

Idaho State University Foundation  
Policy Manual

**Acknowledgement**

The policies in this manual were tailored to fit the needs of the Idaho State University Foundation and reference has been made to the Policies of other University Foundations. However, in large part these policies were derived from policy samples provided in *The Nonprofit Policy Sampler, Second Edition* by Barbara Lawrence and Outi Flynn, a publication of BoardSource. BoardSource and the authors have graciously granted permission for non-profits to adapt their sample policies to the needs of their organization.

# Section 1 Core Organizational Documents

## Table of Contents

### Section 1

<b>Section 1.01- Articles of Incorporation of Idaho State University Foundation, Inc. ....</b>	<b>3</b>
<b>Section 1.02- Idaho State Board of Education Governing Policies and Procedures (June, 2019) .....</b>	<b>10</b>
<b>Section 1.03- Amended and Restated Bylaws (as amended through October 11, 2019) .....</b>	<b>21</b>
<b>Section 1.04- Investment Policy Statement .....</b>	<b>30</b>
<b>Section 1.05- FY21 Operating Agreement between Idaho State University and Idaho State University Foundation .....</b>	<b>42</b>
<b>Section 1.05b- Services Agreement between Idaho State University and Idaho State University Foundation .....</b>	<b>64</b>

*The following is an unofficial text of the Idaho State University Foundation's Articles of Incorporation as amended. The Original Articles were filed with the Idaho Secretary of State on March 17<sup>th</sup>, 1967 with amendments filed May 13, 1983, June 19, 2006, and October 16, 2019. The official version is available on the Secretary of State's website.*

**ARTICLES OF INCORPORATION  
OF  
IDAHO STATE UNIVERSITY FOUNDATION, INC.**

BE IT KNOWN That We, the undersigned, being natural persons of full age and citizens of the United States, in order to form a corporation for the purposes hereinafter stated, under and pursuant to the provisions of the general corporation laws of the State of Idaho, and in particular Chapter 11 of Title 30, and the Acts amendatory thereof and supplemental thereto, do hereby associate ourselves, together with such other persons as may associate themselves and their successors, for the purpose in incorporation and do hereby certify as follows:

**ARTICLE I            NAME**

The name of this corporation is "Idaho State University Foundation, Inc."

**ARTICLE II           PERIOD OF DURATION**

This corporation shall have perpetual existence.

**ARTICLE III          PURPOSE**

1. Said organization is organized exclusively for charitable, religious, educational and scientific purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code.

2. No part of the net earnings of the organization shall inure to the benefit of, or be distributed to, its members, trustees, officers or other private persons, except that the organization shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in the purpose clause hereof.
3. No substantial part of the activities of the organization shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the organization shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office. Notwithstanding any other provision of this document, the organization shall not carry on any other activities not permitted to be carried on (a) by an organization exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, corresponding section of any future federal tax code, or (b) by an organization, contributions to which are deductible under section 170(c)(2) of the Internal Revenue Code, or corresponding section of any future federal tax code.
4. Upon the dissolution of the organization, assets and records shall be distributed to the Idaho State Board of Education or Idaho State University for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code.

#### **ARTICLE IV            POWERS**

Subject to the express limitation that the corporation shall not have or possess any power at any time, the effect of which prevents the corporation from qualifying as an exempt organization under paragraph 501 of the Internal Revenue Code of 1954 as it now exists or as it may be amended hereafter or which prevents any gifts, grant, devise or bequest from qualifying as a charitable contribution for Federal Estate Tax purposes or for Federal Income Tax purposes, the corporation shall have and possess the following powers, any or all of which must be exercised exclusively in the furtherance of the purposes for which the corporation exists:

1. To have perpetual succession by its corporate name.
2. To sue and be sued, complain and defend, in its corporate name.
3. To have a corporate seal which may be altered at pleasure, and to use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced.

4. To purchase, take, receive, lease, take by gifts, devise, or bequest, or otherwise acquire, own, hold, improve, use and otherwise deal in and with real or personal property or any interest therein wherever situated.
5. To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets.
6. To purchase, take, receive, subscribe for or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge or otherwise dispose of and otherwise use and deal in and with shares or other interests in or obligations of other domestic or foreign corporations, whether for profit or not for profit, associations, partnerships or individuals or direct or indirect obligations of the United States or of any other government, state, territory, governmental district or municipality, or of any instrumentality thereof.
7. To make contracts and incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchises and income.
8. To lend money for its corporate purposes, invest and reinvest its funds and take and hold real and personal property as security for the payment of funds so loaned or invested.
9. To conduct its affairs, carry on its operations and have offices and exercise the powers granted by the provisions of Chapter 11, Title 30, Idaho Corporation Code, as that act presently exists or as it may be amended in the future, in any state, territory, district or possession of the United States or in any foreign country.
10. To elect or appoint any committees and any officers or agents of the corporation as the Board of Directors may determine and to define their duties and fix the compensation to be paid to any officer or agent.
11. To make and alter By-Laws not inconsistent with these Articles of Incorporation or with the Laws of the State of Idaho for the administration and regulation of the affairs of the corporation.
12. To make donations for the general welfare of the Idaho State University and for charitable, scientific, literary, and educational purposes incident to the operation of the Idaho State University.

13. To indemnify any director or officer or former director or officer of the corporation or any person who may have served at its request as a director or officer of another corporation whether for profit or not for profit against expenses actually and necessarily incurred by him in connection with the defense of any action, suit or proceeding in which he is made a party by reason of being or having been such director or officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty; but such indemnification shall not be deemed exclusive of any other rights to which such director or officer may be otherwise entitled.
14. To cease its corporate activities and surrender its corporate franchise, or to merge with similar non-profit corporations.
15. To have and exercise all powers necessary or convenient to affect any and all of the purposes for which the corporation is organized and exists.
16. To execute trust agreements and accept and administer trust funds relating to the purposes for which the corporation has been organized and exists and not in conflict with the exempt status of the corporation under the Internal Revenue Code,
17. To pay the reasonable and necessary expenses for the operation of the corporation out of the principal or income from gifts, grants, devises or bequests made expressly for that purpose or unrestricted as to their use by the donors or unless expressly provided to the contrary by the agreement controlling the use of such funds, from income received from other gifts, grants, devises or bequests during the period said funds are held by the foundation and are not required for the purposes specified by the donor, grantor or testator.
18. Unless otherwise specifically restricted by the donor, grantor, or testator, the corporation shall have and possess the following powers with reference to its investments:
  - i. To receive and accept in kind and to hold and administer as an investment as long as it shall seem to it best, any and all property which may come to it without liability for depreciation or loss through errors of judgment or otherwise.
  - ii. To mingle funds of different gifts for the purpose of investment and reinvestment.

- iii. To acquire, invest, reinvest, exchange, retain, sell or otherwise dispose of stocks, bonds, or other securities in the exercise of the judgment and care under the circumstances then prevailing which men of prudence, discretion and intelligence generally exercise in the management of their own affairs, not in regard to speculation but in making investments of their own funds with a view to probable increase of principal as well as safety of their capital and current income. Within the limitations of this standard, the corporation is authorized to acquire and retain every kind of property, real, personal or mixed, and every kind of investment including specifically, but without limiting the generality of the foregoing, bonds, debentures and other corporate obligations, stocks, preferred or common, and real estate mortgages and to retain any property properly acquired without limitation as to time and without regard to its suitability for original purchase. The corporation shall not be limited or restricted to authorized investments for trustees under the laws of Idaho or any other law as now existing or as hereafter enacted.
- iv. To determine whether money or other property received is principal or income, or partly one and partly the other; and to charge and apportion expenses and losses to principal and income as it may deem just and equitable; to make good any "wasting investment," losses of principal or premiums paid for securities, out of income over such periods of time as it may deem advisable.
- v. To invest and reinvest expendable principal received by the Foundation for specific purposes but not presently required for the purposes specified by the donor, grantor or testator in such investments as the Board of Directors shall determine after taking into account the time when said principal funds will be required and the necessity to preserve said funds without loss of principal and to use or accumulate the net income received therefrom for reasonable expenses or operations of the Foundation, as the Board of Directors shall determine; provided, such expendable principal funds shall be available when required for use for the purposes specified by the donor, grantor or testator.

## **ARTICLE V REGISTERED OFFICE AND AGENT**

The official registered office of the corporation shall be in the Administration Building on the Idaho State University Campus, Pocatello, Idaho. The resident agent of the corporation until otherwise designated by the Board of Directors is Dennis A. Hoiter, address: Campus Box 8050, Idaho State University, Pocatello, Idaho. The Board of Directors from time to time by appropriate resolution shall have the power and authority to change the location of the registered office of the corporation and to change the designation of the resident agent of the corporation.

## **ARTICLE VI THE BOARD OF DIRECTORS**

1. The affairs of the corporation shall be conducted by a Board of Directors of at least three members. The exact number of Directors shall be fixed from time to time by the By-Laws of the corporation. Until otherwise provided by the By-Laws, and until their successors are elected and qualified the Board of Directors shall consist of the following members: Dee Bogert, Member, State Board of Education; Dr. William E. Davis, President Idaho State University; Dr. Donald F. Kline; Frank D. Seelye; William J. Ryan, Jr., Executive Secretary of Alumni Association; Herman J. McDevitt, Attorney; and Charles H. Kegel. In addition, the President of the Foundation and the Treasurer are ex-officio members of the Board.
2. The qualifications of members of the Board, their manner of selection and the voting rights of ex-officio members shall be determined by the By-Laws.
3. The real estate and personal property of the corporation shall be under the complete control of the Board of Directors which is charged with the responsibility of administering and expending said property in accordance with the purposes for which the corporation has been organized and exists and in accordance with the terms and conditions of the gift, grant, devise or bequest under which the corporation has received the property in question, The Board of Directors may appoint an Investment Committee and may also appoint a fiscal agent or agents to handle its investments and financial affairs in such manner as may be determined advisable by the Board.

## **ARTICLE VII ORIGINAL INCORPORATORS**

The names and Post Office addresses of the incorporators, who shall serve as Trustees until their successors are elected and qualified are: Charles H. Kegel; Frank D. Seelye; William J. Ryan; E. A. Bogert, Jr.; Dr. Donald F. Kline; Dr. William E. Davis; Herman J. McDevitt.



## **ARTICLE VIII            BOARD OF TRUSTEES**

The corporation may have a Board of Trustees which shall be unlimited in number. Members of the Board of Trustee shall serve without compensation and without requirements for duties or responsibilities. The qualifications and method of selection of Trustees shall be determined by the By-Laws.

## **ARTICLE IX            AMENDMENTS**

These Articles of Incorporation may be amended at any time in the manner and form provided by the Idaho Code as existing at the time of the adoption of these Articles of Incorporation or as provided by any other applicable law but no amendment may be adopted which changes or affects in any way the exempt status of the corporation as an organization existing exclusively for charitable, educational, literary or scientific purposes.

