Resource Sharing Agreement

This is a Resource Sharing Agreement ("Agreement"), dated as of _____ ("Effective Date"), between [_____] ("ABC"), a California nonprofit corporation that is tax-exempt under Section 501(c)(5) of the Internal Revenue Code ("Code"), and [_____] ("Client"), a California nonprofit corporation that is tax-exempt under Section 501(c)(3) of the Code.

Background

A. ABC's mission is to [_____]. Client's mission is to [_____].

B. ABC and Client are parties to an [_____], commenced on [_____] (the "Existing Agreement"), under which they share certain resources and otherwise carry out their relationship in line with tax and other legal requirements relating to activities of tax-exempt organizations. They wish to update and replace the Existing Agreement on the basis set forth in this Agreement.

ABC and Client agree as follows:

1. Facilities, Services, and Program Reimbursements

1.1 ABC-Provided Space, Services, and Goods

ABC will provide Client with (a) office facilities, including, without limitation, dedicated space, use of furniture and office equipment, utilities, internet services and janitorial services; (b) staffing, including employees dedicated to Client; and (c) bookkeeping, financial processing, technology support, and other administrative services. Such facilities, personnel, and administrative services are referred to collectively as "Services." Client will reimburse ABC on the basis set out in this Section 1.

1.2 Reimbursement Timing Generally

For efficiency reasons, and for Client's benefit, ABC will invoice Client for Services, and Client will reimburse ABC, on a quarterly basis. For administrative convenience, such invoices will reflect not only the cost of Services but also other amounts that may be owed by Client with respect to ABC participation in Client programs, and with respect to other services that the parties may provide one another.

1.3 Service Cost Determination

The cost of Services will be determined as follows:

- For office, storage space, common space, and related facility services, ABC and Client will determine the amount of space occupied or shared by Client, and allocate costs accordingly.

- For employee time dedicated to Client, ABC and Client will keep time records showing such time worked for Client, and calculate the reimbursement amount based on such time.

- For employee benefit costs, ABC will calculate such costs based on a percentage of the average benefit paid by ABC during the previous fiscal year. Should an Client funder require that benefit cost be computed on the actual amount per employee working on the funded project, ABC will so calculate and charge.

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- For goods or services purchased from third parties, ABC will pass through the cost to Client.

In all cases the reimbursement amount must be fair and reasonable, reflect ABC's actual costs of providing such Services, and not exceed Client's fair share of the cost.

1.4 ABC-Provided Professional Services
From time to time, ABC may provide professional services to Client in connection with specific Client projects or activities. If so, ABC will determine the value of such services using the methodology set out in Section 1.3, and reflect such amounts in the invoices contemplated by Section 1.7.

1.5 Client-Provided Professional Services
From time to time, Client may provide professional services or use of space to ABC. If so, Client and ABC will determine the value of such services or space using the methodology set out in Section 1.3 and Client and ABC will deduct the value of such activities from the relevant total amount before submitting invoices to Client as provided by Section 1.7.

1.6 [_____]

1.7 Invoices and Payment
No later than ten days after the end of each fiscal quarter, ABC will submit an invoice to Client for the sum of: (a) Services and professional services provided by ABC during such quarter, using the cost methodology set out in Section 1.3 or Section 1.4; and (b) Client program vouchers and incentive tokens redeemed by ABC during the quarter, less (c) the value of any services provided by Client to ABC during the quarter, valued as provided in Section 1.5. Except as otherwise provided in Section 1.9 or Section 1.10, Client will pay ABC the amount stated in the invoice no later than 30 days after receipt. A delay by ABC in submitting any invoice will not be deemed a waiver of its right to reimbursement.

1.8 Information
ABC will make available to Client sufficient information with each invoice to support the reimbursement computation and provide to Client upon request any other information, receipts, or other documents Client may request concerning calculation of reimbursement amounts. In the event that Client disputes or remains uncertain about the basis for such reimbursement amounts, Client may delay payment for a reasonable time to resolve such dispute.

