(1)(A), section 170(c), section 2055(a) and section 2522(a) of the Code at the time when any principal or income of the unitrust is to be distributed to it, the Trustee shall distribute such principal or income to one or more organizations then so described as the Trustee shall select in its sole discretion and in such shares as it shall determine.

#### SECTION 7. TRUSTEE POWERS.

In addition to the powers conferred upon it by law, Trustee is authorized to:

- 7.1 Retain the property described in Schedule "A," or may sell the property and invest and reinvest the unitrust in any kind of property without diversification as to kind or amount and without regard to the limitations imposed by law on investments. Nothing in this Agreement shall be construed to restrict the Trustee from investing the unitrust assets in a manner which could result in the annual realization of a reasonable amount of income or gain from the sale or disposition of trust assets.
- 7.2 Sell, exchange or otherwise dispose of any unitrust asset at either public or private sale, for cash or on credit; to exchange any such property and to grant options for the purchase thereof without any limitation on the period of any such option.
- 7.3 Consent to and participate in, or to oppose, any foreclosure, liquidation or plan of reorganization, consolidation, merger, combination or other similar plan and to consent to any contract, lease, mortgage, purchase, sale or other action by any other corporation pursuant to such plan.
- 7.4 Deposit any unitrust asset with any protective, reorganizational or similar committee, to delegate discretionary power thereto, to pay part of its expenses and compensation and any assessments levied with respect to such asset.
- 7.5 Exercise all conversion, subscription, voting and other rights of whatsoever nature pertaining to any such unitrust asset and to grant proxies, discretionary or otherwise, with respect thereto.

- 7.6 Extend the time of payment of any obligation held hereunder and to compromise, settle or submit to arbitration or to release any claim in favor of or against any unitrust asset.
- 7.7 Register and hold any unitrust asset in the name of a nominee and the liability of the Trustee shall be neither increased nor decreased thereby.
- 7.8 Contract with independent investment advisors, investment counsel or managers and to pay reasonable and customary fees in connection with any such contract.
- 7.9 For investment purposes, commingle the unitrust assets with the assets of other charitable remainder trusts managed by Trustee or with the general investment assets of the University of Oregon Foundation.
- 7.10 Do all such acts, take all such proceedings and exercise all such rights and privileges, although not hereinbefore specifically mentioned with respect to any unitrust asset as if the absolute owner thereof and in connection therewith to make, execute and deliver any instruments and to enter into any covenants or agreements binding the unitrust; provided that the Trustee shall take no such action as shall violate the provisions of Code Section 664 and the regulations thereunder.

#### SECTION 8. TRUSTEE COMPENSATION.

Trustee shall not receive compensation for services rendered under this Agreement, although a reasonable fee may be charged by and paid to Trustee or its designee to cover the cost of direct and indirect administrative expenses incurred on behalf of the Unitrust, which fees shall be charged in a manner consistent with Trustee's policy generally applicable to similar Charitable Remainder Trusts. No bond or other security shall be required of Trustee in any jurisdiction.

#### SECTION 9. TAX BENEFITS/PROHIBITED TRANSACTIONS.

In creating this unitrust, Donor intends to obtain the full benefit of any income, gift and estate tax charitable contribution deductions to which he (and his estate) may be entitled under the Code and for the unitrust to qualify as a charitable remainder unitrust under section 664 of the Code and the regulations thereunder. Accordingly, this unitrust shall be interpreted, valued, managed, invested, administered and in all other respects governed consistent with the Donor's intent. Without limiting the generality of the foregoing, the Trustee is prohibited (except for the payment of the unitrust amount to the Donor) from engaging in any act of self-dealing as defined in section 4941(d) of the Code, from retaining any excess business holdings as defined in section 4943(c) of the Code which would subject the unitrust to tax under section 4943 of the Code, from making any investments which would subject the unitrust to tax under section 4944 of the Code, and from making any taxable expenditures as defined in section 4945(d) of the Code. If section 4942 of the Code is deemed applicable to the unitrust by reason of section 508(e) of the Code or otherwise, the Trustee shall make distributions at such time and in such manner as not to subject the unitrust to tax under section 4942 of the Code.

#### SECTION 10. MISCELLANEOUS.

- 10.1 No federal estate taxes, state death taxes or any other estate, death or inheritance taxes ("death taxes") regarding the unitrust shall be allocated to



or be recoverable from the unitrust. The Donor imposes an obligation on his estate to pay any death taxes from sources other than the unitrust and agrees to so provide in his will or in another way. This provision may be enforced by UNIVERSITY OF OREGON FOUNDATION in its capacity as trustee, charitable remainderman, or both.

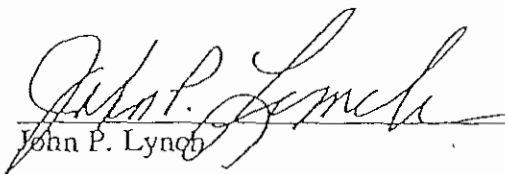
- 10.2 This Agreement is irrevocable.
- 10.3 The Trustee shall have the power to amend this Agreement for the sole purpose of complying with the requirements of section 664 of the Code and Treasury Regulations sections 1.664-1 and 1.664-3.
- 10.4 This Agreement is made pursuant to, and shall be interpreted in accordance with, the laws of the State of Oregon. However, in any conflict with section 664 of the Code, the regulations thereunder or any other existing or hereafter promulgated legislative or Treasury requirements for the qualification of the unitrust and for the Donor's obtaining the full benefit or any income, gift and estate tax charitable deductions to which she/he (and her/his estate) may be entitled, section 664 of the Code, the regulations thereunder and the legislative and Treasury requirements shall govern.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the date first above written.

UNIVERSITY OF OREGON FOUNDATION,  
an Oregon nonprofit corporation

By:   
\_\_\_\_\_  
Jon Jaqua  
Executive Director

TRUSTEE

  
\_\_\_\_\_  
John P. Lynch

DONOR

SCHEDULE "A"

1,000 shares of Pope & Talbot, Inc.	\$ 16,462.50
250 shares of Pope Resources	\$ 28,531.25
Los Angeles Co CA Ctfs Partn Civic Ctr Heating & Refrig Plt Pj Bk Entry D6/1/88 F/C12/1/88 (15,000)	\$ 15,658.50
Southern Calif Pub Pwr Au Pwr Pj Rv Mead Adelanto Pj-A-Ref Ambac B/E Dtd 1/1/94 OID (20,000)	\$ 18,614.57
Southern CA Pub Pwr Auth Pwr Pj Rev Oid Prfoo Bd# Dec 89 07.000% Jul 01 09 (10,000)	\$ 10,922.54
Southern CA Pub Pwr Auth Pwr Pj Rev Oid Unref Bd# Dec 89 07.000% Jul 01 09 (5,000)	\$ 5,230.32
Los Angeles CA Wstwrtr Sys Rev Ser B Prfoo Jun 90 07.150% Jun 01 20 (20,000)	\$ 22,110.94
TOTAL VALUE	\$ 117,530.62

**AGREEMENT MODIFYING CHARITABLE REMAINDER UNITRUST  
AND ENDOWMENT FUND AGREEMENT**

**PARTIES:**

**TRUSTEE:** University of Oregon Foundation (A.K.A. University of Oregon Development Fund)

**DONOR:** John P. (Pat) Lynch

**BENEFICIARIES:**

**Income Beneficiary:** John P. (Pat) Lynch

**Remainder Beneficiaries:** University of Oregon Foundation  
University of Oregon  
Charles H. Lundquist College of Business  
University of Oregon Athletics

**DATE:** November 14, 2000

**RECITALS:**

- A. Pursuant to ORS 128.177-128.185, the Parties desire to modify a certain provision of The Pat Lynch Unitrust, dated June 21, 1996 ("the CRUT") a copy of which is attached hereto as Exhibit "A" and by this reference incorporated herein, and the related Endowment Fund Agreement, dated June 21, 1996 ("the Endowment"), a copy of which is attached hereto as Exhibit B and by reference incorporated herein.
- B. The Parties and the Oregon Attorney General constitute all persons and entities whose signatures are required for this Agreement to be effective pursuant to ORS 128.177(2).

**AGREEMENT:**

NOW, THEREFORE, in consideration of the foregoing recitals that are by this reference expressly made a part hereof, and in consideration of the terms hereinafter contained, the Parties agree as follows:

1. Modification of CRUT

On the Effective Date, the CRUT shall be modified and amended to delete the original Section 6 in its entirety and replace that Section 6 with the following new Section 6:

SECTION 6. DISTRIBUTION ON DEATH OF DONOR

Upon the Donor's death, the Trustee shall distribute all of the then principal and income of the Unitrust other than any amount due to the Donor, to University of Oregon Foundation to be added to and administered and distributed in accordance with that certain Endowment Fund Agreement dated June 21, 1996, as amended November 14, 2000, between Donor and UNIVERSITY OF OREGON FOUNDATION, a copy of which is attached hereto as Exhibit B and by reference incorporated herein. If UNIVERSITY OF OREGON FOUNDATION is not an organization described in each of Section 170(b)(1)(A), Section 170(c), Section 2055(a) and Section 2522(a) of the Code at the time when any principal or income of the unitrust is to be distributed to it, the Trustee shall distribute such principal or income to one or more organizations then so described as the Trustee shall select in its sole discretion and in such shares as it shall determine.

2. Modification of Endowment

The Endowment shall be modified as set forth in Exhibit C attached hereto and by reference incorporated herein.

3. Effective Date

This Agreement shall be effective on the date that all Parties and the Oregon Attorney General have each signed this Agreement and this Agreement has been approved by the Circuit Court of the State of Oregon for Lane County.

4. Tax Consequences, Indemnification and Hold Harmless

Donor accepts sole responsibility for tax consequences, if any, that result from the modification of the CRUT and the Endowment. Further, Donor agrees to defend, indemnify and hold harmless the Foundation, the University and all other parties to this Agreement from and against any and all claims, demands, losses, actions, causes of action, damages and liabilities of every kind and description related to or arising by reason of the modification of the CRUT and the Endowment as herein described.

5. Number, Gender and Captions

As used herein, the singular shall include the plural and the plural the singular, as the context requires. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this Agreement.

6. Counterparts

This Agreement has been prepared and may be executed in multiple counterparts, each of which shall constitute an original. Each party may execute a separate counterpart, all of which when assembled shall constitute this Agreement, fully executed.

7. Original Agreement

The CRUT and the Endowment and each term and provision thereof shall remain in full force and effect, except as herein modified, amended or restated.

8. Entire Agreement

This Agreement and the exhibits hereto constitute the final written expression of all terms of the CRUT and the Endowment and when read together they constitute the complete and exclusive statement of those terms.

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement on the date set opposite their respective signatures below.