## **CERTIFICATE**

IN WITNESS WHEREOF, the undersigned President and Secretary of the corporation hereby certify and state that these Articles of Incorporation were adopted by the incorporators of the Idaho State University Foundation, Inc. at a special meeting of said incorporators held at the Conference Room; Administration Building, on February 9, 1967, that a quorum was present at such meeting and that these Articles received unanimous approval of the incorporators, and members present at said meeting.

That due notice of said meeting and purposes thereof was given by publication in the Idaho State Journal, a legal newspaper as provided by law. That the Directors & Trustees herein named were elected at such meeting pursuant to such notice.

Signed: William E. Davis, President; Donald F. Kline, Secretary

**Idaho State Board of Education**  
**GOVERNING POLICIES AND PROCEDURES**  
**SECTION: V. FINANCIAL AFFAIRS**  
**SUBSECTION: E. Gifts and Affiliated Foundations**

**June 2019**

---

1. Purpose of the Policy

- a. The Board recognizes the importance of voluntary private support and encourages grants and contributions for the benefit of the institutions and agencies under its governance. Private support for public education is an accepted and firmly established practice throughout the United States. Tax-exempt foundations are one means of providing this valuable support to help the institutions and agencies under the Board's governance raise money through private contributions. Foundations are separate, legal entities, tax-exempt under Section 501(c) of the United States Internal Revenue Code of 1986, as amended, associated with the institutions and agencies under the Board's governance. Foundations are established for the purpose of raising, receiving, holding, and/or using funds from the private sector for charitable, scientific, cultural, educational, athletic, or related endeavors that support, enrich, and improve the institutions or agencies. The Board wishes to encourage a broad base of support from many sources, particularly increased levels of voluntary support. To achieve this goal, the Board will cooperate in every way possible with the work and mission of recognized affiliated foundations
- b. The Board recognizes that foundations:
  - i. Provide an opportunity for private individuals and organizations to contribute to the institutions and agencies under the Board's governance with the assurance that the benefits of their gifts supplement, not supplant, state appropriations to the institutions and agencies;
  - ii. Provide assurance to donors that their contributions will be received, distributed, and utilized as requested for specified purposes, to the extent legally permissible, and that donor records will be kept confidential to the extent requested by the donor and as allowed by law;
  - iii. Provide an instrument through which alumni and community leaders can help strengthen the institutions and agencies through participation in the solicitation, management, and distribution of private gifts; and
  - iv. Aid and assist the Board in attaining its approved educational, research, public service, student loan and financial assistance, alumni relations, and financial development program objectives.
- c. The Board, aware of the value of tax-exempt foundations to the well being of the institutions and agencies under the Board's governance, adopts this policy with the following objectives:

**Idaho State Board of Education**  
**GOVERNING POLICIES AND PROCEDURES**  
**SECTION: V. FINANCIAL AFFAIRS**  
**SUBSECTION: E. Gifts and Affiliated Foundations**

**June 2019**

- i. To preserve and encourage the operation of recognized foundations associated with the institutions and agencies under the Board's governance; and
  - ii. To ensure that the institutions and agencies under the Board's governance work with their respective affiliated foundations to make certain that business is conducted responsibly and according to applicable laws, rules, regulations, and policies, and that such foundations fulfill their obligations to contributors, to those who benefit from their programs, and to the general public.
2. Institutional Foundations
- a. General Provisions Applicable to all Affiliated Foundations
    - i. All private support of an institution not provided directly to such institution shall be through a Board approved affiliated foundation. While an institution may accept gifts made directly to the institution or directly to the Board, absent unique circumstances making a direct gift to the institution more appropriate, donors shall be requested to make gifts to the Board approved affiliated foundations.
    - ii. Each affiliated foundation shall operate as an Idaho nonprofit corporation that is legally separate from the institution and is recognized as a 501(c)(3) public charity by the Internal Revenue Service. The management and control of a foundation shall rest with its governing board. All correspondence, solicitations, activities, and advertisements concerning a particular foundation shall be clearly discernible as from that foundation, and not the institution.
    - iii. The institutions and foundations are independent entities and neither will be liable for any of the other's contracts, torts, or other acts or omissions, or those of the other's trustees, directors, officers, members, or staff.
    - iv. It is the responsibility of the foundation to support the institution at all times in a cooperative, ethical, and collaborative manner; to engage in activities in support of the institution; and, where appropriate, to assist in securing resources, to administer assets and property in accordance with donor intent, and to manage its assets and resources.
    - v. Foundation funds shall be kept separate from institution funds. No institutional funds, assets, or liabilities may be transferred directly or indirectly to a foundation without the prior approval of the Board except as provided herein. Funds may be transferred from an institution to a foundation without prior Board approval when:

**Idaho State Board of Education**  
**GOVERNING POLICIES AND PROCEDURES**  
**SECTION: V. FINANCIAL AFFAIRS**  
**SUBSECTION: E. Gifts and Affiliated Foundations**

**June 2019**

- 1) A donor inadvertently directs a contribution to an institution that is intended for the foundation. If an affiliated foundation is the intended recipient of funds made payable to the Board or to an institution, then such funds may be deposited with or transferred to the affiliated foundation, provided that accompanying documents demonstrate that the foundation is the intended recipient. Otherwise, the funds shall be deposited in an institutional account, and Board approval will be required prior to transfer to an affiliated foundation; or
  - 2) The institution has gift funds that were transferred from and originated in an affiliated foundation, and the institution wishes to return a portion of funds to the foundation for reinvestment consistent with the original intent of the gift.
  - 3) The transfer is of a *de minimis* amount not to exceed \$10,000 from the Institution to the Foundation and the transferred funds are for investment by the Foundation for scholarship or other general Institution/Agency support purposes.
  - 4) The transfer is of funds raised by the institution for scholarship or program support and the funds are deposited with the affiliated foundation for investment and distribution in accordance with the purpose for which the funds were raised.
- vi. Transactions between an institution and an affiliated foundation shall meet the normal tests for ordinary business transactions, including proper documentation and approvals. Special attention shall be given to avoiding direct or indirect conflicts of interest between the institution and the affiliated foundation and those with whom the foundation does business. Under no circumstances shall an institution employee represent both the institution and foundation in any negotiation, sign for both the institution and foundation in a particular transaction, or direct any other institution employee under their immediate supervision to sign for the related party in a transaction between the institution and the foundation.
  - vii. Prior to the start of each fiscal year, an affiliated foundation must provide the institution chief executive officer with the foundation's proposed annual budget, as approved by the foundation's governing board.
  - viii. Each foundation shall conduct its fiscal operations to conform to the institution's fiscal year. Each foundation shall prepare its annual financial statements in accordance with Government Accounting Standards Board (GASB) or Financial Accounting Standards Board (FASB) principles, as appropriate.

**Idaho State Board of Education**  
**GOVERNING POLICIES AND PROCEDURES**  
**SECTION: V. FINANCIAL AFFAIRS**  
**SUBSECTION: E. Gifts and Affiliated Foundations**

**June 2019**

- ix. Institution chief executive officers shall be invited to attend all meetings of an affiliated foundation's governing board in an advisory role. On a case by case basis, other institution employees may also serve as advisors to an affiliated foundation's governing board, as described in the written foundation operating agreement approved by the Board.
- x. Although foundations are private entities and are not subject to the Idaho Public Records Law, foundations, while protecting personal and private information related to private individuals, are encouraged, to the extent reasonable, to be open to public inquiries related to revenue, expenditure policies, investment performance and/or similar non-personal and non-confidential financial or policy information.
- xi. A foundation's enabling documents (e.g., articles of incorporation and bylaws) and any amendments are to be provided to the institution. These documents must include a clause requiring that in the event of the dissolution of a foundation, its assets and records will be distributed to the Board or the affiliated institution. To the extent practicable, the foundation shall provide the institution with an advance copy of any proposed amendments, additions, or deletions to its articles of incorporation or bylaws. The institution shall be responsible for providing all of the foregoing documents to the Board.
- xii. Foundations may not engage in activities that conflict with federal or state laws, rules and regulations; or cause an institution to be in violation of Board policy; or the role and mission of the institutions. Foundations shall comply with applicable Internal Revenue Code provisions and regulations and all other applicable policies and guidelines.
- xiii. Fund-raising campaigns and solicitations of major gifts for the benefit of an institution by its affiliated foundation shall be developed cooperatively between the institution and its affiliated foundation. Before accepting contributions or grants for restricted or designated purposes that may require administration or direct expenditure by an institution, a foundation will obtain the prior approval of the institution chief executive officer or a designee.
- xiv. Foundations shall obtain prior approval in writing from the institution chief executive officer or a designee if gifts, grants, or contracts include a financial or contractual obligation binding upon the institution.
- xv. Foundations shall make clear to prospective donors that:
  - 1) The foundation is a separate legal and tax entity organized for the purpose of encouraging voluntary, private gifts, trusts, and bequests for the benefit of the institution; and

**Idaho State Board of Education**  
**GOVERNING POLICIES AND PROCEDURES**  
**SECTION: V. FINANCIAL AFFAIRS**  
**SUBSECTION: E. Gifts and Affiliated Foundations**

**June 2019**

---

2) Responsibility for the governance of the foundation, including investment of gifts and endowments, resides in the foundation's governing board.

xvi. Institutions shall ensure that foundation controlled resources are not used to acquire or develop real estate or to build facilities for the institution's use without prior Board approval. The institution shall notify the Board, at the earliest possible date, of any proposed purchase of real estate for such purposes, and in such event should ensure that the foundation coordinates its efforts with those of the institution. Such notification to the Board may be through the institution's chief executive officer in executive session pursuant to Idaho Code, Section 74-206(1)(c).

b. Foundation Operating Agreements

Each institution shall enter into a written operating agreement with each of its affiliated foundations that ensures compliance with this Policy.

Board approval of affiliated foundation operating agreements is required if an affiliated foundation will receive donations, membership dues, gifts or other funds (collectively "funds") and delivers those funds directly to the institution. If an affiliated foundation will not receive or maintain funds, or if it routes all funds received to the institution through another Board-approved affiliated foundation, Board approval of the operating agreement is not required. In such cases, the institution shall ensure that services provided by a Board approved affiliated foundation to another affiliated foundation are provided pursuant to a service agreement between the affiliated foundations which complies with Board policy, a copy of which is available to the institution and to the Board.

Operating agreements must be signed by the chairman or president of the foundation's governing board, and by the institution chief executive officer. Operating agreements requiring Board approval must be approved by the Board prior to execution and must be re-submitted to the Board for re-approval every three (3) years, or as otherwise requested by the Board. Operating agreements shall follow the operating agreement template approved by the Board and found at <http://boardofed.idaho.gov/>. When an operating agreement is presented to the Board for review, an institution must include a redline to the Board's operating agreement template, as well as a redline to the previously Board approved version of the operating agreement, if there is one.

