

**CONSOLIDATED ENDOWMENT FUND AGREEMENT**  
**As Amended and Restated**  
**Effective November 10, 2017**

The Board of Regents of the University of Alaska (the “Board of Regents”) and the University of Alaska (the “University”) and the Board of Directors of the University of Alaska Foundation (the “Board of Directors”) enter into this Consolidated Endowment Fund Agreement ("Agreement") to be effective on the 10<sup>th</sup> day of November 2017. This Agreement amends and replaces the Consolidated Endowment Fund Agreement established July 1, 1997, and most recently amended and restated effective July 1, 2008.

WHEREAS, the Governor signed into law SB 84 passed by the Twentieth Alaska Legislature, First Session, transferring management of the Land-Grant Endowment Trust Fund to the Board of Regents; and

WHEREAS, the Board of Regents, acting as both the named fiduciary (1) under AS 14.40.400 as Trustee for the Endowment Trust Fund, established and maintained by the Territory and subsequently the State of Alaska, and (2) under AS 14.40.280 as the governing board of the University of Alaska for all other funds participating in the Consolidated Endowment Fund, has the authority and responsibility to manage the Endowment Trust Fund and the University’s endowments in accordance with AS 14.40.400, AS 14.40.280 and AS 37.10.071; and

WHEREAS, the Board of Directors, acting as the governing board of the University of Alaska Foundation (the “Foundation”) has the authority and responsibility to manage the Pooled Endowment Funds and all other funds held by the Foundation; and

WHEREAS, the Foundation was established to solicit, accept, hold, and manage gifts and donations, including endowments, for the exclusive benefit of the University; and

WHEREAS, the Foundation has established a unitized Pooled Endowment Fund to facilitate investment of the endowments it holds for the benefit of the University; and

WHEREAS, the Foundation’s Bylaws provide for an Investment Committee subject to the terms of the University of Alaska Foundation Investment Committee Charter and the University of Alaska & University of Alaska Foundation Investment Policy. The members of that Committee are appointed by the Chair of the Foundation Board of Directors in consultation with the Chair of the Board of Regents; and

WHEREAS, the Board of Regents through its policies has authorized the Foundation to accept, hold, and manage all gifts to the University; and

WHEREAS, the Board of Regents has determined that its fiduciary duties and responsibilities for the management of the Endowment Trust Fund and the endowments held on

behalf of the University can best be achieved by delegating to the Foundation the fiduciary authority and powers to perform the duties as described in this Agreement and the Consolidated Endowment Fund Investment Policy; and

WHEREAS, the Board of Regents and the Foundation have chosen to consolidate the respective endowment investments to more effectively utilize the Foundation's Investment Committee, incur lower investment management costs, achieve greater investment diversification, and capture additional opportunities for enhanced investment performance;

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

**Section 1. Definitions.** As used in this Agreement, the following terms shall have the following meanings:

Consolidated Endowment Fund or Fund – The fund into which the Endowment Trust Fund, the Land Grant Inflation-Proofing Fund and such other funds as may be authorized by the Board of Regents or the Board of Directors are combined for investment purposes with the Foundation's Pooled Endowment Fund.

Consolidated Endowment Fund Investment Policy – An investment policy originally adopted by both the Board of Regents and the Board of Directors on December 12, 2013, and December 11, 2013, respectively and as amended from time to time, which governs the investment activities of the Consolidated Endowment Fund.

Endowment Trust Fund – The separate Endowment Trust Fund maintained by the Board of Regents pursuant to AS 14.40.400.

Land Grant Inflation-Proofing Fund or Inflation-Proofing Fund – A fund established by the Board of Regents to help supplement the inflation-proofing of the Endowment Trust Fund.

Pooled Endowment Fund – The Foundation's pooled investment fund established by the Board of Directors to facilitate management of the various endowment funds held by the Foundation for or on behalf of the University of Alaska.

Investment Committee or Committee – The Investment Committee of the University of Alaska Foundation Board of Directors.

Director of Finance – Director of Finance of the Foundation, who serves in that position subject to appointment by the President of the Foundation, after the President of the Foundation has consulted with the Board of Directors, and the President of the University. The Director of Finance shall report directly to the President of the Foundation.

**Section 2. Effective Date and Term.** This Agreement shall be effective until terminated or amended by the terms of this Agreement.

**Section 3. Appointment.**

3.1 The Foundation shall manage the Consolidated Endowment Fund in accordance with the terms and conditions set forth herein and in the Consolidated Endowment Fund Investment Policy. The Foundation is hereby delegated the powers and duties with respect to the Fund which are required to manage the Fund in accordance with this Agreement and the Consolidated Endowment Fund Investment Policy as may be amended from time to time. These powers and duties include those provided to, and/or required of, a fiduciary as described in AS 37.10.071.