TRUSTEE

University of Oregon Foundation

By Karena Kreft  
Karen Kreft, Executive Director

27 November 2000  
Date

DONOR

John P. Lynch  
John P. Lynch

Nov 14, 2000  
Date

BENEFICIARIES

Income Beneficiary

John P. Lynch  
John P. Lynch

Nov 14, 2000  
Date

Remainder Beneficiaries

University of Oregon Foundation

By Karena Kreft  
Karen Kreft, Executive Director

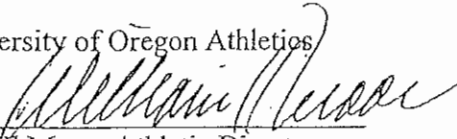
27 November 2000  
Date

University of Oregon

By Dave Frohnmayer  
Dave Frohnmayer/President

11/20/2000  
Date

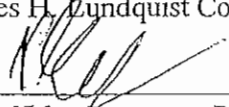
University of Oregon Athletics

By   
Bill Moos, Athletic Director

Date

11/16/00

Charles H. Lundquist College of Business

By   
Philip Romero, Dean

Date

11/20/00

ORS 128.135(2) and 128.177(2)(d) state that, in order for an agreement modifying a charitable trust subject to the enforcement or supervisory powers of the state or the Attorney General under ORS 128.610 to 128.750 to be effective, the Attorney General for the State of Oregon must approve the agreement. The CRUT is an agreement subject to that requirement. The foregoing Agreement Modifying Charitable Remainder Unitrust is hereby approved.

ATTORNEY GENERAL

By Ross L. Laybourn  
Ross Laybourn, Assistant Attorney General

Date

2/6/01

EXHIBIT A

CHARITABLE REMAINDER UNITRUST

THE PAT LYNCH UNITRUST

UNITRUST AGREEMENT made this 21<sup>st</sup> day of June, 1996, between John P. Lynch, whose address is P.O. Box 6174, Santa Rosa, California, 95406-0174, (hereinafter called the "Donor") and UNIVERSITY OF OREGON FOUNDATION, an Oregon nonprofit corporation, located at Eugene, Oregon, (hereinafter called the "Trustee") for the purpose of creating a charitable remainder unitrust (within the meaning of Rev. Proc. 90-31 and section 664(d)(2)) of the Internal Revenue Code of 1986, as amended (the "Code") for the lifetime benefit of Donor. The trust created by this Agreement shall be known as the "Pat Lynch Unitrust".

SECTION 1. TRANSFER OF PROPERTY.

The Donor has transferred and delivered to the Trustee the property described in the annexed Schedule "A". This property and all receipts of every kind shall be managed and invested by the Trustee as a single fund (hereinafter called the "unitrust").

SECTION 2. TRUST PAYMENTS.

The Trustee shall pay to the Donor (in cash, in kind, or partly in each) in each taxable year of the unitrust during his life a unitrust amount equal to six percent (6%) of the net fair market value of the trust assets valued as of the first day of each taxable year of the unitrust (decreased as provided in Section 3 in the case where the taxable year is a short taxable year or is the taxable year in which the Donor dies and increased as provided in Section 4 in the case where there are additional contributions in the taxable year). The unitrust amount shall be paid in equal quarterly installments (on the last day of March, June, September and December, with the first installment to be on the last day of the month of June, 1996) from income and, to the extent income is insufficient, from principal. Any income of the unitrust for a taxable year in excess of the unitrust amount shall be added to principal. Notwithstanding any existing or hereafter enacted state law, no amount other than the unitrust amount may be paid to or for the use of any person other than an organization described in each of section 170(b)(1)(A), section 170(c), section 2055(a) and section 2522(a) of the Code. However, an amount shall not be deemed to be paid to or for the use of any person other than an organization described in the aforesaid Code sections if the amount is transferred for full and adequate consideration.

SECTION 3. TAXABLE YEARS.

The first taxable year of the unitrust begins with the date of this Agreement and shall end on December 31, 1996. Subsequent taxable years shall be on a calendar year basis. In the case of a taxable year which is for a period of less than 12 months (other than the taxable year in which the Donor dies), the unitrust amount which must be distributed under Section 2 shall be such amount multiplied by a fraction the numerator of which is the number of days in the taxable year of the unitrust and the denominator of which is 365 (366 if February 29 is a day included in the numerator). In the case of the taxable year in which the Donor dies, the unitrust amount which must be distributed under Section 2 shall be such amount multiplied by a fraction the numerator of which is the number of days in the period beginning on the first day of such taxable year and ending on the date of the Donor's

death and the denominator of which is 365 (366 if February 29 is a day included in the numerator). Notwithstanding the foregoing, the obligation of the Trustee to pay the unitrust amount shall terminate with the regular quarterly installment next preceding the death of the Donor.

#### SECTION 4. ADDITIONAL CONTRIBUTIONS.

The Donor and others may, from time to time, add property acceptable to the Trustee to the unitrust.

- 4.1 If any additional contributions are made to the unitrust after the initial contribution set forth in Schedule "A", the unitrust amount for the taxable year in which the assets are added to the trust shall be six percent (6%) of the sum of (a) the net fair market value of the trust assets (excluding the assets so added and any income from, or appreciation on, such assets), and (b) that proportion of the value of the assets so added that was excluded under (a) which the number of days in the period which begins with the date of contribution and ends with the earlier of the last day of the taxable year or the Donor's death bears to the number of days in the period which begins on the first day of such taxable year and ends with the earlier of the last day in such taxable year or the Donor's death. The assets so added shall be valued at the time of contribution.
- 4.2 If any additional contribution is made by Will, the obligation to pay the unitrust amount with respect to such additional contribution shall commence with the date of death of the person under whose Will the additional contribution is made, but payment of such unitrust amount may be deferred from such date of death to the end of the taxable year of the unitrust in which occurs the complete funding of the additional contribution. Within a reasonable period after such time, the Trustee shall pay, in the case of an underpayment, or shall receive from the Donor, in the case of an overpayment, the difference between any unitrust amounts actually paid to the Donor, plus interest on such amounts computed at the rate of interest prescribed in the Federal Income Tax Regulations (Treasury Regulations) under section 664 of the Code, compounded annually, and the unitrust amounts payable. The unitrust amounts payable shall be retroactively determined by using the unitrust's taxable year, valuation method and valuation date and following the rules specified in section 1.664-1(a)(5)(ii) of the Treasury Regulations. Any payments required to be made because of an underpayment shall be paid to the Donor or his estate. Any repayments required to be made because of an overpayment shall be repaid by Donor or his estate.

#### SECTION 5. DETERMINATION OF NET FAIR MARKET VALUE.

- 5.1 If the net fair market value of the unitrust assets is incorrectly determined by the Trustee for any taxable year, then within a reasonable period after the final determination of the correct value, the Trustee shall pay to the Donor in the case of an undervaluation or shall receive from the Donor in the case of an overvaluation an amount equal to the difference between the unitrust amount properly payable and the unitrust amount actually paid.
- 5.2 In computing the net fair market value of the unitrust assets there shall be taken into account all assets and liabilities without regard to whether



particular items are taken into account in determining the income of the unitrust. All determinations of the unitrust's net fair market value shall be in accordance with generally accepted fiduciary accounting principles and any United States Treasury requirements governing charitable remainder unitrusts. In any conflict Treasury requirements shall prevail over generally accepted fiduciary accounting principles and any inconsistent provisions of this Agreement.

#### SECTION 6. DISTRIBUTION ON DEATH OF DONOR.

Upon the Donor's death, the Trustee shall distribute all of the then principal and income of the unitrust, other than any amount due to the Donor, to UNIVERSITY OF OREGON FOUNDATION to be added to and administered and distributed in accordance with that certain endowment fund agreement dated June \_\_\_\_, 1996, between Donor and UNIVERSITY OF OREGON FOUNDATION, which agreement establishes the Pat Lynch Endowed Scholarship Fund for Women's Golf and the Pat Lynch Endowed Fund for Business. If UNIVERSITY OF OREGON FOUNDATION is not an organization described in each of section 170(b)(1)(A), section 170(c), section 2055(a) and section 2522(a) of the Code at the time when any principal or income of the unitrust is to be distributed to it, the Trustee shall distribute such principal or income to one or more organizations then so described as the Trustee shall select in its sole discretion and in such shares as it shall determine.

#### SECTION 7. TRUSTEE POWERS.

In addition to the powers conferred upon it by law, Trustee is authorized to:

- 7.1 Retain the property described in Schedule "A," or may sell the property and invest and reinvest the unitrust in any kind of property without diversification as to kind or amount and without regard to the limitations imposed by law on investments. Nothing in this Agreement shall be construed to restrict the Trustee from investing the unitrust assets in a manner which could result in the annual realization of a reasonable amount of income or gain from the sale or disposition of trust assets.
- 7.2 Sell, exchange or otherwise dispose of any unitrust asset at either public or private sale, for cash or on credit; to exchange any such property and to grant options for the purchase thereof without any limitation on the period of any such option.
- 7.3 Consent to and participate in, or to oppose, any foreclosure, liquidation or plan of reorganization, consolidation, merger, combination or other similar plan and to consent to any contract, lease, mortgage, purchase, sale or other action by any other corporation pursuant to such plan.
- 7.4 Deposit any unitrust asset with any protective, reorganizational or similar committee, to delegate discretionary power thereto, to pay part of its expenses and compensation and any assessments levied with respect to such asset.
- 7.5 Exercise all conversion, subscription, voting and other rights of whatsoever nature pertaining to any such unitrust asset and to grant proxies, discretionary or otherwise, with respect thereto.

- 7.6 Extend the time of payment of any obligation held hereunder and to compromise, settle or submit to arbitration or to release any claim in favor of or against any unitrust asset.
- 7.7 Register and hold any unitrust asset in the name of a nominee and the liability of the Trustee shall be neither increased nor decreased thereby.
- 7.8 Contract with independent investment advisors, investment counsel or managers and to pay reasonable and customary fees in connection with any such contract.
- 7.9 For investment purposes, commingle the unitrust assets with the assets of other charitable remainder trusts managed by Trustee or with the general investment assets of the University of Oregon Foundation.
- 7.10 Do all such acts, take all such proceedings and exercise all such rights and privileges, although not hereinbefore specifically mentioned with respect to any unitrust asset as if the absolute owner thereof and in connection therewith to make, execute and deliver any instruments and to enter into any covenants or agreements binding the unitrust; provided that the Trustee shall take no such action as shall violate the provisions of Code Section 664 and the regulations thereunder.

#### SECTION 8. TRUSTEE COMPENSATION.

Trustee shall not receive compensation for services rendered under this Agreement, although a reasonable fee may be charged by and paid to Trustee or its designee to cover the cost of direct and indirect administrative expenses incurred on behalf of the Unitrust, which fees shall be charged in a manner consistent with Trustee's policy generally applicable to similar Charitable Remainder Trusts. No bond or other security shall be required of Trustee in any jurisdiction.

#### SECTION 9. TAX BENEFITS/PROHIBITED TRANSACTIONS.

In creating this unitrust, Donor intends to obtain the full benefit of any income, gift and estate tax charitable contribution deductions to which he (and his estate) may be entitled under the Code and for the unitrust to qualify as a charitable remainder unitrust under section 664 of the Code and the regulations thereunder. Accordingly, this unitrust shall be interpreted, valued, managed, invested, administered and in all other respects governed consistent with the Donor's intent. Without limiting the generality of the foregoing, the Trustee is prohibited (except for the payment of the unitrust amount to the Donor) from engaging in any act of self-dealing as defined in section 4941(d) of the Code, from retaining any excess business holdings as defined in section 4943(c) of the Code which would subject the unitrust to tax under section 4943 of the Code, from making any investments which would subject the unitrust to tax under section 4944 of the Code, and from making any taxable expenditures as defined in section 4945(d) of the Code. If section 4942 of the Code is deemed applicable to the unitrust by reason of section 508(e) of the Code or otherwise, the Trustee shall make distributions at such time and in such manner as not to subject the unitrust to tax under section 4942 of the Code.