Foundation operating agreements shall establish the operating relationship between the parties, and shall, at a minimum, address the following topics:

**Idaho State Board of Education**  
**GOVERNING POLICIES AND PROCEDURES**  
**SECTION: V. FINANCIAL AFFAIRS**  
**SUBSECTION: E. Gifts and Affiliated Foundations**

**June 2019**

- 
- i. Institution Resources and Services.
- 1) Whether, and how, an institution intends to provide contract administrative and/or support staff services to an affiliated foundation. When it is determined that best practices call for an institution employee to serve in a capacity that serves both the institution and an affiliated foundation, then the operating agreement must clearly define the authority and responsibilities of this position within the foundation. Notwithstanding, no employee of an institution who functions in a key administrative or policy making capacity (including, but not limited to, any institution vice-president or equivalent position) shall be permitted to have responsibility or authority for foundation policy making, financial oversight, spending authority, investment decisions, or the supervision of foundation employees. The responsibility of this position within the foundation that is performed by an institution employee in a key administrative or policy making capacity shall be limited to the coordination of institution and affiliated foundation fundraising efforts, and the provision of administrative support to foundation fundraising activities.
  - 2) Whether, and how, an institution intends to provide other resources and services to an affiliated foundation, which are permitted to include:
    - a) Access to the institution's financial systems to receive, disburse, and account for funds held (with respect to transactions processed through the institution's financial system, the foundation shall comply with the institution's financial and administrative policies and procedures manuals);
    - b) Accounting services, to include cash disbursements and receipts, accounts receivable and payable, bank reconciliation, reporting and analysis, auditing, payroll, and budgeting;
    - c) Investment, management, insurance, benefits administration, and similar services; and
    - d) Development services, encompassing research, information systems, donor records, communications, and special events.
  - 3) Whether the foundation will be permitted to use any of the institution's facilities and/or equipment, and if so, the details of such arrangements.
  - 4) Whether the institution intends to recover its costs incurred for personnel, use of facilities or equipment, or other services provided to the foundation. If so, then payments for such costs shall be made directly to the institution.

**Idaho State Board of Education**  
**GOVERNING POLICIES AND PROCEDURES**  
**SECTION: V. FINANCIAL AFFAIRS**  
**SUBSECTION: E. Gifts and Affiliated Foundations**

**June 2019**

No payments shall be made directly from a foundation to institution employees in connection with resources or services provided to a foundation pursuant to this policy.

ii. Management and Operation of Foundations.

- 1) Guidelines for receiving, depositing, disbursing and accounting for all funds, assets, or liabilities of a foundation, including any disbursements/transfers of funds to an institution from an affiliated foundation. Institution officials into whose department or program foundation funds are transferred shall be informed by the foundation of the restrictions, if any, on such funds and shall be responsible both to account for them in accordance with institution policies and procedures, and to notify the foundation on a timely basis regarding the use of such funds.
- 2) Procedures with respect to foundation expenditures and financial transactions, which must ensure that no person with signature authority shall be an institution employee in a key administrative or policy making capacity (including, but not limited to, an institution vice-president or equivalent position).
- 3) The liability insurance coverage the foundation will have in effect to cover its operations and the activities of its directors, officers, and employees.
- 4) Description of the investment policies to be utilized by the foundation, which shall be conducted in accordance with prudent, sound practice to ensure that gift assets are protected and enhanced, and that a reasonable return is achieved, with due regard for the fiduciary responsibilities of the foundation's governing board. Moreover, such investments must be consistent with the terms of the gift instrument.
- 5) Procedures that will be utilized to ensure that institution and foundation funds are kept separate.
- 6) Detailed description of the organization structure of the foundation, which addresses conflict of interest in management of funds and any foundation data.

iii. Foundation Relationships with the Institutions

- 1) The institution's ability to access foundation books and records.
- 2) The process by which the institution chief executive officer, or designee, shall interact with the foundation's board regarding the proposed annual



**Idaho State Board of Education**  
**GOVERNING POLICIES AND PROCEDURES**  
**SECTION: V. FINANCIAL AFFAIRS**  
**SUBSECTION: E. Gifts and Affiliated Foundations**

**June 2019**

operating budget and capital expenditure plan prior to approval by the foundation's governing board.

- 3) Whether, and how, supplemental compensation from the foundation may be made to institutional employees. Any such payments must have prior Board approval, and shall be paid by the foundations to the institutions, which in turn will make payments to the employee in accordance with normal practice. Employees shall not receive any payments or other benefits directly from the foundations.

iv. Audits and Reporting Requirements.

- 1) The procedure foundations will utilize for ensuring that regular audits are conducted and reported to the Board. Unless provided for otherwise in the written operating agreement, such audits must be conducted by an independent certified public accountant, who is not a director or officer of the foundation. The independent audit shall be a full scope audit, performed in accordance with generally accepted auditing standards.
- 2) The procedure foundations will use for reporting to the institution chief executive officer the following items:
  - a) Regular financial audit report;
  - b) Annual report of transfers made to the institution, summarized by department;
  - c) Annual report of unrestricted funds received, and of unrestricted funds available for use in that fiscal year;
  - d) A list of foundation officers, directors, and employees;
  - e) A list of institution employees for whom the foundation made payments to the institution for supplemental compensation or any other approved purpose during the fiscal year, and the amount and nature of that payment;
  - f) A list of all state and federal contracts and grants managed by the foundation; and
  - g) An annual report of the foundation's major activities;

**Idaho State Board of Education**  
**GOVERNING POLICIES AND PROCEDURES**  
**SECTION: V. FINANCIAL AFFAIRS**  
**SUBSECTION: E. Gifts and Affiliated Foundations**

**June 2019**

- h) An annual report of each real estate purchase or material capital lease, investment, or financing arrangement entered into during the preceding foundation fiscal year for the benefit of the institution; and
- i) An annual report of any actual litigation involving the foundation during its fiscal year, as well as legal counsel used by the foundation for any purpose during such year. This report should also discuss any potential or threatened litigation involving the foundation.

v. Conflict of Interest and Code of Ethics and Conduct.

A description of the foundation's conflict of interest policy approved by the foundation's governing board and applicable to all foundation directors, officers, and staff members, and which shall also include a code of ethics and conduct. Such policy must assure that transactions involving the foundation and the personal or business affairs of a trustee, director, officer, or staff member should be approved in advance by the foundation's governing board. In addition, such policy must provide that directors, officers, and staff members of a foundation disqualify themselves from making, participating, or influencing a decision in which they have or would have a financial interest. Finally, such policy must assure that no director, trustee, officer, or staff member of a foundation shall accept from any source any material gift or gratuity in excess of fifty dollars (\$50.00) that is offered, or reasonably appears to be offered, because of the position held with the foundation; nor should an offer of a prohibited gift or gratuity be extended by such an individual on a similar basis.

vi. Affiliated Research Foundations and Technology Transfer Organization for Institutions of Higher Education

The Board wishes to encourage research and technology transfer and the corresponding economic development potential for the state of Idaho. The Board acknowledges that independent, affiliated foundations operating to support an institution's research and technology transfer efforts can be useful tools to provide institutions with avenues for engagement with the private sector as well as with public and private entities interested in funding research, funding technology transfer and promoting spin-off enterprises arising from institutional intellectual property and technology. Such affiliated foundations should operate substantially within the framework for affiliated foundations set out in paragraph 1 and 2 of this policy, with such variances as are reasonable based on the nature of the anticipated function of the specific foundation.

- 1) The institutions under the Board's governance may affiliate with non-profit entities which generally meet the criteria set forth in paragraph 2.b. of this

**Idaho State Board of Education**  
**GOVERNING POLICIES AND PROCEDURES**  
**SECTION: V. FINANCIAL AFFAIRS**  
**SUBSECTION: E. Gifts and Affiliated Foundations**

**June 2019**

policy and which operate for the purpose of supporting the research and technology transfer efforts of one or more of the institutions.

- 2) Research and Technology Transfer Foundation Operating Agreements. The requirement of a foundation operating agreement under paragraph 2.c. of this policy shall also apply to foundations supporting research and technology transfer. Institutions proposing to affiliate with a particular foundation may propose reasonable variances from specific requirements under paragraph 2.c. based upon the anticipated function of the foundation, provided that any such variances are specifically identified by the institution in materials presented to the Board when requesting approval of the foundation.

3. Foundations for Other Agencies

Other agencies under the Board's jurisdiction may establish foundations to accept gifts made for the benefit of the agencies' operating purposes. These agencies are subject to the same policies as the institutional foundations. However, agency foundations with annual revenues less than \$100,000 are not required to obtain an independent audit. These agencies must instead submit an annual report to the Board of gifts received and the disposition of such gifts.

4. Idaho Public Television Foundation

- a. Foundations that exist for the benefit of Idaho Public Television (IPTV) are required by Federal Communications Commission (FCC) regulations to have specific spending authority designated by the Board. Audits of the IPTV Foundation will be conducted by the State Legislative Auditor.
- b. By action of the Board, the Friends of Idaho Public Television, Inc., has been designated to accept gifts made for the benefit of public television in the state of Idaho. The Foundation will conduct its activities in a manner consistent with the Federal Communications Commission (FCC) regulations and the FCC license held by the Board.

5. Acceptance of Direct Gifts

Notwithstanding the Board's desire to encourage the solicitation and acceptance of gifts through affiliated foundations, the Board may accept donations of gifts, legacies, and devises (hereinafter "gifts") of real and personal property on behalf of the state of Idaho that are made directly to the Board or to an institution or agency under its governance. Gifts worth more than \$250,000 must be reported to and approved by the executive director of the Board before such gift may be expended or otherwise used by the institution or agency. Gifts worth more than \$500,000 must be approved

**Idaho State Board of Education**  
**GOVERNING POLICIES AND PROCEDURES**  
**SECTION: V. FINANCIAL AFFAIRS**  
**SUBSECTION: E. Gifts and Affiliated Foundations**

---

**June 2019**

by the Board. The chief executive officer of any institution or agency is authorized to receive, on behalf of the Board, gifts that do not require prior approval by the executive director or the Board and that are of a routine nature. This provision does not apply to transfers of gifts to an institution or agency from an affiliated foundation (such transfers shall be in accordance with the written operating agreement between the institution or agency and an affiliated foundation, as described more fully herein).

## **Idaho State University Foundation**

### **Section 1.03 – Amended and Restated Bylaws – as amended through October 11, 2019**

#### **Article 1 Purpose and Duration of the Foundation**

The Idaho State University Foundation, Inc., an Idaho nonprofit corporation (the “Foundation”) exists for the purpose of soliciting, securing and managing various sources of funding to promote the growth and operations of Idaho State University in the furtherance of the University’s goals to provide a meaningful and valued educational experience for its students. The Foundation shall have no termination date and shall exist in perpetuity.

#### **Article 2 Offices**

##### **Section 2.01 Principal Office**

The principal office of the Foundation shall be located at the administrative building on the Idaho State University Campus. The Foundation may have such other offices as the Board of Directors (the “Board”) may designate or as the business of the Foundation may require from time to time.

