

**Master Agreement By and Between
the Napa Valley Community College District and
the Viticulture & Winery Technology Foundation**

This Agreement is made and entered into, by and between the Napa Valley Community College District, a California community college district duly organized and existing pursuant to the laws of the State of California; specifically, the California Education Code, hereinafter referred to as the "District," and the Viticulture & Winery Technology Foundation, a non-profit organization duly organized and existing pursuant to the laws of the State of California and the Internal Revenue Code; specifically section 501(c)(3), hereinafter referred to as the "Foundation," an auxiliary organization established and operated as an integral part of the District.

1. Purpose and Finding

The Foundation has been created to provide administration of the functions and activities described herein, instead of administration by the District. The Foundation is deemed to be more effective in accomplishing these functions and activities than would be possible under the District budgetary, purchasing and other fiscal procedures of the District.

2. Areas of Service - Authorized Foundation Functions and Activities

The Foundation shall undertake administration of its functions, instead of those functions being performed by the District, for the purposes of providing services to the District, involving and gaining the support of alumni and members of the community, and generating revenue in support of the District.

The Foundation will conduct activities, services and programs authorized herein so as:

- To provide fiscal means and management procedures that allow the District to carry on educationally related activities not normally funded by State apportionment;
- To eliminate the undue difficulty that would otherwise arise under the usual governmental budgetary, purchasing and other fiscal controls except as expressly prohibited by the Education Code or Title 5, or the District's procedures; or
- To provide fiscal procedures and management systems facilitating effective coordination of the Foundation's supportive activities with the District in accordance with sound business practices.

The Foundation's activities, services and programs shall be conducted for the general benefit of the District and are limited to the functions set forth in 5 CCR 59259. The Foundation is authorized by the District to conduct the following services, programs and functions:

- Food and Campus Services – administration of wine sale enterprise activity; and,
- Public relations programs and activities to build public support for the District.

The Foundation may be authorized by the District to perform additional services, programs and functions in one or more written contracts between the Parties. The Foundation shall provide only those services, programs and functions authorized by a written agreement with the District.

The Foundation shall be responsible for maintenance and payment of its operating expenses. The Foundation may expend funds in such amounts and for such purposes as are approved by the Board of Directors of the Foundation with relation to public relations funds or other purposes which would serve to augment appropriations to the District. The Foundation shall file with the

Superintendent/President a statement of its policy on accumulation and use of such funds. The statement will include the policy and procedure on solicitation of funds, source of funds, purposes for which the funds will be used, allowable expenditures, and procedures of control.

If the Superintendent/President determines that any activity or appropriation planned by the Foundation is not consistent with District policy, the activity or appropriation shall not be implemented. Further, should an activity or appropriation which has received approval, upon review, be determined by the Superintendent/President to be an operation outside the acceptable policy of the Board of Directors or the District, then that activity or appropriation shall be discontinued by direction of the Superintendent/President until further review is accomplished and an appropriate adjustment is made.

Funds of the Foundation shall be used for purposes consistent with District policy and shall not be used:

- To support or oppose any candidate for public office, whether partisan or not, or to support or oppose any issue before the voters of this state or any subdivision thereof or any city, municipality, or local governmental entity of any kind.
- To make personal loans for non-educationally related purposes, except that such loans may be made when specifically authorized by a trust instrument under which funds were received.

3. District Services Provided to Foundation, Foundation Use Of District Facilities, and Foundation's Reimbursement Obligations

In accordance with Civic Center Act (Education Code § 82542), the Foundation may occupy, operate and use, either separately or jointly, such District facilities as are mutually identified as appropriate and are consistent with the policies, rules, and regulations which have been or may be adopted by the Board of Trustees. The Foundation agrees that it will keep and maintain the described facilities in a clean and orderly condition. The District shall pay for normal, reasonably anticipated maintenance costs and repairs.

The District may charge the Foundation for the use and occupancy of District facilities to be used by the Foundation in connection with the performance of its functions. The District agrees to provide the Foundation with the use of office space (shared) at no charge for the 2017/18 and 2018/19 fiscal years. Thereafter, the District shall provide the Foundation with at least 90 days written notice prior to the end of any fiscal year if the District decides to charge the Foundation for the use of District facilities for the upcoming fiscal year. Such written notice, if any, shall specify the facilities to be utilized and the amount of rent to be charged on an annual basis. Any rental charge shall not require involved methods of computation.

The right to use any of the District facilities or equipment included in this Agreement or amendments shall cease upon written notice by the Superintendent/President that the facilities are needed for the exclusive use of the District.

The District and its agents shall have the right to enter District facilities utilized or occupied by the Foundation or any part thereof for the purpose of examination or supervision.

The District reserves the right to charge the Foundation for costs related to excessive use or beyond normal wear and tear of District facilities utilized by the Foundation.

The District shall provide services performed by the District, District employees, or District agents in support of the Foundation as may be agreed by the Parties. Operations of the Foundation under this Agreement shall be integrated with the District operations, and shall be under the general supervision of the District officials.

The Foundation shall provide full reimbursement to the District for the costs of services performed by the District employees under the direction of the Foundation including, but not limited to, the salary and benefits of Foundation support staff employed by the District. The Foundation shall reimburse the District for that portion of the employee's full-time assignment (and corresponding benefits) that is spent in providing said services. Methods of proration where services are performed by District employees for the Foundation shall be simple and equitable.

