

## GRANT AGREEMENT

This grant agreement (this "Agreement") is made effective on November 1, 2019, (the "Effective Date") between the **Ball University Foundation**, a nonprofit corporation (the "Foundation"), **Ball State University** (the "University"), an instrumentality of the State of Indiana, and the **Charles Koch Foundation**, a Kansas nonprofit corporation (the "Donor"). This Agreement is for the benefit of the Institute for the Study of Political Economy (the "Center"), which is housed in the Miller College of Business (the "College") at the University. The Foundation, the University, and the Donor are sometimes referred to in this Agreement individually as a "Party" and collectively as the "Parties." The Parties agree as follows:

1. **Promoting Academic Freedom.** Consistent with the Donor's principles of supporting open inquiry and a diversity of ideas in higher education, the Donor's grant is intended to help promote a republic of science at the University where ideas can be exchanged freely and useful knowledge will benefit the well-being of individuals and society. Thus, the Parties agree that the academic freedom of the University, the Center, and their faculty, students, and staff is critical to the success of the Center's research, scholarship, teaching, and service.
2. **The Foundation and the University's Proposal.** The Parties enter into this Agreement based on the Foundation and the University's proposal, which is hereby incorporated into and made part of this Agreement, and attached as Attachment A (the "Proposal"). The Proposal reflects the vision of and benefits from the leadership of Dr. Steve Horwitz, who was selected by the University, according to its normal procedures, to be the director of the Center (the "Center Director"). As stated in the Proposal and consistent with the Center Director's vision, the mission of the Center is to further the understanding of market, political, and social processes and institutions based on principles of equal rights and mutual benefit (the "Center's Mission").
3. **The Center Programs.**
  - a. **Generally.** To support the Center's Mission, the University desires to create the following positions and activities to affiliate with the Center, collectively referred to as the "Center Programs." The Center Programs are described more fully in the Proposal and include "Personnel" and "Center Support for Programming Initiatives." The Foundation and the University shall each use any funds received under this Agreement to support the Center Programs in accordance with the terms of this Agreement. According to the University's normal procedures, the Center Director is responsible for directing the Center Programs, which includes allocating and administering the Center's budget, supervising Center staff, mentorship, and other duties to advance the Center's Mission as deemed appropriate by the Center Director.
  - b. **Selection According to the University's Normal Procedures.** The Parties mutually agree that the selection of the foregoing positions and fellowships by the University will follow the University's normal procedures for selecting such positions and fellows for the applicable academic units. As a matter of academic freedom for academic units at the University, individuals who hold positions with or are affiliated with the Center must be approved in accordance with the College's and University's normal procedures.
4. **The University's Support for the Center.** The University shall support the Center Programs to advance the University's mission. As part of this support, the University shall ensure that the faculty, students, and staff working with the Center have adequate space to achieve the Center's Mission. Notwithstanding anything contrary herein, this Agreement is expressly contingent upon the Center receiving all approvals required for its creation, including those approvals set forth in the Ball State University Faculty and Professional Personnel Handbook.
5. **The Donor's Support for the Center Programs.**
  - a. **Contributed Amount.** Subject to the terms of this Agreement, the Donor will contribute funds to the Foundation solely to support the Center Programs to advance the Center's Mission (all or part of such funds

are referred to as the "Contributed Amount(s)"). The maximum Contributed Amount for each Center Program is as follows:

Center Programs	Contributed Amount
Cost and expenses for Personnel	Up to \$ 328,508
Cost and expenses for Center Support and Programming Initiatives	Up to \$ 21,492

b. Other Support. If the University and Donor mutually agree, the Donor may also contribute in-kind services to the University to help promote the work of the University, the Center, or the University faculty, students, and staff.

c. Contingent Grant. The Donor's support under this Agreement is expressly contingent upon Menard, Inc. ("Menard") executing an agreement providing for a grant from Menard (the "Menard Grant Agreement") to support the Center Programs. Therefore, the Donor shall not provide any of the Contributed Amount or be obligated to fulfill any other obligation until the Menard Grant Agreement is executed and attached to this Agreement as Attachment B. The Donor's pledge to make contributions pursuant to this Agreement and Menard's pledge to make contributions pursuant to the Menard Grant Agreement are each contingent upon each other. Therefore, any breach of this Agreement, if caused by the Foundation or the University, is a separate and independent breach on the part of the Foundation or the University, as applicable, under the Menard Grant Agreement and entitles Menard to exercise any and all of its remedies provided in the Menard Grant Agreement, up to and including the right to terminate the Menard Grant Agreement.