##### **Section 2.02 Registered Office**

The registered office of the Foundation to be maintained in the state of Idaho shall be located at the principal office of the Foundation, and may be changed from time to time by the Board.

#### **Article 3 Board of Directors**

##### **Section 3.01 General Powers and Standard of Care**

All corporate powers shall be exercised by or under authority of, and the business and affairs of the Foundation shall be managed under the direction of, the Board except as may be otherwise provided in the Idaho Nonprofit Corporation Act (the “Act”) or the Articles of Incorporation (the “Articles”). If any such provision is made in the Articles, the powers and duties conferred or imposed upon the Board by the Act shall be exercised or performed to such extent and by such person or persons as shall be provided in the Articles.

A Director shall perform such Director's duties as a Director, including such Director's duties as a member of any committee of the Board upon which such Director may serve, in good faith, in a manner such Director reasonably believes to be in the best interests of the Foundation, and with such care as an ordinarily prudent person in a like position would use under similar circumstances. In performing such Director's duties, a Director shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by:

- a. One (1) or more officers or employees of the Foundation whom the director reasonably believes to be reliable and competent in the matters presented;

- b. Counsel, public accountants, or other persons as to matters which the director reasonably believes to be within such person's professional or expert competence; or
- c. A committee of the Board upon which such director does not serve, duly designated in accordance with a provision of these Bylaws, as to matters within its designated authority, which committee the director reasonably believes to merit confidence, but such director shall not be considered to be acting in good faith if such director has knowledge concerning the matter in question that would cause such reliance to be unwarranted. A person who so performs such duties shall have no liability by reason of being or having been a director of the Foundation.

### Section 3.02 Composition and Term

There shall be a Board of Directors of the Foundation consisting of no more than twenty-five (25) voting directors. Directors shall be elected by the Board for a term of three (3) years and shall not serve more than three (3) consecutive terms, unless elected Board Past Chair ("PCoB"), Chair ("COB") or Vice Chair ("VC") of the Foundation. The term of the director elected VC shall be extended an additional one year after the completion of service as PCoB and Chair, unless the maximum of three terms has not been reached, in which case he or she will serve the remainder of his or her three terms. After the maximum of three (3) terms on the Board, an outgoing director shall automatically move into Emeritus Director status and may be re-elected to the Board after a term of absence from the Board of at least one (1) year.

The Board of Directors, by a majority vote, shall be authorized to designate a limited number of its members as Lifetime Board members. The eligibility, method of designation, privileges, duties and responsibilities of Lifetime Board Members are described in Section 3.01.03 of the Board's policies.

### Section 3.03 Method of Selection

Nomination to the Board may be made by any member of the Board, any ex officio members of the Board or any Emeritus Director. Nominations should be submitted in writing to a member of the Nominating Committee of the Board. The Nominating Committee will review the nominees and present a slate of potential nominees to the Board for election when vacancies occur on the Board.

### Section 3.04 Qualifications

Any person of good moral character having a genuine interest in the objectives of the Foundation may be qualified as a member of the Board without regard to his or her place of residence, whether he or she has attended Idaho State University or any other similar factor.

### Section 3.05 Ex Officio Membership

The following shall be ex officio members of the Board of this Foundation:

- a. The President of Idaho State University;
- b. The Vice President for University Advancement at Idaho State University ("Executive Vice President");

- c. The Secretary of the Foundation;
- d. The Treasurer of the Foundation;
- e. The President of the Idaho State University Alumni Association;
- f. Legal Counsel for the Foundation;
- g. An ISU Faculty Member periodically appointed or elected by the ISU Faculty Senate to perform an active role in fund-raising for the University; and
- h. The President of the Bengal Athletic Boosters, Inc.;
- i. Unless they are also current voting directors, ex officio members of the Board shall not vote on matters being considered by the Board.

### Section 3.06 Meetings of the Board of Directors

The Board shall meet semi-annually and at such other times as meetings may be called. The PCoB, Chair, VC, or the EVP shall have the right to call any meeting of the Board at any time and place by giving no less than five (5) days' notice to the Board of the time and place of such meeting.

- a. Any Board action to remove a director shall require no less than seven (7) days written notice to each director that the matter will be voted on at a Board meeting. Such notice shall also include the time and place of such meeting.
- b. A director may, at any time before, during or after a Board meeting, waive any notice required by law, the Articles, or these Bylaws. The waiver must be in writing, signed by the director entitled to the notice, and filed with the minutes or Foundation records.

A director's attendance at or participation in a meeting waives any required notice of the meeting unless the director, upon arriving at the meeting or prior to the vote on a matter not noticed in conformity with law, the Articles, or these Bylaws objects to lack of notice and does not thereafter vote for or assent to the objected action.

- c. A majority of the voting membership of the Board shall constitute a quorum at any meeting and, unless otherwise provided by law or by the Articles, action of the Board shall be controlled by majority action of the voting directors present at any meeting at which a quorum is present.
- d. The Board shall keep a record of its proceedings and shall make a detailed report available to the directors, the officers, including ex officio officers of the Foundation, and Emeritus Directors.

### Section 3.07 Committees of the Board of Directors

The Foundation Board shall have the right to create any number of standing committees to assist in accomplishing the duties and responsibilities of the Foundation. Standing committees shall include the following: Executive, Governance, Audit, Finance, Investment, Development and Nominating. The responsibilities of standing committees, and other details concerning standing committees, are described in Section 9.00 of the Policy Manual.

The Board shall have the right to create ad hoc committees from time to time to assist in accomplishing the duties and the responsibilities of the Foundation. Other details concerning ad hoc committees are described in Section 9.08 of the Policy Manual.

Membership on any committee need not be limited to members of the Board or Board Emeritus Directors. All committee members shall be subject to Foundation policies and in particular, policies and practices concerning conflicts of interest and confidentiality.

#### Section 3.08 Vacancies

Any vacancy occurring on the Board and any directorship to be filled by reason of any increase in the number of directors shall be filled by the Board based on nominations received from the Nominating Committee. The term of any directorship arising due to vacancy or increase in the number of directors shall be three (3) years and shall be subject to the term limits described in Section 3.02 above.

#### Section 3.09 Removal of Directors

- a. Removal for Cause. Any director may be removed from office for cause by a two-thirds (2/3) majority vote of the total directors then in office.
- b. Removal for Unexcused Absences. A director may be removed from office after two (2) unexcused absences of any Board meeting within any twelve-month period, provided that a majority of the total directors then in office vote for such removal.

#### Section 3.10 Informal Action

Any action required to be taken at a meeting of the Board of directors may be taken without a meeting, if all the members of the Board consent in writing to that action. Such action by written consent shall have the same force and effect as a unanimous vote of the Board. Such written consent or consents shall be filed with the minutes of the proceedings of the Board.

#### Section 3.11 Open Meetings

The Board shall conduct its business meetings in open sessions whenever possible. However, the Board may meet in executive session in those circumstances where the Board is discussing or acting upon strategy with respect to litigation; discussing the purchase or sale of real property; interviewing prospective Foundation employees; or considering the evaluation, dismissal or disciplining of, or hearing complaints or charges brought against, a Foundation employee or staff member or on any matter which the Board feels must be dealt with in a confidential manner.

All board meetings shall be subject to Foundation Policy 2.05 with respect to confidentiality.

#### Section 3.12 Records

Although the Foundation is a private entity and is not subject to the Idaho Public Records Law, the Foundation, while protecting personal and private information related to private individuals, will, to the extent reasonable, be open to public inquires related to revenue,



expenditure policies, investment performance and/or similar non-personal and non-confidential financial or policy information.

#### Section 3.13 Director Conflicts of Interest

All members of the Board shall comply with all provisions of the Conflict of Interest Policy as set forth in Section 2.04 of the Policy Manual.

#### Section 3.14 Loans to Directors

The Foundation shall not lend money to or guarantee the obligation of a director.

### **Article 4 Emeritus Directors**

The Foundation shall have honorary Emeritus Directors to provide advisory services to the Foundation. Directors who have completed three (3) terms on the Board will automatically be eligible to serve as an Emeritus Director, unless they decline to do so. Emeritus Directors shall be unlimited in number and shall serve until resignation or until removal by a majority vote of the Board. Emeritus Directors may attend all regular meetings of the Board, and committee meetings, though they shall not be required to attend. Emeritus Directors may not vote on matters being considered by the Board or matters being considered by a committee.

At the discretion of the Board of Directors a Director who has not served a full 9 years on the Board may be named an Emeritus Director.

### **Article 5 Officers**

#### Section 5.01 Designation and Method of Selection

Officers of the Foundation shall consist of the Board Past Chair (“PCoB”), Chair (“COB”), Vice Chair (“VC”, Executive Vice President (“EVP”), Secretary and Treasurer. Except as otherwise provided herein, the officers shall be elected by the Board and, other than the PCoB, COB and VC, shall serve at the pleasure of the Board or until their respective successors are duly elected and qualified. The term of the PCoB and of the COB shall be two years each. The term of the VC shall be one year and shall begin one year before the end of the COB’s term. The VC will automatically assume the role of Chair at the end of the term of the previous Chair. The Chair will automatically assume the role of PCoB at the end of the term of the previous PCoB. Persons elected as Secretary or Treasurer shall be then current members of either the Board or Emeritus Directors. They serve a term of three years, and may serve additional three year terms after going through the nominating process at the end of each term. Any vacancies in any office shall be filled by the Board at any regular or special meeting of the Board from nominees provided by the nominating committee. The terms of officers as described herein may be increased or decreased by majority vote of the Board members present at the meeting at which such increase or decrease is voted on, provided a quorum is present.

#### Section 5.02 Duties of the Officers

The duties and responsibilities of the various officers are described in Section 3.00 of the Board's policies.

It is not expected that any officer, other than the EVP, shall devote his or her full time to the affairs of the Foundation or the University unless otherwise directed by the Board at the time of his or her election and with his or her consent.

#### Section 5.03 Removal

Any officer elected or appointed by the Board may be removed by an affirmative vote of two-thirds (2/3) of the total Board whenever, in its judgment, the best interest of the Foundation would be served thereby.

#### Section 5.04 Officer Conflict of Interest

All officers shall comply with all provisions of the Conflict of Interest Policy as set forth in Section 2.04 of the Board's policies.

#### Section 5.05 Loans to Officers

The Foundation shall not lend money to or guarantee the obligation of an officer.

### **Article 6            Miscellaneous**

#### Section 6.01 Indemnification

The Foundation shall indemnify any director, officer or former director or officer of the Foundation against expenses actually and reasonably incurred by him or her in connection with the defense of any action, suit or proceeding, civil or criminal, in which he or she is made a party by reason of being or having been a director or officer, except in relation to matters as to which he or she is adjudged in such action, suit or proceeding to be liable for gross negligence or misconduct in the performance of duty to the Foundation.