#### SECTION 10. MISCELLANEOUS.

- 10.1 No federal estate taxes, state death taxes or any other estate, death or inheritance taxes ("death taxes") regarding the unitrust shall be allocated to

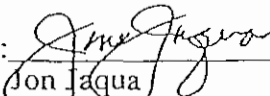
or be recoverable from the unitrust. The Donor imposes an obligation on his estate to pay any death taxes from sources other than the unitrust and agrees to so provide in his will or in another way. This provision may be enforced by UNIVERSITY OF OREGON FOUNDATION in its capacity as trustee, charitable remainderman, or both.

- 10.2 This Agreement is irrevocable.
- 10.3 The Trustee shall have the power to amend this Agreement for the sole purpose of complying with the requirements of section 664 of the Code and Treasury Regulations sections 1.664-1 and 1.664-3.
- 10.4 This Agreement is made pursuant to, and shall be interpreted in accordance with, the laws of the State of Oregon. However, in any conflict with section 664 of the Code, the regulations thereunder or any other existing or hereafter promulgated legislative or Treasury requirements for the qualification of the unitrust and for the Donor's obtaining the full benefit or any income, gift and estate tax charitable deductions to which she/he (and her/his estate) may be entitled, section 664 of the Code, the regulations thereunder and the legislative and Treasury requirements shall govern.

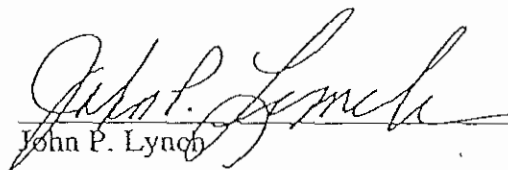
IN WITNESS WHEREOF, the parties hereto have executed this Agreement the date first above written.

UNIVERSITY OF OREGON FOUNDATION,  
an Oregon nonprofit corporation

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

  
Jon Jaqua  
Executive Director

TRUSTEE

  
John P. Lynch

DONOR

SCHEDULE "A"

1,000 shares of Pope & Talbot, Inc.	\$ <u>16,462.50</u>
250 shares of Pope Resources	\$ <u>28,531.25</u>
Los Angeles Co CA Ctfs Partn Civic Ctr Heating & Refrig Plt Pj Bk Entry D6/1/88 F/C12/1/88 (15,000)	\$ <u>15,658.50</u>
Southern Calif Pub Pwr Au Pwr Pj Rv Mead Adelanto Pj-A-Ref Ambac B/E Dtd 1/1/94 OID (20,000)	\$ <u>18,614.57</u>
Southern CA Pub Pwr Auth Pwr Pj Rev Oid Prfoo Bd# Dec 89 07.000% Jul 01 09 (10,000)	\$ <u>10,922.54</u>
Southern CA Pub Pwr Auth Pwr Pj Rev Oid Unref Bd# Dec 89 07.000% Jul 01 09 (5,000)	\$ <u>5,230.32</u>
Los Angeles CA Wstwtr Sys Rev Ser B Prfoo Jun 90 07.150% Jun 01 20 (20,000)	\$ <u>22,110.94</u>
TOTAL VALUE	\$ <u>117,530.62</u>

EXHIBIT B

UNIVERSITY OF OREGON FOUNDATION  
ENDOWMENT FUND(S) AGREEMENT

The Pat Lynch Endowed Scholarship for Women's Golf  
and  
The Pat Lynch Endowed Fund for Business

Whereas the University of Oregon Foundation will receive a contribution of assets from J.P. "Pat" Lynch or the estate of J.P. "Pat" Lynch, given with the intent of establishing two perpetual endowment funds ("Funds") to provide support for the University of Oregon's Charles H. Lundquist College of Business and for women's golf;

Therefore, the University of Oregon Foundation ("Foundation") shall create two perpetual endowment funds and the income from said endowment funds shall be for the following use and purposes:

**Gift Purposes and Conditions**

1. The first \$150,000 received shall be segregated and set aside to perpetually endow a scholarship for the women's golf program and shall be known as the Pat Lynch Endowed Scholarship for Women's Golf.
2. Assets received in excess of the initial \$150,000 shall be used to create a separate endowment for the benefit of the Charles H. Lundquist College of Business. Income from said endowment shall be used at the discretion of the Dean of the College. This endowment shall be known as the Pat Lynch Endowed Fund for Business.

**Financial and Administrative Terms**

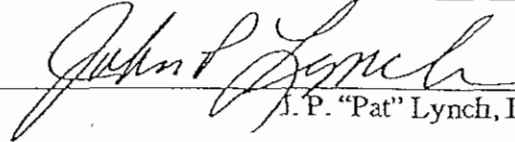
1. The Funds shall be entered on the books and records of the Foundation. Additions to the Funds in any form acceptable to the Foundation may be made at any time by any person or entity. Such additions shall thereafter be subject in all respects to the terms, provisions and conditions of this Agreement. For its services in holding and managing the Funds, a fee not to exceed the lowest such fee charged will be assessed annually and paid to the Foundation to cover the cost of investment, administrative, and fund raising services provided by the Foundation.
2. All or any part of the Funds may be invested separately or jointly as a part of a common trust investment Funds. The Funds shall be permanently endowed and only the net income thereof and so much of the principal appreciation as the Foundation may deem prudent shall be provided annually for the uses and purposes specified in this Agreement.
3. Any net income or expendable principal appreciation not utilized in any given year may either be retained for expenditure in a future year or added to the principal of the Funds, as determined by the Director of Athletics with respect to the Pat Lynch Endowed Scholarship for Women's Golf or the Dean of the Charles H. Lundquist College of Business with respect to the Pat Lynch Endowed Fund for Business, after consulting with the Foundation.
4. If at some future time a change in circumstances should render the designated purposes of the Funds no longer practical then and only then, the UO Foundation Board of Trustees, in agreement with the UO Athletic Director or the Dean of the Charles H. Lundquist College of

Business shall use the net income and expendable principal appreciation, but not the principal of the Funds for the closest appropriate purposes, retaining the name of the Funds, with due consideration to the Donor's special interest in women's golf and business.

IN WITNESS WHEREOF, the parties to this agreement have subscribed their names hereto:

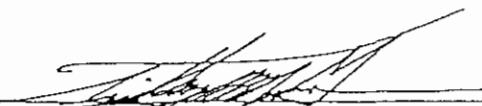
DATED THIS 31<sup>ST</sup> DAY OF

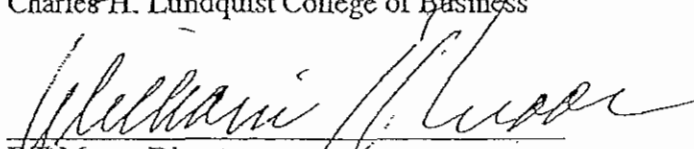
JUNE 1996

  
\_\_\_\_\_  
J.P. "Pat" Lynch, Donor

APPROVED THIS 27 DAY OF

June, 1996

  
\_\_\_\_\_  
Timothy W. McGuire, Dean  
Charles H. Lundquist College of Business

  
\_\_\_\_\_  
Bill Moos, Director  
University of Oregon Athletics

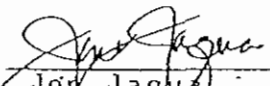
  
\_\_\_\_\_  
Jon Jaqua, Executive Director  
University of Oregon Foundation

EXHIBIT C

AMENDMENT TO ENDOWMENT FUNDS AGREEMENT

PARTIES:

DONOR: J. P. ("Pat") Lynch

BENEFICIARIES: University of Oregon Foundation ("Foundation")  
University of Oregon  
Charles H. Lundquist College of Business ("College of Business")  
University of Oregon Athletics ("Oregon Athletics")

EFFECTIVE DATE: November 14, 2000

RECITALS:

- A. By written agreement dated June 21, 1996, Donor, Foundation, College of Business, and Oregon Athletics entered into an Endowment Fund(s) Agreement ("Endowment Agreement").
- B. The Parties now wish to amend the Endowment Agreement in its entirety.

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing recitals that are by this reference expressly made a part hereof, and in consideration of the terms hereinafter contained, the Parties agree as follows:

1. Amendment to Endowment Agreement

Upon the Effective Date of this Agreement, the Endowment Agreement shall read as follows:

UNIVERSITY OF OREGON FOUNDATION  
ENDOWMENT FUNDS AGREEMENT

The Pat Lynch Endowed Fund for the College of Business  
and  
The Pat Lynch Endowed Fund for Women's Golf

Whereas the University of Oregon Foundation ("Foundation") has received and will in the future receive contributions of assets from J.P. "Pat" Lynch or the estate of J.P. "Pat" Lynch given with the intent of establishing three perpetual endowment funds ("the Funds"), one to provide scholarship support for the College of Business, one to

provide scholarship support for the University of Oregon's women's golf program, and one to provide general support for the College of Business;

Therefore, the Foundation shall create the Mike Lynch Memorial Scholarship Fund, the Pat Lynch Endowed Fund for Women's Golf and the Pat Lynch Endowed Fund for Business.

1. Allocation of Gifts:

1.1 The first \$ 125,000 contributed by the Donor to the Foundation shall be allocated to an endowment fund, to be known as the Mike Lynch Memorial Scholarship Fund. The scholarship will be awarded to a junior or senior who has been accepted into the Charles H. Lundquist College of Business, with preference given to a student of junior standing. It is the Donor's intent that the recipient receives the scholarship during both the junior and senior years as long as the student continues to meet the qualifications set forth in paragraph 2.1. The scholarship shall be administered by the Charles H. Lundquist College of Business.

1.2 The next \$150,000.00 contributed by the Donor to the foundation shall be allocated to the Pat Lynch Endowed Fund for Women's Golf.

1.3 All remaining funds contributed by the Donor to the Foundation shall be allocated to the Pat Lynch Endowed Fund for the Charles H. Lundquist College of Business.

2. Gift Purposes and Conditions:

2.1 Distributions from the Mike Lynch Memorial Scholarship Fund shall be subject to the following eligibility requirements:

a. Minimum grade point average of 3.25.

b. Student is enrolled as a business major with an emphasis in marketing and is interested in a career in marketing.

c. Student has well rounded and diverse interests including, but not limited to, involvement in the community or university, membership in clubs and organizations, prior part or full time employment and/or extensive volunteer experience.

d. Preference will be given to students who have graduated from an Oregon high school.

2.2 Distributions from the Pat Lynch Endowed Fund for Women's Golf shall be used for funding a scholarship for one or more participants on the women's golf team as determined by the Director of Athletics.



2.3 Distributions from the Pat Lynch Endowed Fund for Business shall be for such uses and purposes as are determined at the discretion of the Dean of the Lundquist College of Business.

3. **Financial and Administrative Terms:**

3.1 The Funds shall be entered on the books and records of the Foundation. Additions to the Funds in any form acceptable to the Foundation may be made at any time by any person or entity. Such additions shall thereafter be subject in all respects to the terms, provisions and conditions of this Agreement. For its services in holding and managing the Funds, a fee not to exceed the lowest such fee charged will be assessed annually and paid to the Foundation to cover the cost of investment; administrative, and fund raising services provided by the Foundation.

3.2 All or any part of the Funds may be invested separately or commingled with other investment assets of the Foundation. The Funds shall be permanently endowed and only so much of the net income and principal appreciation of such Funds as the Foundation may deem prudent shall be provided annually for the uses and purposes specified in this Agreement.