3.2 The amounts invested in the Fund from the Endowment Trust Fund and the Inflation Proofing Fund are invested at the discretion of the Board of Regents. The Board of Regents may withdraw all or any part of the Endowment Trust Fund or Inflation Proofing Fund at any time upon 60 days written notice to the Foundation, subject to availability of liquid resources of the Fund and considerations of the potential adverse impacts on other endowments participating in the Fund.

**Section 4. Powers of the Foundation.** The Foundation shall exercise its powers under this Agreement through the Investment Committee and the President and Director of Finance as further described and enumerated in the Consolidated Endowment Fund Investment Policy, which is incorporated as an integral part of this Agreement by reference.

**Section 5. Operations.** The Foundation shall exercise its execution and operational powers under this Agreement through its President as provided in this section. The President shall:

5.1 Hold and invest the Fund as a unitized commingled pool of investments.

5.2 Hold investments of the Fund in the name of the Foundation, the University, the Fund, or any fund or nominee as may be authorized by the President.

5.3 Invest and reinvest all investable resources of the Fund.

5.4 Provide or cause to be provided quarterly investment performance reports on the Fund to the Investment Committee, the Board of Directors, the Chair of the Finance and Audit Committee of the Board of Directors and the Board of Regents' Audit Committee Chair.

5.5 Provide to the Committee, the Board of Directors, and the Board of Regents (1) annual audited financial statements for the Foundation prepared in accordance with generally

accepted accounting principles, and (2) a presentation on the financial status of the Fund and the Foundation.

5.6 Transfer to the University no less frequently than annually, on a schedule to be mutually agreed upon, amounts required for distribution under policies established by the Board of Directors or the Board of Regents as appropriate.

5.7 The duties in this Section may be delegated to the Director of Finance.

**Section 6. Fiduciary Standards.** In exercising investment, custodial, or depository powers or duties, the Board of Directors, its Investment Committee and applicable Foundation staff shall be subject to the standards under AS 37.10.071 and the Uniform Prudent Management of Institutional Funds Act, AS 13.65. In accordance with AS 37.10.071 all actions taken by a fiduciary of the Fund with regard to the Fund shall be taken in the sole financial best interest of the Fund and the fiduciaries shall treat beneficiaries with impartiality.

**Section 7. Amendment, Termination, and Transfer of Assets.**

7.1 Amendment. This Agreement may be amended at any time only by a written instrument duly approved by the respective boards.

7.2 Termination. Either party may terminate this Agreement without cause upon 120 days' written notice to the other party at the address listed below. Provided, however, the Board of Regents may terminate this Agreement upon 60 days' written notice to the Foundation in the event that the Board of Regents has specific concerns with the management of the Fund and such concerns cannot be resolved within 30 days of that notice.

7.3 Transfer of Assets. Upon termination of this Agreement, the Foundation shall pay all obligations of the Fund and convey or transfer to the Board of Regents, or at the discretion of the Board of Regents, to a third party, all assets applicable to its interest in the Fund, in cash or in-kind as agreed to by the parties. However, undivided interests in non-marketable or illiquid investments may be held by the Foundation or another entity on behalf of the Board of Regents until maturity or other disposition. In the event of notice of termination, the Board of Regents may, upon written notice, limit the reinvestment, encumbrance or disbursement of assets pending the return of its interests in such assets.

7.4 Survival After Termination. The terms and conditions of this Agreement shall survive until all assets of the Consolidated Endowment Fund are conveyed or transferred to the respective parties.

**Section 8. Notice.** Notice shall be deemed delivered upon personal delivery or three days following mailing, via certified mail, to the following officers or their then current successors:

Board of Regents:

Board of Regents Chair  
University of Alaska  
202 Butrovich Building  
2025 Yukon Drive  
P. O. Box 755000  
Fairbanks, AK 99775-5000

Foundation:

Board of Directors Chair  
University of Alaska Foundation  
206 Butrovich Building  
2025 Yukon Drive  
P. O. Box 755080  
Fairbanks, AK 99775-5080

**Section 9. Indemnification.** In order to facilitate the recruitment of competent fiduciaries, except as otherwise provided by law, the University and the Foundation will indemnify the members of the Board of Regents, the Board of Directors, the Investment Committee, Foundation President and Director of Finance, and officers and employees of the University and the Foundation for all acts taken in carrying out their responsibilities under this Agreement to the maximum extent provided by law. This indemnification is intentionally broad, but shall not provide indemnification for embezzlement or diversion of funds for personal benefit. The indemnification described herein includes all expenses of defending an action, any monetary recovery in any court or arbitration proceeding, and, if the claim is settled out of court with the concurrence of the University and the Foundation, shall include any monetary liability under such settlement.