1.9 Payment Due Extension
At the request of Client and based on Client's organizational needs, ABC may waive the invoice payment deadline under Section 1.7 and designate a later date for payment. Any such waiver for payment does not obligate ABC to make such waivers or extensions in the future.

1.10 In-Kind Support
ABC, with Client's consent, may waive reimbursement of any or all amounts that may be owing by Client under Section 1.7, and treat such waiver as an in-kind contribution by ABC to Client. Any such waiver and in-kind contribution does not obligate ABC to make such waivers in the future.

1.11 Annual Review Process
In the fourth quarter of Client's fiscal year, and as otherwise requested by Client, ABC and Client will review the nature, performance and cost of the Services in light of current practices and needs, assess the methodology used to determine quarterly charges, and

revise methodology and practices as appropriate in line with actual usage and with tax compliance principles.

1.12 Failure to Invoice
If ABC fails to invoice Client for costs that are payable by Client under this Agreement on or before the last day of the tenth month after the end of the fiscal year in which the expenses were incurred, the failure to invoice will be deemed a waiver of the right to reimbursement and a gift to Client of the unreimbursed amounts.

1.13 Professional Exchanges
Client benefits from access to ABC expertise both formally through Services as contemplated elsewhere in this Agreement and informally through internal workshops, everyday conversations, and other interactions. To those ends, ABC welcomes Client staff to workshops and other events. ABC will not charge Client for providing this access that facilitates professional interaction and support for Client staff.

1.14 Compliance
All aspects of the relationship between ABC and Client, including, without limitation, resource sharing, service provision, payment for services, and external communications, must comply with applicable tax and other legal requirements relating to activities of tax-exempt organizations. Such requirements include, without limitation, those relating to private inurement, lobbying, and political activity.

2. Funding and Financial Matters

2.1 Separate Accounts
ABC and Client will maintain, and not commingle, separate bank accounts and funds.

2.2 No Funding Obligations
Each party is fully responsible for its own funding. If either party receives funds intended for the other party, it will promptly transfer these funds to the other party. Neither party has an obligation to provide any financial support to the other in the form of donations, making loans or advances, covering expenses, deferring or waiving its right to compensation from the other for services, forgiving loans, making grants, or otherwise.

2.3 Advances
ABC may, at its sole discretion and in support of their working relationship, decide to advance Client funds, but any decision by ABC to do so will not create any right in Client to further financial support. Client may likewise, at its sole discretion and in support of their working relationship, decide to advance ABC funds, but any decision by Client to do so will not create any right in ABC to further financial support. Any such advances by either organization must be interest-bearing, fair and reasonable, approved by both boards, documented in writing, and in compliance with any funding, service, credit or other Agreement to which the organizations are party.

2.4 Taxes
Each party will have sole responsibility for all of its own tax returns and payments required by any federal, state, or local tax authority in connection with its provision of staff, receipt of compensation, and payment for services under this Agreement.

3. Intellectual Property and Confidentiality

3.1 Work Product and other Property Ownership
Any intellectual property created for Client by ABC personnel providing Services will be the property of Client. ABC assigns any and all rights it may have in this property to Client. Any intellectual property owned by Client and used by ABC personnel while working for Client will

remain the property of Client. Similarly, any intellectual property created by Client personnel for ABC will be the property of ABC. Client assigns any and all rights it may have in this property to ABC. Any intellectual property owned by ABC and used by Client personnel while working for ABC will remain the property of ABC.

3.2 Intellectual Property Use
ABC and Client each grant to one another royalty-free, non-exclusive, non-transferable, non-sublicensable, revocable licenses to use the party's trademarks, tradenames, and any copyrighted material (collectively, "IP") for the purpose of engaging in collaborative activities and carrying out the relationships contemplated by this Agreement. Each acknowledges that the other's IP will remain under sole and exclusive ownership of the other party for all right, title, and interest in the other party's IP. Each agrees that any goodwill that arises from its use of the other's IP will inure solely to the benefit of the other party.