#### Section 6.02 Investment

Any funds of the Foundation which are not needed currently for the activities of the Foundation may, at the discretion of the Board, be invested in such investments as are permitted by law.

#### Section 6.03 Depositories

All funds of the Foundation not otherwise employed shall be deposited from time to time to the credit of the Foundation in such banks, savings and loan associations, trust companies, or other depositories as the Board may elect.

#### Section 6.04 Contracts

The Board may authorize any officer(s) or agent(s) of the Foundation, in addition to the officers authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Foundation, and such authority may be general or confined to specific instances.

Section 6.05 Checks, Drafts, Etc.

All checks, drafts, or orders for the payment of money, notes or other evidence of indebtedness issued in the name of the Foundation shall be signed by such persons and in such manner as shall from time to time be determined by resolution of the Board. In the absence of such determination by the Board, such instrument shall be signed by the Treasurer.

Section 6.06 Fiscal Year

The fiscal year of the Foundation shall end on the last day of June of each year.

Section 6.07 Books and Records

The Foundation shall keep correct and complete books and records of accounts and shall also keep minutes of the proceedings of its Board, and committees having any of the authority of the Board, and shall keep a record giving the name and address of the members entitled to vote.

Section 6.08 Nondiscrimination

This Foundation is an equal opportunity employer and shall make available its services without regard to race, creed, age, sex, color, ancestry, or national origin.

Section 6.09 Political Activity

The Foundation shall not, in any way, use corporate funds in the furtherance of, nor engage in, any political activity for or against any candidate for public office. However, this Bylaw shall not be construed to limit the right of any official or member of this Foundation to appear before any legislative committee, to testify as to matters involving the Foundation.

Section 6.10 Gifts

The Board may accept, on behalf of the Foundation, any contribution, gift, bequest, or devise for the general purposes or for any special purposes of the Foundation.

Section 6.11 Parliamentary Procedure

The rules contained in the current edition of Robert's Rules of Order Newly Revised shall govern the Foundation in all cases to which they are applicable and in which they are not inconsistent with these bylaws and any special rules of order the Foundation Board may adopt.

Section 6.12 Staff Conflict of Interest

All staff members shall comply with all provisions of the Conflict of Interest Policy as set forth in Section 2.04 of the Policy Manual.

**Article 7 Amendments**

These Bylaws may be amended by an affirmative vote of a majority of the voting directors present at any regular meeting of the Board or at a special meeting called for the specific purpose of amending such Bylaws. Notice of any proposed amendment shall be mailed by United States mail or by electronic mail to each director and to each person entitled to notice of Board meetings at his or her last known address not less than ten (10) days preceding the meeting at which such amendment will be submitted to a vote. This meeting may be conducted in person, by telephone, or by electronic mail. A quorum of the Board must participate.

The Secretary is authorized to correct clerical errors and make conforming changes in the Foundation's Bylaws (including making sure numerical protocol within the Bylaws is followed) without the need for further approval from the Board, as long as the corrections do not change the meaning or constitute a substantive change.

**Secretary's Certification**

This is to certify that the foregoing Bylaws of the Idaho State University Foundation have been duly adopted by the Board of Directors and contain all amendments made through the October 11, 2019 Board of Director's meeting.

 \_\_\_\_\_ *1-8-2020*

**Brad Hall**  
**Secretary, ISU Foundation Board of Directors**

**Date**

# **Investment Policy Statement**

**Idaho State University Foundation, Inc.**

**921 South 8<sup>th</sup> Ave., Stop 8050**

**Pocatello, ID 83209-8050**

***Date: March 2023***

## Contents

<u>PURPOSE</u>	3
<u>DUTIES AND RESPONSIBILITIES</u>	3
<u>INVESTMENT CATEGORIES</u>	6
<u>ENDOWMENT POOL</u>	6
<u>Objectives</u>	6
<u>Adherence to Policy Targets and Rebalancing</u>	8
<u>Investment Securities, Strategies and Diversification</u>	8
<u>ENHANCED LIQUIDITY CASH POOL</u>	9
<u>Objectives</u>	11
<u>Investment Allocation</u>	11
<u>HOLDING ACCOUNT CASH POOL</u>	11
<u>Objectives</u>	11
<u>Investment Allocation</u>	11
<u>OTHER INVESTMENTS</u>	11
<u>CONTROL PROCEDURES</u>	11
<u>Review of Assumptions</u>	11
<u>Review of Investment Manager and Investments</u>	12

## **PURPOSE**

This Investment Policy Statement (IPS) sets forth the standards and guidelines governing the investment and management of the Foundation's financial assets in compliance with donor restrictions, the Foundation's governing policies and procedures, and state and federal laws and regulations including, but not limited to, the Uniform Prudent Investors Act and the Uniform Management of Institutional Funds Act.

This document defines the responsibilities of the Foundation Board of Directors (Board), the Investment Committee (Committee), and any other parties involved in managing the Foundation's investments. It identifies or provides permissible investments, target asset allocations, and diversification requirements.

The Committee has arrived at this IPS through careful study of the returns and risks associated with various investment strategies, the current and projected financial obligations of the Foundation and growth goals after consulting with an outside OCIO (as defined below) as it deemed appropriate. This IPS has been chosen as the most appropriate policy for documenting the financial objectives of the Foundation, which are described in the "Statement of Objectives" section of this document; however, the Committee shall be free to deviate from this IPS when it concludes that it is prudent and in the interest of the Foundation to do so and may amend the IPS at any time. The Committee has full discretionary authority for and is entitled to deference in its interpretation of this IPS.

The Committee has adopted a long-term investment horizon such that the chances and duration of investment losses are carefully weighed against the long-term potential for appreciation of assets.

It is not expected that the IPS will change frequently.

### ***Fiduciary Duty***

The assets of the Foundation will be invested in accordance with all applicable laws. The Committee will perform its duties in a manner consistent with fiduciary standards. Specifically:

- Duty of care
- Duty of loyalty
- Duty of obedience
- Duty to diversify investments

### ***Conflict of Interest***

If any member of the Committee has, or appears to have, a conflict of interest that impairs or appears to impair the respective individual's ability to exercise independent and unbiased judgment in the good faith discharge of his or her duties, he or she shall disclose such conflicts and may be required to refrain from participating in specific decisions.



## **DUTIES AND RESPONSIBILITIES**

The Committee is responsible for managing the investment process in a prudent manner. In carrying out these duties, the Committee has retained an OCIO, as further discussed below, to assist in managing the assets of the Foundation as set forth in an Investment Management Agreement (the “IMA”). The OCIO’s role is set forth in the IMA and may include the provision of guidance to the Committee on matters pertaining to the investment of Foundation assets including the creation of the IPS, investment selection, monitoring of performance and compliance with the IPS. All decisions pertaining to the IPS and guidelines for its implementation will be made by the Committee. The OCIO has been engaged to have authority and responsibility to select appropriate investments in the specific asset classes mandated by this IPS, in accordance with (and subject to) the terms of the IMA.

### ***Board of Directors***

The Board has the ultimate fiduciary responsibility for the prudent and effective investment of the assets of the Foundation. The Board has delegated responsibility for the investment management process to the Committee as indicated in Policy Section 5.04 of the Foundation’s Policy Manual (Investments), with the requirement the Committee update the Board annually on investment activities and performance. The Board sets the annual spending policy after receiving input from the Committee.

### ***Investment Committee***

The Committee shall perform the functions of an investment fiduciary responsible for the prudent management of the Foundation’s investments. The Committee has the authority to establish all investment policy statements for the Foundation’s investments, as delegated by the Board in Policy Section 5 – Investments and Policy Section 9.05 – Investment Committee.

A Committee member shall act in good faith with the care an ordinarily prudent person in a like position would exercise under similar circumstances and in a manner the member reasonably believes to be in the best interests of the Foundation. In discharging Committee duties, a Committee member shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, if prepared or presented by the Foundation officers or employees whom the member reasonably believes are reliable and competent in the matters presented, including from legal counsel, investment consultants, OCIOs, advisors, public accountants or other persons as to matters the member reasonably believes are within the person’s professional or expert competence or a committee of the Board of which the committee member is not a member if the member reasonably believes the committee merits confidence.

A member who meets the foregoing standards shall be presumed to have discharged his or her duties as a Committee member.

### ***Outsourced Chief Investment Officer (OCIO)***

The Committee may retain an OCIO to assist the Committee in establishing the IPS, including guidelines contained therein.

In accordance with the terms of the IMA, the OCIO may be responsible for managing the asset allocation, determining investment strategy, implementing through permissible investment vehicles, including rebalancing where appropriate. The OCIO may also be responsible for monitoring asset allocation across and among asset classes and provide timely reporting to the Committee. The specific responsibilities of the OCIO are listed in Policy Section 9.05.03.

### ***Custodian***

The Custodian(s) has possession of securities for safekeeping, for settlement of trades, and for the collection of income. In addition, the Custodian(s) is responsible for processing all cash flows and providing comprehensive monthly statements.

### ***Governance Matrix***

	Set and approve investment and spending policy	Asset allocation guidelines	Investment strategy	Evaluate/ select investment managers	Portfolio rebalancing	Monitor ongoing activities and reports performance	Portfolio holdings	Committee education/ Asset allocation studies	Fiduciary responsibility
ISUF, Inc. Board of Directors	Decides	Delegates				Delegates			Yes (ultimate)
Investment Committee		Implements	Approves	Recommends	Sets ranges	Oversees			Yes
SEI as OCIO*		Advises	Implements	Researches/ Selects	Implements	Assists/ Provides	Decides/ Monitors	Provides	Yes*
SEI as Custodian							Safeguards		No

\*Outsourced provider assumes fiduciary responsibility and performs all of the functions of the investment manager(s), investment consultants and custodian. Only a fiduciary with respect to the investment manager selection (where delegated the responsibility) and possibly co-fiduciary if given discretion over asset allocation.

## STATEMENT OF OBJECTIVES

Spending Policy - The spending policy is set by the Board to:

- Support the Foundation's mission
- Safeguard the funds for future generations
- Enable the maximum amount of spending that can be maintained over the long term
- Ensure spending is financially sustainable
- Ensure the stated wishes of donors are honored
- Support annual operating expenses of the Foundation

It is the current policy of the Foundation to annually distribute up to 4.0% of the average market value of the Endowment Pool and other Investment Earnings, as defined in the Spending Policy, over a rolling 12 quarter (three year) period. It shall be the responsibility of the Board to periodically review the spending policy against actual returns, with relevant input from the Committee and OCIO, to make any necessary adjustments.

## INVESTMENT CATEGORIES

This IPS governs the investment of distinct groups of funds: the endowment account, the enhanced liquidity account, the split-interest account, the holding account, and miscellaneous other investments. Because each group of investments has a different objective, this document addresses them separately.

The Foundation's primary investment objective is to support the mission and operations of Idaho State University and to preserve and protect Foundation assets by earning a total return for each category of assets which is appropriate for each category's time horizon, distribution requirements, and risk tolerance.