3.3 Any expendable net income or principal appreciation not utilized in any given year may either be retained for distribution and expenditure in a future year or added to the principal of the respective Fund, as determined by the Director of Athletics with respect to the endowed scholarship fund for women's golf and by the Dean of the College of Business with respect to the endowed fund for business, after consulting with the Foundation.

3.4 If at some future time a change in circumstances should render the designated purpose of one or more of the Funds no longer practical then and only then, the UO Foundation Board of Trustees, in agreement with the Dean of the College of Business or the Director of Athletics, as the case may be, shall use the net income and expendable principal appreciation, but not the principal of the Funds for the closest appropriate purposes, retaining the name of the Fund(s), with due consideration to the Donor's special interests as expressed herein.

3.5 The endowments hereby created shall be managed in accordance with the Uniform Management of Institutional Funds Act as adopted by the State of Oregon.

2. Effective Date

This Agreement shall be effective on the date it has been signed by all parties and it has been approved by the Oregon Attorney General.

IN WITNESS WHEREOF, the parties to this Agreement have subscribed their names hereto this 14th day of November, 2000.

DONOR

J.P. "Pat" Lynch  
J. P. "Pat" Lynch

Nov 14, 2000  
Date

BENEFICIARIES

Foundation

By Karena Kreft  
Karen Kreft, Executive Director

27 November 2000  
Date

University of Oregon

By Dave Frohmayer  
Dave Frohmayer, President

Nov. 20, 2000  
Date

College of Business

By Philip Romero  
Philip Romero, Dean

11/20/00  
Date

Oregon Athletics

By Bill Moos  
Bill Moos, Athletic Director

11/16/00  
Date

2

AGREEMENT RENOUNCING PARTIAL INCOME INTEREST

AMONG: JOHN P. LYNCH ("Donor")
AND: UNIVERSITY OF OREGON FOUNDATION, an Oregon nonprofit corporation ("Trustee")
EFFECTIVE DATE: December 31, 2000.

RECITALS:

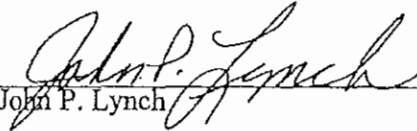
- A. By Charitable Remainder Unitrust Agreement dated June 21, 1996 between Donor and Trustee, as amended November 14, 2000 ("Unitrust Agreement"), Donor created a charitable remainder unitrust ("Unitrust"), under the terms and provisions of which he retained for himself the right to payment of the unitrust amount for life and upon his death, the then trust assets of the Unitrust were to be paid to the University of Oregon Foundation ("Charitable Beneficiary"), for restricted purposes.
B. Effective as of December 31, 2000, Donor desires to irrevocably terminate his rights to receive payments of any further unitrust amounts from an amount equal to Seventy Thousand Dollars (\$70,000) of the Unitrust's principal assets and by doing so accelerate the remainder interest of the Charitable Beneficiary as to such amount and make an immediate gift of such amount from the principal assets of the Unitrust to the Charitable Beneficiary.

AGREEMENT:

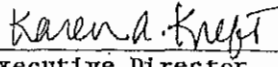
NOW THEREFORE, in consideration of the foregoing recitals, which are by reference incorporated herein, and the terms, covenants and conditions hereinafter set forth the parties hereto agree as follows:

Effective as of December 31, 2000, Donor irrevocably renounces any and all rights to any future payment of the unitrust amount from a portion of the Unitrust's principal assets, having a value of \$70,000, and does hereby assign, transfer and make an immediate gift of such amount to the Charitable Beneficiary for the uses and purposes described in the Unitrust Agreement, as amended. It is the intention of Donor that, by reason of this assignment and gift, he shall have no further right, title, or interest in the Unitrust assets transferred to the Charitable Beneficiary, that the Charitable Beneficiary will hereafter be the sole income and remainder beneficiary of the Unitrust as to such assets, that the income and remainder interest of the Charitable Beneficiary will merge and result in termination of the Unitrust as to such assets; and that such assets will be

designated for the Pat Lynch Endowed Fund for the Charles H. Lundquist College of Business in accordance with the Endowment Fund Agreement dated June 21, 1996, as amended.

  
John P. Lynch \_\_\_\_\_  
"Donor"

UNIVERSITY OF OREGON FOUNDATION,  
an Oregon nonprofit corporation

By:   
Its: Executive Director

"Trustee"

ACCEPTANCE

UNIVERSITY OF OREGON FOUNDATION, an Oregon nonprofit corporation, as the Charitable Beneficiary referenced above, hereby acknowledges receipt of and accepts the foregoing assignment.

DATED the 14th day of November, 2000.

UNIVERSITY OF OREGON FOUNDATION,  
an Oregon nonprofit corporation

By:   
Its: Executive Director

This information is PRIVILEGED and CONFIDENTIAL property of the University of Oregon Foundation.  
Any unauthorized reproduction, dissemination or disclosure is prohibited.



## **Gift Agreement**

### **Pat Lynch Faculty Excellence Fund at the Lundquist College of Business**

The University of Oregon Foundation (Foundation) anticipates receiving contributions given with the intent of establishing the Pat Lynch Faculty Excellence Fund at the Lundquist College of Business (Fund) for the benefit of the University of Oregon, to provide support for the Charles H. Lundquist College of Business for the purpose as described below.

Upon acceptance of the gift, the Foundation shall establish the Pat Lynch Faculty Excellence Fund at the Lundquist College of Business. Should the gift(s) at the time of receipt of the mature Charitable Remainder Trust and estate distribution be sufficient to establish a permanent endowment, the Foundation shall establish the Fund as a permanent endowment and may appropriate for expenditure or accumulate so much of the Fund as it determines is prudent for the uses, benefits, and purposes for which the Fund is established. If at the time that the gift is received the amount is insufficient to establish an endowed fund, then the Foundation shall establish the Fund as a currently spendable (non-endowed) fund which shall be used for the purposes set forth in this agreement.

#### **Fund Purpose**

The fund will be used to attract and retain faculty in the Charles H. Lundquist College of Business as determined by the Dean of the Charles H. Lundquist College of Business at the University of Oregon.

The expenditures from the Fund must be in accordance with all University policies and procedures.

#### **Foundation Administrative Provisions**

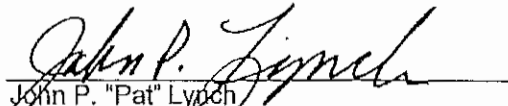
1. The Foundation may assess a one-time fee, currently 5%, to be used for fundraising and management purposes.
2. A reasonable fee, currently 1%, may be assessed annually on endowed funds to cover the costs of fundraising and administration of the Fund.
3. Any distributions of endowed funds, not expended in a given year may be reinvested in the Fund, as determined by the Foundation.
4. For investment purposes, all or any part of an endowed Fund may be merged with the other investment assets of the Foundation and invested at the discretion of the Board of Trustees of the Foundation. All or any part of an expendable fund may be merged with the other expendable investment assets of the Foundation and invested at the discretion of the Board of Trustees of the Foundation.
5. Additions to the Fund in the form of assets acceptable to the Foundation may be made at any time by any persons and shall thereafter be subject in all respects to the terms, provisions, and conditions of this Agreement.

This information is PRIVILEGED and CONFIDENTIAL property of the University of Oregon Foundation.  
Any unauthorized reproduction, dissemination or disclosure is prohibited.

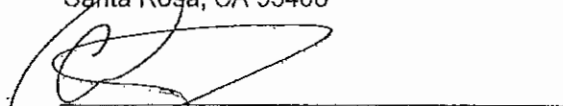
6. If as determined by the President of the University of Oregon or the President's designee, a change of circumstances should render the designated purpose of the perpetual endowment or the unused portion of a current fund unlawful or no longer practical or reasonably achievable or beneficial to the University of Oregon, then the Foundation and the University, after consulting with the living donors, if any, may use the remaining balance of the Fund as they may deem prudent to further the objectives and purposes of the University, giving due consideration to the retention of the Fund name and the purpose of the Fund expressed above.
7. The Fund shall be managed in accordance with applicable laws of the State of Oregon.
8. This Agreement signed by all parties constitutes the final written expression of all the terms of this Agreement and is a complete and exclusive statement of those terms. Any and all representations, promises, warranties or statements by any agent of the Donors, the University or the Foundation that differ in any way from the terms of this Agreement shall be given no force or effect.

In witness whereof, the parties to this Agreement have subscribed their names hereto:

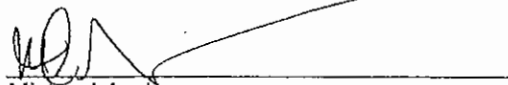
July 10, 2012  
DATE

  
John P. "Pat" Lynch  
PO Box 6174  
Santa Rosa, CA 95406

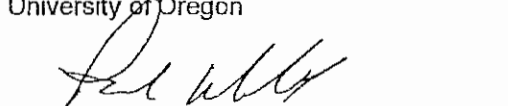
7/24/12  
DATE

  
Cornelis A. "Kees" de Kluyver, Dean  
Charles H. Lundquist College of Business  
University of Oregon

07/25/12  
DATE

  
Michael Andreasen  
Vice President, University Development  
University of Oregon

7/26/2012  
DATE

  
Paul Weinhold  
President/CEO  
University of Oregon Foundation

Please make checks payable to the University of Oregon Foundation,  
or pay online at <https://supportuo.uofoundation.org>. Thank you for your gift.



August 29, 2012

Ms. Susan A. Bower  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue, # 410  
Portland, Oregon 97201

Re: University of Oregon Foundation  
Pat Lynch Charitable Remainder Unitrust

Dear Susan:

I am enclosing for your review a proposed Agreement Modifying Charitable Remainder Unitrust in the Pat Lynch Charitable Remainder Unitrust (the "CRUT"). This CRUT was established in 1996, with the intent of benefitting the University of Oregon by establishing the Pat Lynch Endowed Scholarship Fund for Women's Golf and the Pat Lynch Endowed Fund for Business.

In 2000, after the death of the Donor's brother Mike, Mr. Lynch requested a modification of the CRUT to amend the endowment agreement establishing the fund to receive the remainder interest of the CRUT. That modification directed the funds to three funds, the two mentioned above plus a new fund, the Mike Lynch Memorial Scholarship Fund. At that same time, Mr. Lynch renounced a partial interest in the CRUT, with the result that the Mike Lynch Memorial Scholarship Fund has already been funded.

Now the parties wish to again modify the endowment fund, this time to direct the remaining funds solely to the Pat Lynch Faculty Excellence Fund at the Lundquist College of Business to be administered in accordance with the fund agreement attached as Exhibit 4 to the modification agreement (as is standard procedure, we have enclosed copies of all the prior documents and the new gift agreement to the Modification Agreement for your review).