Notwithstanding the foregoing requirement for full reimbursement, up to 50% of the reimbursement by the Foundation may be made in the form of non-monetary benefits that the Foundation provides to the District, such as increased community awareness or other such benefits that are agreed upon by District officials and the Foundation. Such non-monetary benefits shall be assigned a good-faith reimbursement value by the District. The District and Foundation shall mutually determine at least annually the cost and/or the method for determining the amount to be reimbursed by the Foundation for such services. If the Foundation, with the approval of its Board of Directors and the Superintendent/President undertakes involvement with a specially funded program (including federally sponsored program), the Foundation and the District shall determine a mutually agreeable method of determining to what extent the Foundation shall be liable for indirect costs relating to such program.

4. Allocation of Earnings

Income generated by the Foundation in excess of costs and appropriate provision for equipment, maintenance, working capital and reserves shall be used for the general benefit of the students and college programs as determined by the Board of Directors of the Foundation and approved by the Superintendent/President.

5. Covenant Re Existence

During the term of this Agreement, the Foundation agrees to maintain its existence and to operate in accordance with California Education Code sections 72670-72680, and with the California Code of Regulations, title 5, sections 59250-59270, as well as the District's implementing regulations.

6. Good Standing

The Foundation must remain in good standing with the District. Otherwise, this Agreement will immediately terminate and the Foundation will terminate any contracts with third parties and meet the provisions of this Agreement entitled Distribution of Assets Upon Cessation.

7. Real Property Matters

The Foundation shall not enter into any contract or other business arrangement involving real property either by lease involving payments of more than \$25,000 per annum and duration terms of more than one year, or by purchase without prior approval of the Superintendent/President.

8. Third Party Agreements By The Foundation

The Foundation shall not enter into any contract that would obligate the District, its facilities, equipment or personnel, without the prior written approval of the District except that the District delegates to the Foundation the authority to enter into and manage rental or lease of District facilities or equipment of up to five (5) years duration.

9. Submission of Annual Program and Budget

The Board of Directors shall submit its program and budget for the next fiscal year to the District Superintendent/President for his/her approval on or before the beginning of each fiscal year.

10. Insurance, Indemnification and Restoration

The District shall provide for the Foundation all risk liability coverage under the terms and conditions of the District's all-risk blanket policy. Further, the District will extend its directors and officers errors and omissions coverage to include the Foundation Board members, officers, and managers.

In the event that the District is unable to maintain such coverage for the Foundation, the District shall provide (30) days notification to the Foundation of the District policy cancellation. In the event of such notice of cancellation by the District, the Foundation shall secure the appropriate coverage under its own name.

The Foundation agrees to indemnify, defend and save harmless the District, its officers, agents and employees from any and all loss, damage, or liability that may be suffered or incurred by the District, its officers, agents, and employees caused by, arising out of, or in any way connected with the use of the described facilities by the Foundation or in connection with this Agreement, provided that the loss, damage, or liability does not arise from the intentional or negligent acts or omissions of the District, its officers, agents, or employees.

Upon termination of this Agreement, the District shall have the option to require the Foundation, at its own expense and risk, to restore the facilities as nearly as possible to the condition existing prior to the executive of the Agreement. But, if the Foundation shall fail to do so within ninety (90) days after the District exercises this option, the District may restore the property at the risk of the Foundation, and all costs and expenses of such removal or restoration shall be paid by the Foundation upon demand of the District. The District shall have the right to exercise this option within thirty (30) days after the expiration of this Agreement, but not thereafter.

11. Termination of Agreement

This Agreement may be terminated by either party giving sixty (60) days' written notice, subject to the provision of this Agreement entitled Distribution of Assets Upon Cessation. The Foundation shall have necessary use of facilities and assets for the Foundation to operate until termination.

12. Distribution of Assets Upon Cessation

Upon cessation of the operations of the Foundation under this Agreement, unless extended or renewed, the net assets of this Foundation resulting or arising from this agreement shall be either transferred to the District or expended for the benefit of the District or automatically revert to the District.

13. Notices

All notices herein required to be given, or which may be given by either party to the other, shall be deemed to have been fully given when made in writing and received.

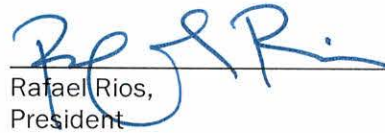
Notice to the Auxiliary shall be addressed as follows:
Carollee Cattolica, Special Assistant/Managing Director
Napa Valley College District Auxiliary Services
2277 Napa-Vallejo Hwy.
Napa, CA 94558

Notice of the District shall be addressed as follows:
Ronald Kraft, Ph.D., Superintendent/President
Napa Valley Community College District
2277 Napa-Vallejo Hwy.
Napa, CA 94558


14. Supersedure and Authorization

This Agreement supersedes all prior Master Agreements between the parties with respect to its subject matter. It may be amended only by a fully executed written agreement of the parties. The individuals whose signatures appear below certify that this Agreement has been approved by their respective governing Boards and has received all approvals required under California Law.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of this 14th day of Sept., 2017.



Rafael Rios,
President
Board of Trustees
Napa Valley Community College District
Date: 9/14/17



Ronald D. Kraft, Ph.D.
Chair
Board of Directors
Napa Valley College District Auxiliary
Services Foundation
Date: 10/25/17