### ENDOWMENT ACCOUNT

#### *Objectives*

The primary objective is to preserve and augment the long-term purchasing power of the investments after withdrawals are taken. A secondary objective is to provide a continuing and stable funding source to support Board-directed spending to support the current and future mission of the Foundation. The objectives for the endowment account have been established in conjunction with a comprehensive review of the current and projected requirements.

With its endowment management practices, the Foundation seeks to:

1. Support and augment Idaho State University's programs by responsible stewardship of the money donated to the endowment funds and for Board-directed spending.
2. Promote growth of the endowment to realize the greatest return on the endowment assets. Growth is expected to occur through positive net returns, building reserves and attracting new donors because of responsible management of the assets.

3. Achieve on average, over a full market cycle, the hurdle rate (net of investment management fees) or higher as it relates to annualized endowment performance. The hurdle rate is the aggregate of:
  - Spending rate (currently 4%)
  - Administrative fee (currently 1.5%)
  - Inflation rate (CPI; variable; approximately 2.5%)
4. Exceed, over a full market cycle, the average return (net of investment management fees) of appropriate indexes weighted by asset allocation target percentages. This total portfolio benchmark is viewable on the monthly performance statement for the endowment provided by the OCIO; this benchmark can change throughout time as the asset mix changes.
5. Exceed, over a full market cycle, appropriate index returns in each asset class.

Due to the nature of the financial markets, there can be no assurance these objectives will be met. The Committee also realizes and agrees that historical performance is no guarantee of future performance.

***Asset Allocation Targets***

The asset allocation will likely be the key determinant of the Foundation’s returns over the long-term. Therefore, the Foundation will be diversified across multiple markets that are not similarly affected by economic, political, or social developments. A globally diversified portfolio with uncorrelated returns from various assets should reduce the variability of returns across time.

Because of the importance of asset allocation in meeting the Foundation’s long-term return objectives, it will be reviewed at least annually by the Committee. The long-term target asset allocation for the Foundation is expressed in the IMA.

	<u>Minimum %</u>	<u>Target %</u>	<u>Maximum %</u>
Growth Strategies	75%	80%	90%
Risk Reduction Strategies	5%	10%	15%
Inflation Protection Strategies	5%	10%	15%

Within each asset class, assets will be invested in accordance with the guidelines set out below.

**Strategy Descriptions**

*Growth Strategies:* Investments that seek to provide equity-like, long-term capital appreciation while potentially recognizing substantial fluctuations in year-to-year performance. Examples include equities, higher yielding fixed income instruments, private equity, long biased hedge funds and opportunistic strategies. Certain Growth Strategies also feature Risk Reduction characteristics (High Yield, Emerging Markets Debt) or Inflation Protection characteristics (Private Assets, Real Estate)

*Risk Reduction Strategies:* Investments that seek to provide stability and reduce volatility. Examples include fixed income and non-directional hedge funds.

*Inflation Protection Strategies:* Investments that seek to provide a diversified inflation hedge and yield. Examples include public and private real asset and real estate strategies as well as Treasury Inflation-Protected Securities (“TIPS”).

*Cash Equivalent Reserves:* The Foundation may temporarily hold cash in anticipation of upcoming transaction activity.

In accordance with the terms of the IMA, the OCIO may be delegated the discretion with respect to the investments utilized by the OCIO to implement the Portfolio’s strategy.

***Adherence to Policy Targets and Rebalancing***

The asset allocation established by this Investment Policy Statement represents a long-term perspective. As such, rapid unanticipated market shifts or changes in economic conditions may cause the asset mix to fall outside of the policy range. These divergences should be of a short-term nature.

To ensure divergence from the target policy is within acceptable limits, rebalancing of assets may be necessary. Rebalancing procedures are authorized in accordance with the IMA and implemented by the Investment Manager.

***Investment Securities, Strategies and Diversification***

As described in the IMA, the OCIO implements the asset allocation through pooled investment vehicles, including mutual fund products, separately managed accounts, and/or other alternative fund products. Consistent with the desire for adequate diversification, this Investment Policy Statement assumes the volatility of the combined equity investment will be similar or less than that of the market opportunity available to institutional investors with similar return objectives or risk appetite. The volatility of fixed income portfolios may be greater than the market during periods when the portfolio duration exceeds that of the market.

**SPLIT INTEREST ACCOUNT**

***Objectives***

From time to time the Foundation enters into charitable remainder annuity trust agreements with its donors (Split Interest Agreements). It is the Foundation’s practice to invest assets related to the individual trusts into investment accounts designed to generate sufficient income to pay related obligations until termination of the individual trusts. Consequently, this Account’s investment timeline objectives align with expected time frames such trusts will exist.

***Investment Allocation***

The Split Interest Account’s investment allocation guidelines are as follows:

	<u>Minimum %</u>	<u>Target %</u>	<u>Maximum %</u>
Growth Strategies	50%	55%	60%

Risk Reduction Strategies	30%	35%	40%
Inflation Protection Strategies	5%	10%	15%

Within each asset class, assets will be invested in accordance with the guidelines set out below.

Strategy Descriptions

*Growth Strategies:* Investments with daily liquidity that seek to provide equity-like, long-term capital appreciation while potentially recognizing substantial fluctuations in year-to-year performance. Examples include equities, higher yielding fixed income instruments and opportunistic strategies. Certain Growth Strategies also feature Risk Reduction characteristics (High Yield, Emerging Markets Debt).

*Risk Reduction Strategies:* Investments that seek to provide stability and reduce volatility. Examples include investment grade fixed income.

*Inflation Protection Strategies:* Investments that seek to provide a diversified inflation hedge and yield. Examples include commodities, inflation-sensitive equities, and Treasury Inflation- Protected Securities (“TIPS”).

In accordance with the terms of the IMA, the OCIO may be delegated the discretion with respect to the investments utilized by the OCIO to implement the Portfolio’s strategy.

**ENHANCED LIQUIDITY ACCOUNT**

***Objectives***

These funds are expected to be called by the University or used for Foundation operations within a three-year time frame (e.g., funding of certain University construction projects) but could be needed at any time. The primary objective of the portfolio is liquidity. The secondary objective is income with capital preservation. The portfolio will invest in US government and corporate securities. As such, the process is conservative in nature seeking to provide liquidity on demand without putting undo risk on the primary objective of the portfolio.

***Investment Allocation***

The key to strong portfolio management is effectively employing approved credits in the most optimal combination of product type and maturity tenor to build a portfolio that not only provides sound liquidity, but also returns an appropriate yield within the confines of very limited risk-taking. To maximize the investment revenues, these funds may be invested in securities or other investment vehicles assuming a level of risk and commensurate return are less than the endowment pool, but more than the short-term cash pool. The level of risk taken should minimize but not eliminate the risk that the value of the investments is less than the original value when the funds are called by the University or needed for Foundation operations.

Portfolio will include investments such as:

- US government securities will carry a maximum final stated maturity of 5 years.

- Corporate securities will carry a maximum final stated maturity of one year.
- Positions are limited to a maximum of 5% per issuer for investments that exceed seven days. Calculations are at the time of purchase and excluding U.S. Government Securities.
- Positions are limited to a maximum or 10% per issuer for investments that mature within seven days. Calculations are at the time of purchase and excluding U.S. Government Securities.

Approved Non-Government asset classes include:

Certificates of Deposit:

- Domestic, Yankee, Euro CDs
- Approved A-1+/P-1 and A-1/P-1 rated banks

Commercial Paper / Corporate Debt:

- Approved A-1+/P-1 and A-1/P-1 Commercial Paper Credits
- Minimum single A S&P rating for Corporate Debt
- No Asset Backed Commercial Paper will be purchased
- No Structured products

Floating Rate Notes:

- Interest rate risk is mitigated by the floating coupon.
- The frequency of reset serves as a useful tool in optimizing yield while defensively positioning against interest rate risk.

**HOLDING ACCOUNT**

***Objectives***

The Foundation holds funds that are intended for short-term investment separate from the endowment pool. These funds are expected to be called by the University or used for Foundation operations within a 0–6 month time frame. The primary objective of the portfolio is liquidity. The secondary objective is capital preservation. The portfolio will invest in US government, agency, and corporate securities. As such, the process is conservative in nature seeking to provide liquidity on demand without putting undo risk on the primary objective of the portfolio.

***Investment Allocation***

To maximize the investment revenues, these funds may be invested in securities or other investment vehicles assuming a level of risk and commensurate return less than the endowment or medium-term cash pools, but more than would be earned if carried as cash. The level of risk taken should eliminate or nearly eliminate the risk that the value of the investments is less than the original value when the funds are called by the University or needed by the Foundation. Portfolio will include investments such as:

- Positions are limited to a maximum of 5% per issuer for investments that exceed 7 days excluding Cash, Money Market Sweep Vehicles and U.S. Government and Agency Securities. Calculations are at the time of purchase.
- Positions are limited to a maximum or 10% per issuer for investments that mature within 7 days and excluding Cash, Money Market Sweep Vehicles and U.S. Government and Agency Securities. Calculations are at the time of purchase.

Approved Asset Classes include Cash and Money Market Sweep Vehicles, US Government and Agency Debt Obligations, Certificates of Deposit, Time Deposits, and Commercial Paper / Corporate Debt. Commercial Paper / Corporate debt must be rated A-1+/P-1 and A-1/P-1 with a minimum investment grade rating by 2 rating agencies.

### **OTHER INVESTMENTS**

From time to time, the Foundation may hold other investments that are not appropriately included in any other category. These investments may include certificates of deposits, gifts of securities intended for immediate liquidation and interests in partnerships, joint ventures or limited liability companies that have been donated to or purchased by the Foundation.

## **CONTROL PROCEDURES**

### ***Review of Assumptions***

All major assumptions regarding spending policy, budget projections, capital market returns, and liquidity needs are subject to an annual review by the Committee. This review will focus on the Foundation's ongoing ability to tolerate downturns in asset values, changes to liquidity, income or rate or return objectives, and any changes in the Foundation's priorities or spending policy.

It is not expected the IPS will change frequently. In particular, short-term changes in the financial markets should not require an adjustment to the IPS.

### ***Review of OCIO and Investments***

- The Committee will review investment performance at least annually and will seek reports from the OCIO on a periodic basis, focusing on adherence to the IPS and guidelines.
- Material changes in the investment organizations, such as in investment philosophy and personnel, etc.
- Appropriateness of asset allocation and progress toward goals.
- Comparison of long-term investment results to appropriate benchmarks, as well as market index returns.



**ADOPTION OF INVESTMENT POLICY STATEMENT**

*The Idaho State University Foundation, Inc. Board of Directors has reviewed, approved, and adopted this Investment Policy Statement, dated March 2023, prepared with the assistance of SEI Investments Management Corporation.*

**OPERATING AGREEMENT BETWEEN  
IDAHO STATE UNIVERSITY FOUNDATION, INC. AND  
IDAHO STATE UNIVERSITY**

This Operating Agreement (“Operating Agreement”) between Idaho State University Foundation, Inc. (“Foundation”) and Idaho State University (“University”) is entered into as of this 17th day of June, 2021.