*got it  
no more*

The sole Donor has signed the Modification Agreement. Because the history of this CRUT indicates that Mr. Lynch's material purpose is to benefit the University of Oregon, and the gift agreements over time merely reflect the Donor's desired method of benefitting the University of Oregon, we believe that ORS 130.045 applies, and that proposed Modification Agreement constitutes a nonjudicial settlement agreement

**RECEIVED**

AUG 31 2012

DEPARTMENT OF JUSTICE  
PORTLAND LEGAL

**MAILING ADDRESS**

PO Box 1147  
EUGENE OREGON 97440-1147

**OFFICES**

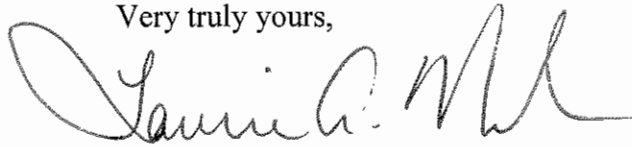
975 OAK STREET | SUITE 800  
EUGENE OREGON 97401-3156

Ms. Susan Bower  
August 29, 2012  
Page - 2

sufficient to satisfy the requirements of ORS Chapter 130. As you know, the UPMIFA provisions in ORS Chapter 128 do not apply to the CRUT during the lifetime of the income beneficiary. For this reason, we do not plan to seek court approval of this modification.

If the Modification Agreement meets with your approval, please sign where indicated and return the originals to us in the enclosed envelope. If you have questions or need additional information please do not hesitate to let me know.

Very truly yours,

A handwritten signature in black ink, appearing to read "Laurie A. Nelson". The signature is fluid and cursive, with a large initial "L" and "N".

Laurie A. Nelson  
[nelson@gleaveslaw.com](mailto:nelson@gleaveslaw.com)

LAN:gdm  
Enclosures

cc: Paul Weinhold (w/o encls.)  
Erika Funk (w/o encls.)  
Thomas P.E. Herrmann (w/o encls.)  
Ian Richardson (w/o encls.)



**GLEAVES  
SWEARINGEN** LLP  
ATTORNEYS AT LAW

June 12, 2012

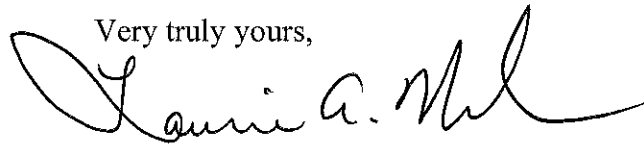
Ms. Susan A. Bower  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue, Suite 410  
Portland, OR 97201

Re: University of Oregon Foundation  
Dr. John Miller Memorial Scholarship Endowment Fund

Dear Susan:

I am pleased to enclose for you a fully executed original of the Non-Judicial Settlement agreement in the Dr. John Miller Memorial Scholarship Endowment Fund. This is the last step in the process. Thank you once again for your assistance.

Very truly yours,



Laurie A. Nelson  
[nelson@gleaveslaw.com](mailto:nelson@gleaveslaw.com)

LAN/gdm

Enclosures

cc: Paul Weinhold (w/ encls.)  
Erika Funk (w/o encls.)  
Tom Herrmann (w/ encls.)  
Jon V. Buerstatte (w/o encls.)  
Ian Richardson (w/o encls.)

**MAILING ADDRESS**

PO Box 1147  
EUGENE OREGON 97440-1147

**OFFICES**

975 OAK STREET | SUITE 800  
EUGENE OREGON 97401-3156

**NON-JUDICIAL SETTLEMENT AGREEMENT  
MODIFICATION OF INSTITUTIONAL FUND**

**Recitals:**

- A. In 1982, The Ben B. Cheney Foundation as Donor/Settlor and the University of Oregon Foundation, an Oregon nonprofit corporation, as Trustee established the Dr. John Miller Memorial Scholarship Endowment Fund through grant proposal and award (the "Fund Agreement").
- B. The original Fund Agreement contemplated support for scholarships for students in the University of Oregon ("UO") wrestling program. Since the wrestling program has been disbanded, the goal is to expand the use to also include UO students in the baseball program. This allows for the possible future return of wrestling to UO, with scholarships once again available to those students.
- C. Pursuant to ORS §130.045(4)(i), "interested persons" may enter into a binding nonjudicial settlement agreement with respect to any matter involving a trust, including the modification of the terms of the trust.
- D. Pursuant to ORS § 128.328(1), governing modification of institutional funds, the terms of an institutional fund may be modified with consent of the donor and the Attorney General.
- E. The interested persons with respect to the Fund are: The Ben B. Cheney Foundation, Donor/Settlor, Paul Weinhold, President/CEO of the University of Oregon Foundation, Trustee, Robert Mullens, Director, Intercollegiate Athletics, University of Oregon, Michael C. Andreasen, Vice President University Development, University of Oregon, and Susan A. Miller, Office of the Attorney General, State of Oregon (collectively "Interested Persons" and individually "Interested Person").

**Agreement**

- 1. The Recitals appearing above and the Fund Agreement are incorporated herein by reference.
- 2. The parties agree that the Fund Agreement shall be modified as provided in the Modification of Fund Agreement attached hereto and incorporated herein by this reference as Exhibit B.
- 3. Except as specifically provided herein, the original Fund Agreement shall remain in full force and effect.

**Waiver**

Each of the undersigned parties hereby waives the notice required by subsection 5 of ORS 130.045 and consent and agree that this non-judicial settlement is effective and binding upon execution of this Agreement pursuant to ORS 130.045, and upon execution of the Modification of Fund Agreement herein, a copy of which is attached hereto as Exhibit B and incorporated herein by this reference.

# Ben B. Cheney Foundation

One Washington Plaza, Suite 1550  
Tacoma, Washington 98402  
(206) 572-2442

December 15, 1982

Mr. Russell R. Picton  
Executive Director  
UNIVERSITY OF OREGON FOUNDATION  
P.O. Box 3346  
Eugene, Oregon 97403

RECEIVED

DEC 17 1982

12-17-82

U of O Foundation

Endowed Wrestling  
Scholarship.

Dear Mr. Picton:

I am pleased to advise you that on December 14, 1982, the Board of Directors of the Cheney Foundation authorized a grant to the UNIVERSITY OF OREGON FOUNDATION, pursuant to your request of November 29, 1982. Enclosed is our check No. 458 in the amount of \$10,000.00.

This grant is made with the understanding that it will be used specifically in conjunction with the establishment of an endowment scholarship fund. We would appreciate receiving a report when this has been accomplished.

Publicity given to a grant acknowledging support by the Cheney Foundation is generally left to the grantee. The Foundation would appreciate receiving a copy of any such material.

In addition, terms of the grant will be as follows:


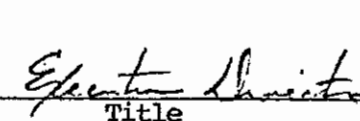
- (1) The grant will be used exclusively for support of the above noted proposal.
- (2) Full and adequate records concerning receipts and expenditures relating to the use of the grant will be kept. These records will be made available to the Foundation upon request at any reasonable time.

If this letter correctly sets forth your understanding of the terms of the grant, will you please countersign this letter in the space provided below, acknowledging receipt of the contribution and acceptance of the grant terms.

Sincerely yours,



Elgin E. Olrogg  
Executive Director

  12/17/82  
Name Title Date

cc: Ron Finley  
Mrs. John Miller

Exhibit A

4. AGENCY DIRECTOR: Name: Mr. Russ Picton, Executive Director  
Address: University of Oregon Foundation  
Post Office Box 3346  
City Eugene State Oregon Zip 97403  
Telephone No. (503) 686-3016

---

5. A. Grant Amount Requested: \$ 10,000.00  
B. Total Project Cost: \$ 10,000.00

---

6. SUMMARY OF BUDGET RELATING TO GRANT REQUEST:

	a. Personnel Compensation	\$ _____
	b. Consultants	_____
	c. Travel	_____
	d. Equipment	_____
	e. Supplies & Operating Expense	_____
	f. Other:	_____
		_____
		_____
		_____
		_____
		_____
		_____
		_____
	Total:	\$ _____

7. IDENTIFY OTHER SOURCES OF FUNDING, EITHER CURRENT OR APPLIED FOR.

Once this endowment is established, we hope to receive donations from wrestling enthusiasts and other friends of Oregon wrestling and Dr. Miller

8. PROPOSED PROJECT PERIOD:

1982 on

From: \_\_\_\_\_ to: \_\_\_\_\_

**Exhibit A**



UNIVERSITY OF OREGON  
FOUNDATION

**Modification of Fund Agreement**

**The Dr. John Miller Memorial Scholarship Endowment Fund**

**Modification of Purpose**

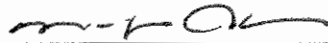
Whereas the fund was established in December 1982 by the awarding of a grant; and

Whereas the wrestling program and the University of Oregon no longer exists and all donors to the fund have agreed to this change in purpose;

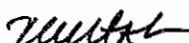
Therefore it is the parties' intent and agreement that the Foundation shall modify the purpose to become as follows:

Income from the Fund shall be used to provide scholarships for full-time undergraduate students who are considered to be outstanding students and outstanding wrestlers and/or baseball athletes.

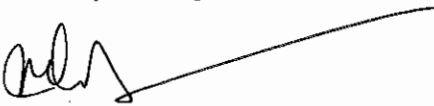
All other terms and conditions of the previous agreement remain in effect.

Signature:   
Bradbury F. Cheney  
Board President and Executive Director  
Ben B. Cheney Foundation, Donor

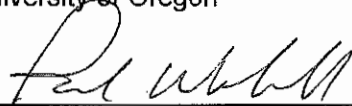
3-2-12  
Date

Signature:   
Robert Mullens  
Director, Intercollegiate Athletics  
University of Oregon

3/11/2012  
Date

Signature:   
Michael Andreasen  
Vice President, University Development  
University of Oregon

3/19/12  
Date

Signature:   
Paul Weinhold  
President/CEO  
University of Oregon Foundation

3/19/2012  
Date

**Exhibit B**



April 30, 2012

Ms. Susan A. Bower  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue, # 410  
Portland, Oregon 97201

Re: University of Oregon Foundation  
Dr. John Miller Memorial Scholarship Endowment Fund

Dear Susan:

I am enclosing for your review a proposed Agreement Modifying Institutional Fund in the Dr. John Miller Memorial Scholarship Endowment Fund. This Fund was established in 1982 by the Ben B. Cheney Foundation. The original purpose was to provide for scholarships for University of Oregon students participating in the wrestling program. The wrestling program is no longer in existence, and the parties wish to broaden the purpose of the Fund to provide for scholarships for baseball athletes in addition to wrestling athletes. Thus, if wrestling returns to the University someday, the scholarship will remain available. In the meantime, the funds will not go to waste. Bradbury F. Cheney, Board President and Executive Director of the Ben B. Cheney Foundation, has signed the Modification Agreement, so we will not need court approval for this modification.

If the Modification Agreement meets with your approval, please sign where indicated and return the originals to us in the enclosed envelope. If you have questions or need additional information please do not hesitate to let me know.

Very truly yours,

Laurie A. Nelson  
[nelson@gleaveslaw.com](mailto:nelson@gleaveslaw.com)

LAN:ghm  
Enclosures

cc: Paul Weinhold (w/o encls.)  
Erika Funk (w/o encls.)  
Thomas P.E. Herrmann (w/o encls.)  
Jon V. Buerstatte (w/o encls.)  
Ian Richardson (w/o encls.)