**Section 10. Miscellaneous.**

10.1 **Governing Law and Venue.** This Agreement has been adopted and shall be governed and construed in accordance with the laws of the state of Alaska. Any disagreements or lawsuits arising out of this Agreement shall be brought in the Superior Court for the state of Alaska, Third Judicial District, in Anchorage, Alaska, unless federal jurisdiction applies in which case venue shall lie in the U.S. District Court for Alaska in Anchorage, Alaska. For purposes of the relationship established by this Agreement, the Board of Regents, the University, and the Endowment Trust Fund are instrumentalities of the state of Alaska and may be sued only as provided for actions against the state of Alaska in Alaska Statute 09.50.250 and other applicable statutes and rules of court.

10.2 Severability. If any part, term, or provision of this Agreement is determined by a court or agency of competent jurisdiction to be unlawful or in conflict with the laws of the United States or the state of Alaska, the validity of the remaining portion or provisions of the Agreement shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, terms, or provision held to be invalid.

10.3 No Assignment. This Agreement is entered into based in large part upon the nature and responsibilities of the parties hereto and their unique relationship to each other. Neither party shall assign all or any part of its interest in this Agreement nor any attempt at such assignment shall be void and shall, at the sole discretion of the other party, terminate this Agreement. Notwithstanding the above, the Foundation may delegate to one or more investment managers a portion of its powers, duties, and responsibilities with respect to investments of the Fund, as appropriate, according to the provisions of this Agreement and AS 37.10.071.

10.4 Fees. Fees charged by the Foundation for the management of the Land-Grant Endowment Funds shall be addressed in a separate addendum to this Agreement, as amended and updated from time to time.

University of Alaska Board of Regents

University of Alaska Foundation Board of Directors

By: \_\_\_\_\_  
Gloria O'Neill, Board of Regents Chair

By: \_\_\_\_\_  
Scott Jepsen, Board of Directors Chair

Date: \_\_\_\_\_

Date: \_\_\_\_\_

University of Alaska

University of Alaska Foundation

By: \_\_\_\_\_  
James R Johnsen, President

By: \_\_\_\_\_  
Susan Foley, Foundation President

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**CONSOLIDATED ENDOWMENT FUND AGREEMENT  
As Amended and Restated Effective November 10, 2017**

**ADDENDUM #2  
Effective November 10, 2017**

The Board of Regents of the University of Alaska (the “Board of Regents”) and the University of Alaska (the “University”) and the Board of Directors of the University of Alaska Foundation (the “Board of Directors”) enter into this Consolidated Endowment Fund Agreement, Addendum #2 (“Addendum #2”) to be effective on November 10, 2017. This Addendum #2 replaces and supersedes all prior such Addendums.

WHEREAS, the Board of Regents and the Board of Directors recognize their fiduciary responsibility to maintain fees and spending allowances at responsible levels and understand that it may be necessary to consider a reduction in the endowment spending allowances for subsequent years to maintain the combined distributions for fees and spending at responsible levels; and

WHEREAS, the Foundation’s Board of Directors has proposed to establish annual endowment management fee for the Land Grant Endowments at a rate of 50 basis points;

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

**Section 1.                   Fees.**

1.1     **Endowment Management Fee.** Upon acceptance of this Addendum #2 in accordance with procedures to be established by the Board of Regents, the authorized 50 Basis Point Annual Charge shall become effective for the applicable fiscal year.

1.2     **Fee Calculation and Assessment.** The Land Grant Endowment Funds (currently the Endowment Trust Fund, the Inflation-Proofing Fund and the Cosgrave Fund) shall be charged an annual endowment fee in an amount equal to the 50 Basis Point Annual Charge times the balance of the respective endowments as of December 31st of the preceding fiscal year. The fee shall be assessed in 12 equal installments.

**Section 2.                   Effective Date and Term.** This Addendum shall be effective commencing November 10, 2017, and remain in effect for the period the Foundation manages the subject funds and shall survive beyond the termination of the related Memorandum, unless this Addendum is otherwise amended or terminated in accordance with Section 3 of this Addendum.

**Section 3. Prior Addendums, Amendment and Termination.**

3.1 **Prior Addendums.** This Addendum supersedes all prior addendums.

3.2 **Amendment.** This Addendum #2 may be amended at any time by mutual agreement of the parties.

3.3 **Termination.** This Addendum will terminate upon complete distribution of all Land Grant Endowment Funds held on behalf of the Board of Regents or the University.

University of Alaska Board of Regents

University of Alaska Foundation Board of Directors

By: \_\_\_\_\_  
Gloria O'Neill, Board of Regents Chair

By: \_\_\_\_\_  
Scott Jepsen, Board of Directors Chair

University of Alaska

University of Alaska Foundation

By: \_\_\_\_\_  
James R Johnsen, President

By: \_\_\_\_\_  
Susan Foley, Foundation President