WHEREAS, the Foundation was organized and incorporated in 1967 for the purpose of generating voluntary private support from alumni, parents, friends, corporations, foundations, and others for the benefit of the University.

WHEREAS, the Foundation exists to raise and manage private resources supporting the mission and priorities of the University, and provide opportunities for students and a degree of University excellence unavailable with state funding levels.

WHEREAS, the Foundation is dedicated to assisting the University in the building of the endowment to address, through financial support, the long-term academic and other priorities of the University.

WHEREAS, as stated in its articles of incorporation, the Foundation is a separately incorporated 501(c)(3) organization and is responsible for identifying and nurturing relationships with potential donors and other friends of the University, soliciting cash, securities, real and intellectual property, and other private resources for the support of the University, and acknowledging and stewarding such gifts in accordance with donor intent and its fiduciary responsibilities.

WHEREAS, in connection with its fund-raising and asset-management activities, the Foundation utilizes, in accordance with this Operating Agreement, personnel experienced in planning for and managing private support.

WHEREAS, the mission of the Foundation is to secure, manage and distribute private contributions and support the growth and development of the University.

WHEREAS, the University and Foundation desire to set forth in writing various aspects of their relationship with respect to matters such as the solicitation, receipt, management, transfer and expenditure of funds.

WHEREAS, the Parties hereby acknowledge that they will at all times conform to and abide by the Idaho State Board of Education’s Governing Policies and Procedures, Gifts and Affiliated Foundations Policy V.E., and that they will submit this Operating Agreement for initial State Board of Education (“State Board”) approval, and thereafter every three (3) years, or as otherwise requested by the State Board, for review and re-approval.

WHEREAS, the Foundation and the University intend for this Operating Agreement to be the written operating agreement required by State Board Policy V.E.2.b.

NOW THEREFORE, in consideration of the mutual commitments herein contained, and other good and valuable consideration, receipt of which is hereby acknowledged, the Parties agree as follows:

## **ARTICLE I Foundation's Purposes**

The Foundation is the primary affiliated foundation responsible for securing, managing and distributing private support for the University. Accordingly, to the extent consistent with the Foundation's Articles of Incorporation and Bylaws, and the State Board's Policies and Procedures, the Foundation shall: (1) solicit, receive and accept gifts, devises, bequests and other direct or indirect contributions of money and other property made for the benefit of the University from the general public (including individuals, corporations, other entities and other sources); (2) manage and invest the money and property it receives for the benefit of the University; and (3) support and assist the University in fundraising and donor relations.

In carrying out its purposes, the Foundation shall not engage in activities that: (1) conflict with federal or state laws, rules and regulations (including all applicable provisions of the Internal Revenue Code and corresponding Federal Treasury Regulations); (2) cause the University to be in violation of applicable policies of the State Board; or (3) conflict with the role and mission of the University.

## **ARTICLE II Foundation's Organizational Documents**

The Foundation shall provide the University with access to its Articles of Incorporation and Bylaws, as amended, via the Foundation's public website. The Foundation, to the extent practicable, also shall provide the University with an advance copy of any proposed amendments to the Foundation's Articles of Incorporation and Bylaws. The University shall provide all such documents to the State Board.

## **ARTICLE III University Resources and Services**

### **1. University Employees:**

- a. **University/Foundation Liaison:** The University's Vice President for University Advancement shall serve as the University's Liaison to the Foundation.
  - i. The University's Vice President for University Advancement shall be responsible for coordinating the University's and the Foundation's fundraising efforts and for supervising and coordinating the administrative support provided by the University to the Foundation.

- ii. The Vice President for University Advancement or designee shall attend each meeting of the Foundation's Board of Directors and shall report on behalf of the University to the Foundation's Board of Directors regarding the University's fundraising efforts.
- b. **Managing Director:** The Managing Director of the Foundation is an employee of the University. The Managing Director shall be responsible for the supervision and control of the day-to-day operations of the Foundation, and subject to the direction and control of the Foundation, as set forth in the Service Agreement attached hereto as Exhibit "B" ("Service Agreement"). More specific duties of the Managing Director are set forth in the Service Agreement.
- c. **Other University Employees Holding Key Foundation or Administrative or Policy Positions:** In the event the University and the Foundation determine it is appropriate for one or more additional University employees who function in a key administrative or policy making capacity for the University (including, but not limited to, any University Vice-President or equivalent position) to serve both the University and the Foundation, then, pursuant to State Board Policy V.E., this Operating Agreement shall be amended to clearly set forth the authority and responsibilities of the position of any such University employee.
- d. **Limited Authority of University Employees:** Notwithstanding the foregoing provisions, no University employee who functions in a key administrative or policy making capacity for the University (including, but not limited to, any University Vice-President or equivalent position) shall be permitted to have responsibility or authority for Foundation policy making, financial oversight, spending authority, investment decisions, or the supervision of Foundation employees.

## 2. **Support Services:**

The University shall provide administrative, financial, accounting, investment, and development services to the Foundation, as set forth in the Service Agreement. All University employees who provide support services to the Foundation shall remain University employees under the direction and control of the University, unless agreed that the direction and control of any such employee will be vested with the Foundation through a written Service Agreement. In consideration of the services provided to the Foundation by the University, the Foundation will pay directly to the University that portion of the overhead costs agreed to between the parties under the Service Agreement. The portion of such costs shall be determined by the agreement of the Parties.

## 3. **University Facilities and Equipment:**

The University shall provide the use of the University's office space and equipment to the Foundation upon the terms agreed to by the University and the Foundation. The terms of use (including amount of rent) of the University's office space and equipment shall be as set forth in the Service Agreement.

#### 4. No Foundation Payments to University Employees:

Notwithstanding any provision of this Operating Agreement to the contrary, the Foundation shall not make any payments directly to an University employee in connection with any resources or services provided to the Foundation pursuant to this Operating Agreement.

### ARTICLE IV

#### Management and Operation of Foundation

The management and control of the Foundation shall rest with its Board of Directors.

##### 1. Gift Solicitation:

*Authority of Vice President for University Advancement.* All Foundation gift solicitations shall be subject to the direction and control of the Vice President for University Advancement.

- a. **Form of Solicitation:** Any and all Foundation gift solicitations shall make clear to prospective donors that (1) the Foundation is a separate legal and tax entity organized for the purpose of encouraging voluntary, private gifts, trusts, and bequests for the benefit of the University; and (2) responsibility for the governance of the Foundation, including the investment of gifts and endowments, resides in the Foundation's Board of Directors.
- b. **Foundation is Primary Donee:** Absent unique circumstances, prospective donors shall be requested to make gifts directly to the Foundation rather than to the University.

##### 2. Acceptance of Gifts:

- c. **Approval Required Before Acceptance of Certain Gifts:** Before accepting contributions or grants for restricted or designated purposes that may require administration or direct expenditure by the University, the Foundation shall obtain the prior written approval of the University. Similarly, the Foundation shall also obtain the prior written approval of the University of the acceptance of any gift or grant that would impose a binding financial or contractual obligation on the University.
- d. **Acceptance of Gifts of Real Property:** The Foundation shall conduct adequate due diligence on all gifts of real property that it receives. All gifts of real property intended to be held and used by the University shall be approved by the State Board before acceptance by the University and the Foundation. In cases where the real property is intended to be used by the University in connection with carrying out its proper functions, the real property may be conveyed directly to the University, in which case the University and not the Foundation shall be responsible for the due diligence obligations for such property.

- e. **Processing of Accepted Gifts:** All gifts received by the University or the Foundation shall be delivered (if cash) or reported (if any other type of property) to the Foundation's designated gift administration office (a unit of the Foundation) in accordance with the Service Agreement.

### 3. Fund Transfers:

The Foundation agrees to transfer funds, both current gifts and income from endowments, to the University on a regular basis as agreed to by the Parties. The Foundation's Treasurer or other individual to whom such authority has been delegated by the Foundation's Board of Directors shall be responsible for transferring funds as authorized by the Foundation's Board of Directors.

- a. **Restricted Gift Transfers:** The Foundation shall inform the University officials into whose program or department funds are transferred of any restrictions on the use of such funds and provide such officials with access to any relevant documentation concerning such restrictions. Such University officials shall account for such restricted funds separate from other program and department funds in accordance with applicable University policies and shall notify the Foundation on a timely basis regarding the uses of such restricted funds.
- b. **Unrestricted Gift Transfers:** The Foundation may utilize any unrestricted gifts it receives for any use consistent with the Foundation's purposes as generally summarized in Article I of this Operating Agreement. If the Foundation elects to use unrestricted gifts to make grants to the University, such grants shall be made at such times and in such amounts as the Foundation's Board of Directors may determine in the Board's sole discretion.

### 4. Foundation Expenditures and Financial Transactions:

- c. **Signature Authority:** The Foundation designates the Foundation Treasurer as the individual with signature authority for the Foundation in all financial transactions. The Foundation may supplement or change this designation with written notice to the University; provided, however, in no event may the person with Foundation signature authority for financial transactions be an University employee.
- d. **Expenditures:** All expenditures of the Foundation shall be (1) consistent with the charitable purposes of the Foundation, and (2) not violate restrictions imposed by the donor or the Foundation as to the use or purpose of the specific funds.

### 5. University Report on Distributed Funds:

On a regular basis, which shall not be less than annually, the University shall report to the Foundation on the use of restricted and unrestricted funds transferred to the University. This report shall specify the restrictions on any restricted funds and the uses of such funds.

## 6. **Transfer of University Assets to the Foundation:**

No University funds, assets, or liabilities may be transferred directly or indirectly to the Foundation without the prior approval of the State Board except when:

- e. A donor inadvertently directs a contribution to the University that is intended for the Foundation in which case such funds may be transferred to the Foundation so long as the documents associated with the gift indicate the Foundation was the intended recipient of the gift. In the absence of any such indication of donor intent, such funds shall be deposited in an University account, and State Board approval will be required prior to the University's transfer of such funds to the Foundation.
- f. The University has gift funds that were originally transferred to the University from the Foundation and the University wishes to return a portion of those funds to the Foundation for reinvestment consistent with the original intent of the gift.
- g. Transfers of a *de minimis* amount not to exceed \$10,000 from the University to the Foundation provided such funds are for investment by the Foundation for scholarship or other general University support purposes. This exception shall not apply to payments by the University to the Foundation for obligations of the University to the Foundation, operating expenses of the Foundation or other costs of the Foundation.
- h. The transfer is of funds raised by the University for scholarship or program support and the funds are deposited with the affiliated foundation for investment and distribution in accordance with the purpose for which the funds were raised.