Phone:  
(541) 686-8833  
Fax:  
(541) 345-2034

975 Oak Street  
Suite 800  
Eugene, Oregon  
97401-3156

Mailing Address:  
P.O. Box 1147  
Eugene, Oregon  
97440-1147

Email:  
[info@gleaveslaw.com](mailto:info@gleaveslaw.com)  
Web-Site:  
[www.gleaveslaw.com](http://www.gleaveslaw.com)

Frederick A. Batson  
Jon V. Buerstatte  
Patricia L. Chapman\*\*  
Michael T. Faulconer\*\*  
Thomas P. E. Herrmann\*  
Dan Webb Howard\*\*  
Cassie K. Jones  
Stephen O. Lane  
William H. Martin\*  
Laura T. Z. Montgomery\*  
Thomas K. N. Moseman  
Laurie A. Nelson  
Ian T. Richardson  
Martha J. Rodman  
Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman

\*Also admitted  
in Washington

\*\*Also admitted  
in California

RECEIVED

MAY 03 2012

DEPARTMENT OF JUSTICE  
PORTLAND LEGAL



May 1, 2012

Ms. Susan A. Bower  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue, # 410  
Portland, Oregon 97201

Re: University of Oregon Foundation  
Donald C. Walker and Norman J. Wiener Research Endowment Fund  
Agreement

Dear Susan:

I am enclosing for your review a proposed Agreement Modifying Institutional Fund in the Donald C. Walker and Norman J. Wiener Research Endowment Fund Agreement. This Fund was established in June of 1993. There were three original purposes of the Fund, only one of which is at issue in this modification. Specifically, the original gift instrument mandated that the student research scholarships be awarded to graduates from two specific Portland schools only.

This restriction has meant that the scholarship cannot always be awarded. Now the parties wish to broaden the purpose under the student research scholarship section to maintain a preference for graduates of Roosevelt or Jefferson High Schools in Portland, but allow the scholarship to be awarded in the event no Roosevelt or Jefferson graduate applies.

Court approval of the modification will be necessary, since one of the original donors has passed away.

If the Modification Agreement meets with your approval, please sign where indicated and return the originals to us in the enclosed envelope. If you have questions or need additional information please do not hesitate to let me know.

Very truly yours,

Laurie A. Nelson  
[nelson@gleaveslaw.com](mailto:nelson@gleaveslaw.com)

LAN:gdm  
Enclosures

Phone:  
(541) 686-8833  
Fax:  
(541) 345-2034

975 Oak Street  
Suite 800  
Eugene, Oregon  
97401-3156

Mailing Address:  
P.O. Box 1147  
Eugene, Oregon  
97440-1147

Email:  
[info@gleaveslaw.com](mailto:info@gleaveslaw.com)  
Web-Site:  
[www.gleaveslaw.com](http://www.gleaveslaw.com)

Frederick A. Batson  
Jon V. Buerstatte  
Patricia L. Chapman\*\*  
Michael T. Faulconer\*\*  
Thomas P. E. Herrmann\*  
Dan Webb Howard\*\*  
Cassie K. Jones  
Stephen O. Lane  
William H. Martin\*  
Laura T. Z. Montgomery\*  
Thomas K. N. Moseman  
Laurie A. Nelson  
Ian T. Richardson  
Martha J. Rodman  
Robert S. Russell  
Douglas R. Schultz  
Malcolm H. Scott  
Joshua K. Smith  
James W. Spickerman

\*Also admitted  
in Washington

\*\*Also admitted  
in California

Ms. Susan Bower

May 1, 2012

Page - 2

cc: Paul Weinhold (w/o encls.)  
Erika Funk (w/o encls.)  
Thomas P.E. Herrmann (w/o encls.)  
Jon V. Buerstatte (w/o encls.)  
Ian Richardson (w/o encls.)



## AGREEMENT MODIFYING INSTITUTIONAL FUND

### PARTIES:

University of Oregon Foundation (A.K.A. University of Oregon Development Fund) (the "Foundation")

Norman J. Wiener, Donor

Michael Moffit, Dean, School of Law, University of Oregon

Michael C. Andreasen, Vice President, University Development, University of Oregon

### RECITALS:

- A. The Parties desire to modify the Donald C. Walker and Norman J. Wiener Research Endowment Fund Agreement, dated June, 1993 (the "Institutional Fund"), a copy of which is attached hereto as Exhibit "A."
- B. Donor Donald C. Walker is deceased. The Parties and the Oregon Attorney General constitute all persons and entities whose signatures are required for this Agreement to be effective pursuant to ORS Chapter 130. Additionally, the approval of the Circuit Court is required.

### AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing recitals that are by this reference expressly made a part hereof, and in consideration of the terms hereinafter contained, the Parties agree as follows:

1. Modification of Institutional Fund

On the Effective Date, the Institutional Fund shall be modified as set forth in Exhibit "B" attached hereto and by this reference incorporated herein.

2. Effective Date

This Agreement shall be effective on the date that all Parties and the Oregon Attorney General have each signed this Agreement and this Agreement has been approved by the Circuit Court of the State of Oregon for Lane County.

3. Number, Gender and Captions

As used herein, the singular shall include the plural and the plural the singular, as the context requires. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this Agreement.

the Attorney General under ORS 128.610 to 128.750 to be effective, the Attorney General for the State of Oregon must consent to the agreement. The Institutional Fund is an agreement that may be subject to that requirement. The Attorney General hereby consents to the foregoing Agreement Modifying Institutional Fund.

ATTORNEY GENERAL

By: Susan A. Bower  
Susan A. Miller, OSB #960960  
Office of the Attorney General  
State of Oregon  
Bower

5/7/12  
Date

- 4) Additions to the Fund in the form of property acceptable to the Foundation may be made at any time, and shall thereafter be subject in all respects to the terms, provisions and conditions of this agreement.
- 5) The endowment fund hereby created shall be and is expressly declared to be perpetual. However, if at some future time a change of circumstances should render the designated purpose of the Fund no longer practical, then, and only then, the Board of Trustees of the Foundation in agreement with the Dean of the School of Law shall use the income, and so much of the appreciation of the Fund as it may deem prudent, but not the principal, to further the objectives and purposes of the University of Oregon with retention of the named fund and giving due consideration to the special interests expressed above.

IN WITNESS WHERE OF, the parties to this agreement have subscribed their names hereto:

DATED THIS 21<sup>st</sup> DAY OF  
June, 1993

Donald C. Walker  
Donald C. Walker  
Donor

Norman J. Wiener  
Norman J. Wiener  
Donor

APPROVED THIS 25 DAY OF  
June, 1993

BY:

Paul Eberle  
Paul Eberle  
Executive Director  
University of Oregon Foundation

Dave Johnsonmayer  
Dean  
School of Law  
University of Oregon

**Exhibit A**



October 31, 2012

Ms. Susan A. Bower  
Charitable Activities Section  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue, Suite 410  
Portland, OR 97201

Re: University of Oregon Foundation  
Donald C. Walker and Norman J. Wiener Research Endowment Fund

Dear Susan:

I am pleased to report that Judge Holland signed the General Judgment for Modification of Institutional Fund on October 30, 2012, in the Donald C. Walker and Norman J. Wiener Research Endowment Fund modification case. I am enclosing a conformed copy of that General Judgment for your records.

Very truly yours,

Laurie A. Nelson  
[nelson@gleaveslaw.com](mailto:nelson@gleaveslaw.com)

LAN/gdm  
Enclosures

cc: Paul Weinhold (w/ encls.)  
Erika Funk (w/o encls.)  
Tom Herrmann (w/ encls.)  
Jon V. Buerstatte (w/o encls.)  
Ian Richardson (w/o encls.)

**MAILING ADDRESS**

PO Box 1147  
EUGENE OREGON 97440-1147

**OFFICES**

975 OAK STREET | SUITE 800  
EUGENE OREGON 97401-3156

FILED  
2012 OCT 30 PM 2:15  
CIRCUIT COURT OF OREGON  
FOR LANE COUNTY

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

In the Matter of the Donald C. Walker and  
Norman J. Wiener Research Endowment Fund

Case No. 52-12-13167

GENERAL JUDGMENT FOR  
MODIFICATION OF  
INSTITUTIONAL FUND

University of Oregon Foundation,  
Petitioner.

This matter having come before the court on the Petition of Petitioner University of Oregon Foundation, an Oregon nonprofit corporation, by and through its President and Chief Executive Officer, Paul Weinhold, for the modification of the Donald C. Walker and Norman J. Wiener Research Endowment Fund, and it appearing to the court from the records and files herein that:

1.

Service was made and perfected by regular mail to the persons entitled to notice as follows:

<u>Name</u>	<u>Date</u>
Susan A. Bower, Assistant Attorney General, State of Oregon	August 2, 2012
Randolph Geller, General Counsel, University of Oregon	August 2, 2012
Norman J. Wiener, Donor	August 2, 2012

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2.

Notice as required by Oregon law has been waived by all persons entitled thereto.

3.

Venue is properly in this court and no other court in this state has acquired jurisdiction in this matter.

4.

Petitioner has obtained the consent of the Attorney General to the modification as required by Oregon law. The Consent and Waiver of Assistant Attorney General Susan A. Bower is filed herewith.

5.

Petitioner has obtained consent to the modification from Randy Geller, General Counsel for the University of Oregon, beneficiary. The Consent and Waiver of Randy Geller is filed herewith.

6.

Petitioner has obtained consent to the modification from Norman J. Wiener, surviving Donor to the institutional fund. The Consent and Waiver of Normand J. Wiener is filed herewith.

7.

Pursuant to ORS 128.328(3), the court may modify a charitable restriction contained in a gift instrument if the restriction is impractical provided the modification is consistent with the charitable purposes expressed in the gift instrument. Modification in this case will allow petitioner to carry out the donors' charitable purposes of providing scholarships to those who might not otherwise qualify by removing the overly restrictive language that hampers administration.

8.

Pursuant to ORS 130.200(2), the court may modify an irrevocable trust if the modification is not inconsistent with a material purpose of the trust. Here, modification is requested so that petitioner can effectively carry out the donor's intent and material purpose of providing scholarships to students who might not qualify for other private financial aid.

NOW, THEREFORE, it is hereby adjudged that a general judgment is entered as follows:

The Donald C. Walker and Norman J. Wiener Research Endowment Fund shall be modified as set forth in Exhibit B of Exhibit 1 attached to the Petition filed herein.

DATED this 30 day of October, 2012.

LS Lauren S. Holland  
Circuit Court Judge

PETITIONER  
University of Oregon Foundation  
360 E. 10<sup>th</sup> Avenue, Suite 202  
Eugene, Oregon 97401-3273

ATTORNEYS FOR PETITIONER  
Laurie A Nelson OSB #074478  
Gleaves Swearingen LLP  
P.O. Box 1147  
Eugene, Oregon 97440-1147  
(541) 686-8833  
(541) 345-2034 (Fax)  
Email: [nelson@gleaveslaw.com](mailto:nelson@gleaveslaw.com)

## CERTIFICATE OF SERVICE

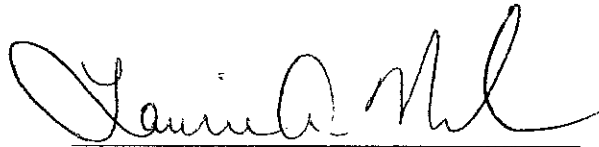
I hereby certify that I served the foregoing General Judgment for Modification of Institutional Fund on the following persons on August 2, 2012, by depositing same in the United States Post Office at Eugene, Oregon, enclosed in a sealed envelope, with postage paid to the address noted below:

Randolph Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Susan A. Bower  
Assistant Attorney General  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue Suite 410  
Portland, OR 97201

Mr. Norman J. Wiener  
c/o Paul Elstone, Director  
UO Donor Relations  
1720 E. 13th, Suite 310  
Eugene, OR 97403-2253

DATED: August 2, 2012.