**6. Grant Process and Administration.**

a. The Foundation Grant Request. The Foundation shall submit an annual written request according to the schedule below to the Donor for the Donor's consideration (the "Foundation Grant Request"). If the Donor approves the Foundation Grant Request, the Donor shall make a contribution up to the amount listed in the below schedule to the Foundation, and the Foundation shall accept such Contributed Amount on behalf of the University. If the Donor does not approve the Foundation Grant Request, the Donor shall notify the Foundation and the University as stated in Section 8(b).

b. The Foundation Grant Request and Proposed Grant Award Schedule.

Foundation Grant Request Date	Donor Response and Proposed Contribution Date	Contributed Amount
Submitted as the Proposal	Within sixty (60) days of the Parties signing this Agreement	Up to \$ 153,580
June 1, 2020	On or about August 1, 2020	Up to \$ 117,191
June 1, 2021	On or about August 1, 2021	Up to \$ 79,229
<b>Total Maximum Aggregate Contributed Amount:</b>		<b>\$ 350,000</b>

c. The Fund. The Foundation shall place all of the Contributed Amount in a segregated and restricted fund on its books and records called the "ISPE-CKF Fund" (the "Fund"). The Foundation and the University shall solely use the Fund to support the Center Programs as stated in this Agreement. The Foundation shall make the Fund available for contributions from other donors. If another donor makes a contribution to the Fund, the Foundation shall promptly notify the Donor of the amount donated and, if permitted by the other donor, the name of the other donor.

**7. Contributed Amount Used Solely for Charitable Purposes for the Center Programs.**

a. Tax Status. According to IRS records, the Foundation is an organization described within the meaning of Internal Revenue Code (the "Code") sections 501(c)(3) and 509(a)(1). The University has furnished the Donor with records showing that it is an organization described in Code section 170(c)(1) or 511(a)(2)(B). The Foundation and the University shall immediately notify the Donor if their respective tax statuses change.

b. Charitable Purpose. The Foundation and the University shall use the Contributed Amount solely for the Center Programs, which is a charitable purpose described in section 170(c)(2)(B) of the Code. The Foundation and the University shall not use the Contributed Amount to influence legislation as described in section 4945(d)(1) of the Code, to influence the outcome of any election, for a political campaign or intervention, to carry on any voter registration drive, or any other purpose that would jeopardize the Donor's tax-exempt status or subject the Donor to penalties under Chapter 42 of the Code.

c. Center Programs. The Foundation and the University shall return to the Donor any Contributed Amount not spent for the Center Programs.

## **8. General Terms.**

a. Term. The term of this Agreement is from the Effective Date to the later of July 31, 2022, or until the Foundation and the University have spent all of the Contributed Amount, unless earlier terminated pursuant to this Agreement.

b. Termination. The Donor has the right to terminate this Agreement or decline to provide any Contributed Amount in response to a Foundation Grant Request if, in its sole and absolute discretion: (i) the Foundation or the University materially breaches any term of this Agreement; (ii) the Center Programs are not advancing the Center's Mission; or (iii) such action is necessary to comply with any law applicable to the Foundation, the University, or the Donor. Such termination or decision not to provide any Contributed Amount in response to a Foundation Grant Request is effective upon the expiration of thirty days from the date notice was provided by the Donor to the Foundation or the University. If the Agreement is terminated, the Foundation and the University shall return all unspent Contributed Amounts to the Donor within fifteen days of the Donor's request. The Foundation and the University are not relying on the Donor's proposed funding under this Agreement to incur any obligation or take any action or inaction. Notwithstanding anything to the contrary in the Agreement, the duties and obligations of the Parties shall cease upon expiration or termination of this Agreement.

c. Publicity. The Parties shall give each other a reasonable opportunity to review any significant public announcement related to the Agreement. The Parties shall not use each other's logos without the applicable Party's express written consent.

d. Public Records. The Foundation and the University shall notify the Donor upon receiving records requests for this Agreement or related information.