3.3 Confidentiality
ABC and Client will each keep confidential and will not disclose or use for its benefit, other than in connection with its activities under this Agreement, any non-public information obtained from the other, without obtaining the other’s prior written consent, except to the extent that disclosure of confidential information is required by law. Confidential information may include, without limitation, information about personnel, funders, strategies and financial results, and information ABC or Client may obtain through ordinary course interactions among their respective staffs. Confidential information does not include information generally available to the public, information already known by the receiving party before entering into this Agreement, or information independently developed. All confidential information furnished under this Agreement will remain the property of the furnishing party.

4. Recordkeeping and Reporting

4.1 Recordkeeping
ABC and Client will each maintain separate records relating to their activities under this Agreement, in a manner such that the other can evaluate compliance with this Agreement. Each will make those records available for review by the other on reasonable notice during the term of this Agreement and for a period of three years after its termination.

4.2 Financial Statements
ABC and Client will maintain separate financial statements. Client will cooperate with ABC in connection with preparation of ABC’s financial statements should accounting principles require consolidation of Client results with those of ABC.

4.3 External Audits
ABC and Client will each reasonably cooperate with one another in providing information relating to activities under this Agreement in connection with any financial, regulatory, tax, funder or other audit, or similar matter, in which the other is engaged.

4.4 Adverse Developments and Other Reporting
ABC and Client will each promptly notify the other of (i) any changes in its status as a nonprofit corporation in good standing in California; (ii) any changes in its status as a tax-exempt entity; or (iii) loss of other funding, the filing of any litigation, or any other development that had or could have a material adverse effect on its financial condition or otherwise materially affect its ability to carry out its responsibilities under this Agreement.

5. Legal Relationship

5.1 Independent Entities
ABC and Client are and will remain independent contracting entities. This Agreement and its performance do not create a partnership, joint venture, fiduciary relationship, agency relationship, or similar relationship for any purpose between ABC and Client.

5.2 No Authority to Act for Other
Neither ABC nor Client will hold itself out as an agent or representative of, or purport to speak or act on behalf of, the other; nor will either have the power or authority to act for the other, or to bind or obligate the other to a third party or commitment, in any manner. ABC and Client will hold themselves out as separate, independent entities. ABC and Client will ensure that individuals who function in distinct roles for both entities will be clear about which entity they represent when acting in an official capacity.

5.3 Contractor Relationship
ABC will perform Services as an independent contractor and in a timely and professional manner consistent with industry standards and applicable law. ABC will have sole discretion over, and sole responsibility for, the planning, method, means, sequencing, time, and place of the Services ABC performs for Client under this Agreement.

5.4 Contracting with Other Parties
ABC and Client may each be required to enter into contracts with third parties in order to carry out their respective missions and programs. These contracts will be the sole responsibility of the entity entering into the contract; neither entity assumes any liability for or guarantees the performance of the other in conjunction with any of these contracts or any other activity, absent its express written consent.

5.5 No Delegation of Management
This Agreement is not a management contract. Neither ABC nor Client is delegating management of its own affairs to the other through this Agreement.

6. Compliance

6.1 Compliance
ABC and Client will comply with all laws, ordinances, rules, and regulations of any government and administrative agency that relate to its activities under this Agreement.

6.2 Tax Matters
Each party agrees to operate so as (i) not to interfere with the other party's accomplishment of its tax-exempt purposes, (ii) not to jeopardize the other party's compliance with federal and state laws governing nonprofit tax-exempt organizations, and (iii) not to cause any private inurement or improper benefit from the joint use of resources. It is the intention of ABC and Client that the method of calculating payments as set out in Section 1 will conform in all material respects with tax requirements; ABC and Client will cooperate in making adjustments in payment amounts as may be appropriate to ensure fairness and reasonableness in the arrangement.

7. Indemnification and Liability Limitation

7.1 Indemnification
ABC will defend, indemnify and hold Client and its directors, officers, employees, agents, and assigns (collectively, "Client parties") harmless against all third party claims, liabilities, losses, damages, expenses, and attorneys' fees that may be suffered or sustained by any Client party arising from or connected with implementation of this Agreement, including, without limitation, workers' compensation claims arising from or connected with Services

provide under this Agreement. ABC will have no obligation to indemnify any Client party to the extent the liability is solely caused by such Client party's gross negligence or willful misconduct or any breach by Client of its obligations under this Agreement.