Laurie A. Nelson OSB # 074478  
Of Attorneys for Petitioner



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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

In the Matter of the Donald C. Walker and Norman  
J. Wiener Research Endowment Fund

Case No. 52-12-13167

University of Oregon Foundation,  
Petitioner.

ACCEPTANCE OF SERVICE  
(Attorney General)

I, Susan A. Bower, Assistant Attorney General for the State of Oregon, Civil Enforcement Division, Charitable Activities, do hereby accept personal and legal service of a true copy of the Petition for Modification of Institutional Fund and Notice of Filing of Petition for Modification of Institutional Fund filed in the above-entitled matter, certified to be such by Laurie A Nelson, lawyer for Petitioner.

DATED this 7<sup>th</sup> day of August, 2012.

*Susan A. Bower*

Susan A. Bower OSB # 960960

Assistant Attorney General for the State of Oregon

STATE OF OREGON )

County of Multnomah )

) ss:

On this \_\_\_ day of August, 2012, the foregoing instrument was personally acknowledged before me by Susan A. Bower, Assistant Attorney General, State of Oregon.



*Toni C. Kemple*

Notary Public for Oregon

My commission expires: 8/27/15

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5 IN THE CIRCUIT COURT OF THE STATE OF OREGON  
6 FOR LANE COUNTY  
7

8 In the Matter of the Donald C. Walker and  
9 Norman J. Wiener Research Endowment Fund

Case No. 52-12-13167

10 University of Oregon Foundation,  
11 Petitioner.

CONSENT AND WAIVER  
OF ATTORNEY GENERAL

12 I, Susan A. Bower, Assistant Attorney General for the State of Oregon, Civil  
13 Enforcement Division, Charitable Activities, have read the Petition for Modification of  
14 Institutional Fund herein. I approve the contents thereof, waive receipt of any required statutory  
15 notice and the right to object to the modification, and consent to the immediate entry of a  
16 judgment as requested in the Petition.

17 DATED this 7th day of August, 2012.

18 

19 Susan A. Bower OSB# 960960  
20 Assistant Attorney General for the State of Oregon  
21  
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**GLEAVES  
SWEARINGEN** LLP  
ATTORNEYS AT LAW

(541) 686-8833 | Fax (541) 345-2034 | [gleaveslaw.com](http://gleaveslaw.com)

Laurie A. Nelson  
[nelson@gleaveslaw.com](mailto:nelson@gleaveslaw.com)

August 2, 2012

Susan A. Bower  
Assistant Attorney General  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue Suite 410  
Portland, OR 97201

Re: University of Oregon Foundation  
Donald C. Walker and Norman J. Wiener Research Endowment Fund

Dear Susan:

I am enclosing for your review certified true copies of the Petition for Modification of Institutional Fund, the Notice of Filing of Petition for Modification of Institutional Fund, and proposed General Judgment for Modification of Institutional Fund in the Donald C. Walker and Norman J. Wiener Research Endowment Fund institutional fund modification proceeding which we have filed on behalf of the University of Oregon Foundation.

If the documents meet with your approval, we would appreciate your signing and returning to us in the enclosed return envelope the Acceptance of Service and Consent and Waiver. We will then file the Acceptances and Consents received from you, from the surviving donor, Norman J. Wiener, and from Randy Geller with the court and submit the General Judgment for the judge's signature.

Thank you for your assistance in this matter.

Very truly yours,

Laurie A. Nelson

LAN:ghm  
Enclosure

cc: Randy Geller (w/o encls.)  
Paul Weinhold (w/ encls.)  
Erika Funk (w/o encls.)  
Tom Herrmann (w/ encls.)  
Jon V. Buerstatte (w/o encls.)  
Ian Richardson (w/o encls.)

**RECEIVED**

AUG 06 2012

DEPARTMENT OF JUSTICE  
PORTLAND LEGAL

**MAILING ADDRESS**

PO Box 1147  
EUGENE OREGON 97440-1147

**OFFICES**

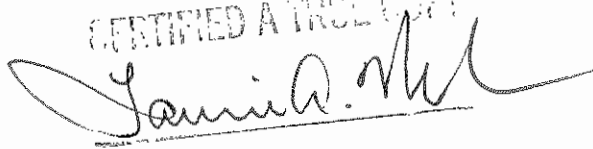
975 OAK STREET | SUITE 800  
EUGENE OREGON 97401-3156

FILED

2012 JUN 26 PM 3: 21

PROBATE COURT OF OREGON  
FOR LANE COUNTY

CERTIFIED A TRUE COPY



IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

In the Matter of the Donald C. Walker and Norman  
J. Wiener Research Endowment Fund

Case No. 52-12-13167

PETITION FOR MODIFICATION OF  
INSTITUTIONAL FUND

University of Oregon Foundation,  
Petitioner.

UNIVERSITY OF OREGON FOUNDATION, an Oregon nonprofit corporation, by and through its President and Chief Executive Officer, Paul Weinhold, petitioner, represents to and petitions the court as follows:

1. Attorney General Consent. The Attorney General's consent to the modification requested herein is required by ORS 130.200(2). Notice to the Attorney General with an opportunity to respond is required under ORS 128.328(3). Petitioner has received the Attorney General's consent to the modification (see page 2 of Exhibit 1) and will seek a signed Consent for filing in this proceeding.

2. Venue. Venue for this matter lies in Lane County because the institutional fund is administered in Lane County, Oregon.

3. Historical Background of Fund. The Donald C. Walker and Norman J. Wiener Research Endowment Fund (the "Fund") was established in 1993 to award student research scholarships to law students at the University of Oregon who are graduates of Roosevelt or

1 Jefferson high school.

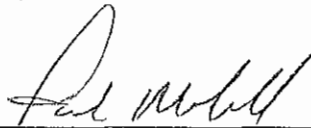
2 4. Reason for Modification. The original language of the endowment fund  
3 agreement provides that the scholarship shall be awarded to graduates of Roosevelt or Jefferson  
4 High Schools. This restriction has meant that the scholarship cannot always be awarded, since  
5 there are years in which no Roosevelt or Jefferson graduates apply for the scholarship. Petitioner  
6 proposes to broaden the purpose under the student research scholarship section to maintain a  
7 preference for graduates of Roosevelt or Jefferson High Schools in Portland, but allow the  
8 scholarship to be awarded in the event no Roosevelt or Jefferson graduate applies.

9 5. Statutory Basis for Modification (UPMIFA). Pursuant to ORS 128.328(3), the  
10 court may modify a charitable restriction contained in a gift instrument if the restriction is  
11 impractical provided the modification is consistent with the charitable purposes expressed in the  
12 gift instrument. Modification in this case will allow petitioner to carry out the donors' charitable  
13 purposes of providing scholarships in order to develop ethically trained lawyers in all years,  
14 including those in which graduates of Roosevelt and Jefferson High School do not apply.

15 6. Statutory Basis for Modification (UTC). Pursuant to ORS 130.200(2), the court  
16 may modify an irrevocable trust if the modification is not inconsistent with a material purpose of  
17 the trust. Here, modification is requested so that petitioner can effectively carry out the donors'  
18 intent and material purpose of providing opportunities for ethical training to law students at the  
19 University of Oregon. All beneficiaries must consent. Petitioner, the University of Oregon, and  
20 the Attorney General all consent to the modification.

21 WHEREFORE, petitioner prays for a general judgment approving the modification of the  
22 institutional fund as set forth in Exhibit B of Exhibit 1, attached hereto and incorporated herein.

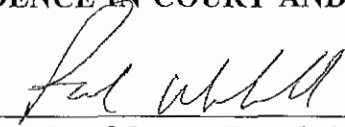
23 Dated this 26 day of June, 2012.

24   
25 \_\_\_\_\_  
26 University of Oregon Foundation  
By: Paul Weinhold  
President and Chief Executive Officer  
Petitioner

///

1 I, PAUL WEINHOLD, HEREBY DECLARE THAT THE ABOVE STATEMENT  
2 IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I  
3 UNDERSTAND IT IS MADE FOR USE AS EVIDENCE IN COURT AND IS SUBJECT  
4 TO PENALTY FOR PERJURY.

5 Dated: June 26, 2012.

  
\_\_\_\_\_  
University of Oregon Foundation  
By: Paul Weinhold  
President and Chief Executive Officer  
Petitioner

7 **PETITIONER**  
8 University of Oregon Foundation  
9 360 E. 10<sup>th</sup> Avenue, Suite 202  
10 Eugene, Oregon 97401-3273

**ATTORNEYS FOR PETITIONER**  
Jon V. Buerstatte, OSB#822070  
Gleaves Swearingen LLP  
P.O. Box 1147  
Eugene, Oregon 97440-1147  
(541) 686-8833  
(541) 345-2034 (Fax)  
Email: [buerstatte@gleaveslaw.com](mailto:buerstatte@gleaveslaw.com)

## AGREEMENT MODIFYING INSTITUTIONAL FUND

### PARTIES:

University of Oregon Foundation (A.K.A. University of Oregon Development Fund) (the "Foundation")

Norman J. Wiener, Donor

Michael Moffit, Dean, School of Law, University of Oregon

Michael C. Andreasen, Vice President, University Development, University of Oregon

### RECITALS:

- A. The Parties desire to modify the Donald C. Walker and Norman J. Wiener Research Endowment Fund Agreement, dated June, 1993 (the "Institutional Fund"), a copy of which is attached hereto as Exhibit "A."
- B. Donor Donald C. Walker is deceased. The Parties and the Oregon Attorney General constitute all persons and entities whose signatures are required for this Agreement to be effective pursuant to ORS Chapter 130. Additionally, the approval of the Circuit Court is required.

### AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing recitals that are by this reference expressly made a part hereof, and in consideration of the terms hereinafter contained, the Parties agree as follows:

#### 1. Modification of Institutional Fund

On the Effective Date, the Institutional Fund shall be modified as set forth in Exhibit "B" attached hereto and by this reference incorporated herein.

#### 2. Effective Date

This Agreement shall be effective on the date that all Parties and the Oregon Attorney General have each signed this Agreement and this Agreement has been approved by the Circuit Court of the State of Oregon for Lane County.

#### 3. Number, Gender and Captions

As used herein, the singular shall include the plural and the plural the singular, as the context requires. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this Agreement.

the Attorney General under ORS 128.610 to 128.750 to be effective, the Attorney General for the State of Oregon must consent to the agreement. The Institutional Fund is an agreement that may be subject to that requirement. The Attorney General hereby consents to the foregoing Agreement Modifying Institutional Fund.

ATTORNEY GENERAL

By: Susan A. Bower  
Susan A. Miller, OSB #960960  
Office of the Attorney General  
State of Oregon  
Bower

5/7/12  
Date





UNIVERSITY OF OREGON  
FOUNDATION

**Modification of Fund Agreement**

**The Donald C. Walker and Norman J. Wiener Research Endowment Fund**

**Modification of Purpose**

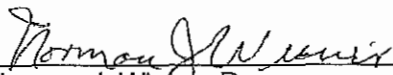
Whereas the parties entered into a prior Agreement in June, 1993; and

Whereas it is impractical to limit the scholarship so narrowly it cannot be awarded on a regular basis;

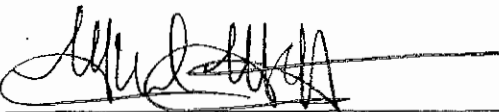
Therefore it is the parties' intent and agreement that the Foundation shall modify the purpose, section a) to become as follows:

- a) For research as selected by the Dean, by students who are graduates from public high schools in Portland, Oregon, with preference for graduates of Roosevelt or Jefferson High Schools in Portland;"


All other terms and conditions of the previous agreement remain in effect.