e. Entire Agreement. The terms contained in this Agreement supersede all prior oral or written agreements and understandings between the Parties related to the matters contained in this Agreement and constitute the entire agreement between the Parties with respect to the matters contained in this Agreement.

f. Order of Precedence. If there is a conflict between the terms of this Agreement and the terms in the Proposal, this Agreement controls.

g. Amendments. No amendment to this Agreement will be effective unless it is in writing and signed by the Parties.

h. Severability. The terms of this Agreement are severable. If any court of competent jurisdiction construes any term of this Agreement to be illegal, invalid, or unenforceable, the legality, validity, and enforceability of the remaining terms of this Agreement will not be affected.

i. No Waiver. No delay or failure by any Party to enforce any right or claim under this Agreement is a waiver of such right or claim. Any waiver by any Party of any term of this Agreement is not a further or continuing waiver of such term.

j. Third Party Rights. This Agreement relates to and is for the benefit of the charitable and educational goals of Menard, Inc. Therefore, Menard has rights under this Agreement. Otherwise, this Agreement does not give any rights or remedies to any third party other than the permitted assigns of the Parties.

k. No Assignment. The Foundation and the University shall not transfer or assign their respective interests in the Agreement or any amount to be contributed pursuant to this Agreement without the express written consent of the Donor.

l. Notice. All notices in connection with this Agreement must be in writing and are effective when delivered personally by hand or one business day after the day sent by overnight courier at the address below, or to another address provided by a Party to the other Parties.

If to the Foundation:

Ball State University Foundation

2800 W. Bethel Ave.

Muncie, IN 47304

Jake Logan

Attn:

If to the University:

Ball State University

HB 211G

Muncie, Indiana 47306

Attn: Justin Miller, Director SPA

Kelly Peckham, Budget Administrator

Cc: Office of General Counsel

If to the Donor:

Charles Koch Foundation

1320 N. Courthouse Road, Suite 500

Arlington, VA 22201

Attn: Grant Administrator

Cc: General Counsel's Office

m. Counterparts. This Agreement may be executed in several counterparts, each of which constitutes an original and all of which, when taken together, constitute one agreement or direction. Copies of signatures (whether facsimile or other electronic transmission) to this Agreement are deemed to be originals and may be relied upon to the same extent as the originals.

*[Signature Page Follows]*

The Parties have hereby executed this Agreement as dated below, but agree that this Agreement is effective as of the Effective Date.

**BALL STATE UNIVERSITY FOUNDATION**


By: 

Name: Jake Logan

Title: President - BSN Foundation

Date: 2/16/20

**BALL STATE UNIVERSITY**

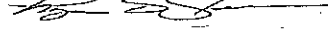
By: 

Name: Scott M. Stachler

Title: Assoc. VP & Chief Budget Officer

Date: 2/13/2020

**CHARLES KOCH FOUNDATION**

By: 

Name: Ryan Stowers

Title: Executive Director

Date: 3/5/20

## ATTACHMENT A

### **Ball State University Foundation and Ball State University Proposal to Support the Institute for the Study of Political Economy**

#### **Mission**

The mission of the Center, which is housed in the Miller College of Business at the University, is to further the understanding of market, political, and social processes and institutions based on principles of equal rights and mutual benefit.

#### **Center Programs**

##### **Personnel**

Funds will support a Center Director, an Assistant Director, and an Assistant Director of Programs who will all engage in research, teaching, and community engagement related to the Center's Mission. This work will include devoting a significant amount of time and resources to work related to the Center. Funds will also support an administrative assistant and a budget administrator.

##### **Center Support and Programming Initiatives**

##### **Programming Initiatives:**

##### **Center Activities**

Funds will support a reading group, an annual colloquium, undergraduate events, an undergraduate lecture series, a student research symposium, and other campus initiatives. These activities will improve and share the Center's research, as well as contribute to the academic and national conversation as it relates to the Center's Mission.

##### **Political Economy Speaker Series**

The Political Economy Speaker Series will host two speakers each semester at the University on topics related to political economy, serving as the Center's major element of public programming. The speakers will contribute to the academic and national conversation as it relates to the Center's Mission.

##### **Conference Travel**

Funds will support travel for student fellows and scholars to attend academic conferences and student seminars held at locations across the country.