7.2 Liability Limitation
Under no circumstances, and under no legal theory, whether in tort, contract, or otherwise will either ABC or Client, or their respective directors, officers, employees, or agents, be liable for any special, indirect, incidental, consequential, punitive or exemplary damages (including, without limitation, loss of goodwill, loss of revenue or profits, cost of capital, or claims of clients) arising out of or relating to this Agreement, even if advised of the possibility of such damages.

8. Termination

8.1 Duration
The term of this Agreement will begin on the Effective Date and will continue until terminated under any of the provisions of this Section 8.

8.2 Termination for Convenience
ABC and Client may each on its own terminate this Agreement by providing written notice of that decision to the other. Such a termination will be effective ninety (90) days after delivery of the notice by the terminating party.

8.3 Termination for Breach
If either ABC or Client materially breaches any of its obligations under this Agreement, the other party may give written notice of the breach. If the party in breach fails to cure the breach within 30 days after receipt of this notice, the non-breaching party may terminate this Agreement by providing written notice of intent to terminate, with the termination date effective 10 days after delivery of the notice.

8.4 Effect of Termination; Orderly Transition
Upon termination of this Agreement, the parties will pay to one another within 30 days any amounts due under this Agreement through the date of termination, and any outstanding advances will remain payable on the dates stated on the relevant documentation. ABC and Client will each return to the other, at its own expense and as directed by the other, any Confidential Information belonging to the other. Both parties will cooperate in good faith to bring all activities under this Agreement to an orderly conclusion in order to minimize adverse impact on the communities they serve.

8.5 Survival
The provisions of Sections 2, 3, 4.1, 7 and 9 will survive termination of this Agreement regardless of the reason for termination.

9. General Provisions

9.1 Entire Agreement
This Agreement is the entire agreement between ABC and Client and supersedes all prior or contemporaneous communications, representations, understandings, and agreements, either oral or written, relating to the subject matter of this Agreement. For clarity, this Agreement amends and restates the Existing Agreement.

9.2 Amendment
This Agreement may be amended (including, without limitation, with respect to scope of Services) only as stated in a written document signed by both ABC and Client that states it is an amendment to this Agreement.

9.3 Severability
If any provision of this Agreement is held illegal, invalid, or unenforceable, all other provisions of this Agreement will nevertheless be effective, and the illegal, invalid, or unenforceable provision will be considered modified so that it is valid to the maximum extent permitted by law.

9.4 Assignment
Neither ABC nor Client may assign its rights or obligations under this Agreement to anyone else without the prior written consent of the other party, except that either may assign all of its rights and obligations under this Agreement without prior written consent in connection with a merger, acquisition, reorganization, sale or transfer of substantially all of its assets, or by other operation of law.

9.5 Waiver
Any waiver under this Agreement must be in writing and signed by the party granting the waiver. Waiver of any breach or provision of this Agreement will not be considered a waiver of any later breach or of the right to enforce any provision of this Agreement.

9.6 Third Party Beneficiaries
Except as specifically provided in Section 7, this Agreement is for the exclusive benefit of ABC and Client, and not for the benefit of any third party including, without limitation, any creditor, vendor, or contractor of ABC or Client.

9.7 Further Assurances
ABC and Client will sign those other documents and take those other actions as the other may request in order to affect the relationships and activities contemplated by this Agreement and to account for and document those activities.

9.8 Governing Law; Jurisdiction
This Agreement will be governed by California law. ABC and Client each consent to the jurisdiction of the state and federal courts for [_____] California.

9.9 Counterparts
This Agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which will be taken together and deemed to be one instrument. Transmission by fax or PDF of executed counterparts will constitute effective delivery.

* * * * * * * *

ABC and Client signed this Agreement as of the Effective Date.

ABC

By: _____

Name: _____

Title: _____

CLIENT

By: _____

Name: _____

Title: _____