Signature:   
Norman J. Wiener, Donor

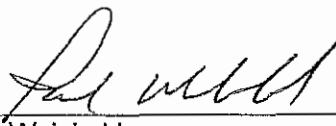
FEB 23, 2012  
Date

Signature:   
Michael Moffitt  
Dean, School of Law  
University of Oregon

27 Feb 2012  
Date

Signature:   
Michael Andreasen  
Vice President, University Development  
University of Oregon

3/1/12  
Date

Signature:   
Paul Weinhold  
President/CEO  
University of Oregon Foundation

3/2/2012  
Date

**Exhibit B**

CERTIFIED A TRUE COPY  
*Gavin A. M...*

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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF LANE

In the Matter of the Donald C. Walker and  
Norman J. Wiener Research Endowment Fund,  
University of Oregon Foundation,  
Petitioner.

Case No. 52-12-13167

NOTICE OF FILING OF PETITION  
FOR MODIFICATION OF  
INSTITUTIONAL FUND

To: Susan A. Bower, Assistant Attorney General for the State of Oregon, Civil Enforcement Division, Charitable Activities, Randy Geller, General Counsel for the University of Oregon, and Norman J. Wiener, Donor.

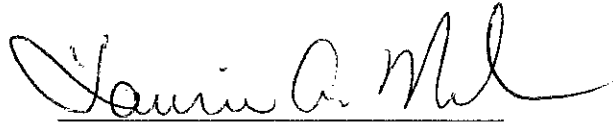
You are hereby notified that the attached document was filed by the undersigned in the above entitled court on the 26th day of June, 2012. Unless you file objections to the petition within 120 days after that date, the petition will be granted and the resulting judgment will be binding on all persons interested in the trust.

If you file objections within the 120 day period, the court will fix a time and place for a hearing. At least 10 days before the date of that hearing, you must serve a copy of your objections and give notice of the time and place of the hearing to all persons interested in the

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1 trust. See ORS 130.200.

2 DATED this 2nd day of August, 2012.

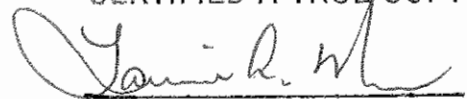
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4 Laurie A. Nelson OSB #074478  
Of Attorneys for Petitioner

5 PETITIONER  
6 University of Oregon Foundation  
7 360 E. 10<sup>th</sup> Avenue, Suite 202  
8 Eugene, OR 97401-3273

9 ATTORNEY FOR PETITIONER  
10 Laurie A Nelson  
11 OSB # 074478  
12 Gleaves Swearingen LLP  
13 975 Oak Street, Suite 800  
14 Eugene, OR 97401  
15 541-345-2034 (fax no.)  
16 nelson@gleaveslaw.com

CERTIFIED A TRUE COPY



IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

In the Matter of the Donald C. Walker and  
Norman J. Wiener Research Endowment Fund

Case No. 52-12-13167

GENERAL JUDGMENT FOR  
MODIFICATION OF  
INSTITUTIONAL FUND

University of Oregon Foundation,  
Petitioner.

This matter having come before the court on the Petition of Petitioner University of Oregon Foundation, an Oregon nonprofit corporation, by and through its President and Chief Executive Officer, Paul Weinhold, for the modification of the Donald C. Walker and Norman J. Wiener Research Endowment Fund, and it appearing to the court from the records and files herein that:

1.

Service was made and perfected by regular mail to the persons entitled to notice as follows:

<u>Name</u>	<u>Date</u>
Susan A. Bower, Assistant Attorney General, State of Oregon	August 2, 2012
Randolph Geller, General Counsel, University of Oregon	August 2, 2012
Norman J. Wiener, Donor	August 2, 2012

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2.

Notice as required by Oregon law has been waived by all persons entitled thereto.

3.

Venue is properly in this court and no other court in this state has acquired jurisdiction in this matter.

4.

Petitioner has obtained the consent of the Attorney General to the modification as required by Oregon law. The Consent and Waiver of Assistant Attorney General Susan A. Bower is filed herewith.

5.

Petitioner has obtained consent to the modification from Randy Geller, General Counsel for the University of Oregon, beneficiary. The Consent and Waiver of Randy Geller is filed herewith.

6.

Petitioner has obtained consent to the modification from Norman J. Wiener, surviving Donor to the institutional fund. The Consent and Waiver of Normand J. Wiener is filed herewith.

7.

Pursuant to ORS 128.328(3), the court may modify a charitable restriction contained in a gift instrument if the restriction is impractical provided the modification is consistent with the charitable purposes expressed in the gift instrument. Modification in this case will allow petitioner to carry out the donors' charitable purposes of providing scholarships to those who might not otherwise qualify by removing the overly restrictive language that hampers administration.

8.

Pursuant to ORS 130.200(2), the court may modify an irrevocable trust if the modification is not inconsistent with a material purpose of the trust. Here, modification is requested so that petitioner can effectively carry out the donor's intent and material purpose of providing scholarships to students who might not qualify for other private financial aid.

NOW, THEREFORE, it is hereby adjudged that a general judgment is entered as follows:

The Donald C. Walker and Norman J. Wiener Research Endowment Fund shall be modified as set forth in Exhibit B of Exhibit 1 attached to the Petition filed herein.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Circuit Court Judge

PETITIONER  
University of Oregon Foundation  
360 E. 10<sup>th</sup> Avenue, Suite 202  
Eugene, Oregon 97401-3273

ATTORNEYS FOR PETITIONER  
Laurie A Nelson OSB #074478  
Gleaves Swearingen LLP  
P.O. Box 1147  
Eugene, Oregon 97440-1147  
(541) 686-8833  
(541) 345-2034 (Fax)  
Email: [nelson@gleaveslaw.com](mailto:nelson@gleaveslaw.com)

**CERTIFICATE OF SERVICE**

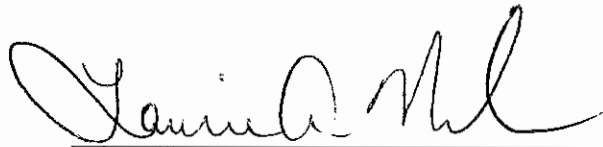
I hereby certify that I served the foregoing General Judgment for Modification of Institutional Fund on the following persons on August 2, 2012, by depositing same in the United States Post Office at Eugene, Oregon, enclosed in a sealed envelope, with postage paid to the address noted below:

Randolph Geller  
Office of General Counsel  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Susan A. Bower  
Assistant Attorney General  
Department of Justice  
1515 SW 5<sup>th</sup> Avenue Suite 410  
Portland, OR 97201

Mr. Norman J. Wiener  
c/o Paul Elstone, Director  
UO Donor Relations  
1720 E. 13th, Suite 310  
Eugene, OR 97403-2253

DATED: August 2, 2012.



Laurie A. Nelson OSB # 074478  
Of Attorneys for Petitioner



**GLEAVES  
SWEARINGEN** LLP  
ATTORNEYS AT LAW

(541) 686-8833 | Fax (541) 345-2034 | [gleaveslaw.com](http://gleaveslaw.com)

Laurie A. Nelson  
[nelson@gleaveslaw.com](mailto:nelson@gleaveslaw.com)

August 2, 2012

Mr. Norman J. Wiener  
c/o Paul Elstone, Director  
UO Donor Relations  
1720 E. 13<sup>th</sup>, Suite 310  
Eugene, OR 97403-2253

Re: Modification of the Donald C. Walker and Norman J. Wiener Research Endowment Fund

Dear Mr. Wiener:

As you will recall, back in February of this year, you signed an Agreement Modifying Institutional Fund with regard to the Donald C. Walker and Norman J. Wiener Research Endowment Fund. In addition to that document, Oregon law requires this modification to be approved by the Lane County Circuit Court. Therefore, we have filed on behalf of the University of Oregon Foundation the enclosed Petition for Modification of Institutional Fund.

Each person who signed the Agreement Modifying Institutional Fund is entitled to notice and an opportunity to object to the Petition for Modification of Institutional Fund. For that reason, we have enclosed for you certified true copies of the Petition for Modification of Institutional Fund, the Notice of Petition for Modification of Institutional Fund, and the proposed General Judgment Modifying Institutional Fund.

We would very much appreciate your reviewing these documents and signing the enclosed acceptance of service and consent and waiver if you approve of the documents. We have enclosed a return envelope for your convenience.

Please do not hesitate to call if you should have any questions about this matter. We are not permitted, however, to give you legal advice about this matter since we

**MAILING ADDRESS**

PO Box 1147  
EUGENE OREGON 97440-1147

**OFFICES**

975 OAK STREET | SUITE 800  
EUGENE OREGON 97401-3156

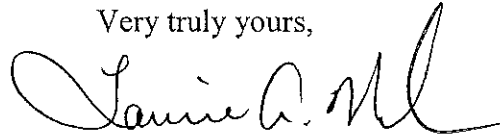


Mr. Norman J. Wiener  
August 2, 2012  
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represent the University of Oregon Foundation. If you would prefer that we speak with your attorney about this matter, we would be pleased to do so.

Best regards.

Very truly yours,

A handwritten signature in black ink, appearing to read "Laurie A. Nelson". The signature is fluid and cursive, with the first name being the most prominent.

Laurie A. Nelson

LAN:gdm  
Enclosure

cc: Paul Weinhold (w/o encls.)  
Erika Funk (w/o encls.)  
Susan Bower (w/o encls.) ✓  
Randy Geller (w/o encls.)  
Tom Herrmann (w/o encls.)  
Jon V. Buerstatter (w/o encls.)  
Ian Richardson (w/o encls.)



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Laurie A. Nelson  
[nelson@gleaveslaw.com](mailto:nelson@gleaveslaw.com)

August 2, 2012

Randy Geller  
Office of General Counsel  
219 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403

Re: University of Oregon Foundation  
Donald C. Walker and Norman J. Wiener Research Endowment Fund

Dear Randy:

I am enclosing for your review certified true copies of the Petition for Modification of Institutional Fund, the Notice of Filing of Petition for Modification of Institutional Fund, and proposed General Judgment for Modification of Institutional Fund in the Donald C. Walker and Norman J. Wiener Research Endowment Fund institutional fund modification proceeding which we have filed on behalf of the University of Oregon Foundation.

If the documents meet with your approval, we would appreciate your signing and returning to us in the enclosed return envelope the Acceptance of Service and Consent and Waiver.

Once we receive the Acceptances and Consents from you, from Norman J. Wiener, the surviving donor, and from Susan Bower of the AG's office, we will file those with the court and submit the General Judgment for the judge's signature.

Thank you for your assistance in this matter.

Very truly yours,

Laurie A. Nelson

LAN:gdm

Enclosure

cc: Susan Bower (w/o encls.) ✓  
Paul Weinhold (w/ encls.)  
Erika Funk (w/o encls.)  
Tom Herrmann (w/ encls.)  
Jon V. Buerstatte (w/o encls.)  
Ian T. Richardson (w/o encls.)

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