## 7. **Separation of Funds:**

All Foundation assets (including bank and investment accounts) shall be held in separate accounts in the name of the Foundation using Foundation's Federal Employer Identification Number. The financial records of the Foundation shall be kept using a separate chart of accounts. For convenience purposes, some Foundation expenses may be paid through the University such as payroll and campus charges. These expenses will be paid through accounts clearly titled as belonging to the Foundation and shall be reimbursed by the Foundation on a regular basis.

## 8. **Insurance:**

The Foundation shall maintain insurance to cover the operations and activities of its directors, officers and employees. The Foundation shall also maintain general liability coverage.

**9. Investment Policies:**

All funds held by the Foundation, except those intended for short term expenditures, shall be invested in accordance with the Uniform Prudent Management of University Funds Act, Idaho Code Sections 33-5001 to 33-5010, and the Foundation’s investment policy which is posted on the Foundation’s public website; provided, however, the Foundation shall not invest any funds in a manner that would violate the applicable terms of any restricted gifts. The Foundation shall provide the University with access to its investment policy, as amended, via the Foundation’s public website.

**10. Organization Structure of the Foundation:**

The organizational structure of the Foundation is set forth in the Foundation's Articles of Incorporation and the Bylaws, as amended. The Foundation shall provide the University and State Board with access to its Articles of Incorporation and Bylaws, as amended, via the Foundation’s public website.

**ARTICLE V**

**Foundation Relationships with the University**

At all times and for all purposes of this Operating Agreement, the University and the Foundation shall act in an independent capacity and not as an agent or representative of the other Party, provided, however, the University and the Foundation acknowledge that the Foundation carries out functions for the benefit of the University. As such, the Parties shall share certain information as provided below.

**1. Access to Records:**

Subject to recognized legal privileges, each Party shall have the right to access the other Party’s financial, audit, donor and related books and records as needed to properly conduct its operations.

**2. Record Management:**

- a. The Parties recognize that the records of the Foundation relating to actual or potential donors contain confidential information. Such records shall be kept by the Foundation in such a manner as to protect donor confidentiality to the fullest extent allowed by law. Notwithstanding the access to records permitted above, access to such confidential information by the University shall be limited to the University's President and any designee of the University's President.



- b. The Foundation shall be responsible for maintaining all permanent records of the Foundation including but not limited to the Foundation's Articles, Bylaws and other governing documents, all necessary documents for compliance with IRS regulations, all gift instruments, and all other Foundation records as required by applicable laws.
- c. Although the Foundation is a private entity and is not subject to the Idaho Public Records Law, the Foundation, while protecting personal and private information related to private individuals, is encouraged, to the extent reasonable, to be open to public inquiries related to revenue, expenditure policies, investment performance and/or similar non-personal and non-confidential financial or policy information.

**3. Name and Marks:**

Consistent with its mission to help to advance the plans and objectives of the University, the University grants the Foundation the limited, non-exclusive use of the name Idaho State University, for use in its support of the University. The Foundation shall operate under the University's logotype in support of its organizational business and activities. Any use by the Foundation of the University's logotypes or other trademarks must be with prior approval of the University through the Office of Marketing and Communications.

**4. Identification of Source:**

The Foundation shall be clearly identified as the source of any correspondence, activities and advertisements emanating from the Foundation.

**5. Establishing the Foundation's Annual Budget:**

The Foundation shall provide the University with the Foundation's proposed annual operating budget and capital expenditure plan (if any) prior to the date the Foundation's Board of Directors meeting at which the Foundation's Board will vote to accept such operating budget. Any of the University's funding requests to the Foundation shall be communicated in writing to the Managing Director and the Foundation's Treasurer by April 1 of each year.

**6. Attendance of University's President at Foundation's Board of Director Meetings:**

The University's President shall be invited to attend all meetings of the Foundation's Board of Directors and may act in an advisory capacity in such meetings.

**7. Supplemental Compensation of University Employees:**

Any supplemental compensation of University employees by the Foundation must be preapproved by the State Board. Any such supplemental payment or benefits must be paid by the Foundation to the University, and the University shall then pay compensation to the employee in accordance with the University's normal practice. No University employee shall receive any payments or other benefits directly from the Foundation.

**ARTICLE VI**  
**Audits and Reporting Requirements**

**1. Fiscal Year:**

The Foundation and the University shall have the same fiscal year.

**2. Annual Audit:**

On an annual basis, the Foundation shall have an audit conducted by a qualified, independent certified public accountant who is not a director or officer of the Foundation. The annual audit will be provided on a timely basis to the University's President and the State Board, in accordance with the State Board's schedule for receipt of said annual audit. The Foundation's annual statements will be presented in accordance with standards promulgated by the Financial Accounting Standards Board (FASB). The Foundation is a component unit of the University as defined by the Government Accounting Standards Board (GASB). Accordingly, the University is required to include the Foundation in its financial statements which follow a GASB format. Therefore, the Foundation will prepare schedules reconciling the FASB Statements to GASB standards in the detail required by GASB Standards. The annual audited financial statements, including the auditor's independent opinion regarding such financial statements, and schedules shall be submitted to the University Office of Finance and Business Affairs in sufficient time to incorporate the same into the University's statements. All such reports and any accompanying documentation shall protect donor privacy to the extent allowable by law.

**3. Separate Audit Rights:**

The University agrees that the Foundation, at its own expense, may at any time during normal business hours conduct or request additional audits or reviews of the University's books and records pertinent to the expenditure of donated funds. The Foundation agrees that the University and the State Board, at its own expense, may, at reasonable times, inspect and audit the Foundation's books and accounting records.

**4. Annual Reports to University President:**

On a regular basis, which shall not be less than annually, the Foundation shall provide a written report to the University President setting forth the following items:

- a. the annual financial audit report;
- b. an annual report of Foundation transfers made to the University, summarized by University department;
- c. an annual report of unrestricted funds received by the Foundation;
- d. an annual report of unrestricted funds available for use during the current fiscal year;
- e. a list of all of the Foundation's officers, directors, and employees;

- f. a list of University employees for whom the Foundation made payments to the University for supplemental compensation or any other approved purpose during the fiscal year, and the amount and nature of that payment;
- g. a list of all state and federal contracts and grants managed by the Foundation;
- h. an annual report of the Foundation's major activities;
- i. an annual report of each real estate purchase or material capital lease, investment, or financing arrangement entered into during the preceding Foundation fiscal year for the benefit of the University; and
- j. an annual report of (1) any actual litigation involving the Foundation during its fiscal year; (2) identification of legal counsel used by the Foundation for any purpose during such year; and (3) identification of any potential or threatened litigation involving the Foundation.

## **ARTICLE VII**

### **Conflict of Interest and Code of Ethics and Conduct**

**1. Conflicts of Interest Policy and Code of Ethics and Conduct:**

The Foundation's Conflict of Interest Policy is attached as Exhibit "F", and its Code of Ethical Conduct is set forth as Exhibit "G".

**2. Dual Representation:**

Under no circumstances may an University employee represent both the University and the Foundation in any negotiation, sign for both entities in transactions, or direct any other University employee under their immediate supervision to sign for the related Party in a transaction between the University and the Foundation. This shall not prohibit University employees from drafting transactional documents that are subsequently provided to the Foundation for its independent review, approval and use.

**3. Contractual Obligation of University:**

The Foundation shall not enter into any contract that would impose a financial or contractual obligation on the University without first obtaining the prior written approval of the University. University approval of any such contract shall comply with policies of the State Board with respect to State Board approval of University contracts.

#### **4. Acquisition or Development or Real Estate:**

The Foundation shall not acquire or develop real estate or otherwise build facilities for the University's use without first obtaining approval of the State Board. In the event of a proposed purchase of real estate by the Foundation for the University, the University shall notify the State Board at the earliest possible date. Any such proposed purchase for the University's use shall be a coordinated effort of the University and the Foundation. Any notification to the State Board required pursuant to this paragraph may be made through the State Board's chief executive officer in executive session pursuant to the open meeting law, set forth in Idaho Code, Title 74, Chapter 2.

### **ARTICLE VIII General Terms**

#### **1. Effective Date:**

This Operating Agreement shall be effective on the date set forth above.

#### **2. Right to Terminate:**

This Operating Agreement shall terminate upon the mutual written agreement of both Parties. In addition, either Party may, upon 90 days prior written notice to the other, terminate this Operating Agreement, and either Party may terminate this Operating Agreement in the event the other Party defaults in the performance of its obligations and fails to cure the default within 30 days after receiving written notice from the non-defaulting Party specifying the nature of the default. Should the University choose to terminate this Operating Agreement by providing 90 days written notice or in the event of a default by the Foundation that is not cured within the time frame set forth above, the Foundation may require the University to pay, within 180 days of written notice, all debt incurred by the Foundation on the University's behalf including, but not limited to, lease payments, advanced funds, and funds borrowed for specific initiatives. Should the Foundation choose to terminate this Operating Agreement by providing 90 days written notice or in the event of a default by the University that is not cured within the time frame set forth above, the University may require the Foundation to pay any debt it holds on behalf of the Foundation in like manner. The Parties agree that in the event this Operating Agreement shall terminate, they shall cooperate with one another in good faith to negotiate a new agreement within six (6) months. In the event negotiations fail, the Parties will initiate the dispute resolution mechanism described below (through reference to the Foundation Chair and the State Board) to further attempt to negotiate a new agreement within the time period specified herein, they will refer the matter to the State Board for resolution. Termination of this Operating Agreement shall not constitute or cause dissolution of the Foundation.

**3. Dispute Resolution:**

The Parties agree that in the event of any dispute arising from this Operating Agreement, they shall first attempt to resolve the dispute by working together with the appropriate staff members of each of the Parties. If the staff cannot resolve the dispute, then the dispute will be referred to the Chair of the Board of the Foundation and the University President. If the Foundation Board Chair and University President cannot resolve the dispute, then the dispute will be referred to the Foundation Chair and the State Board for resolution. If they are unable to resolve the dispute, the Parties shall submit the dispute to mediation by an impartial third Party or professional mediator mutually acceptable to the Parties. If and only if all the above mandatory steps are followed in sequence and the dispute remains unresolved, then, in such case, either Party shall have the right to initiate litigation arising from this Operating Agreement. In the event of litigation, the prevailing Party shall be entitled, in addition to any other rights and remedies it may have, to reimbursement for its expenses, including court costs, attorney fees, and other professional expenses.

**4. Dissolution of Foundation:**

Consistent with provisions appearing in the Foundation's Bylaws and Articles of Incorporation, should the Foundation cease to exist or cease to be an Internal Revenue Code §501(c)(3) organization, the Foundation shall transfer to the State Board (or University, as applicable) the balance of all property and assets of the Foundation from any source, after the payment of all debts and obligations of the Foundation, and such property shall be vested in the State Board in trust for the use and benefit of the University.

**5. Board Approval of Operating Agreement:**

Prior to the Parties' execution of this Operating Agreement, an unexecuted copy of this Operating Agreement must be approved by the State Board. Furthermore, this Operating Agreement, including any subsequent modifications and restatements of this Operating Agreement, shall be submitted to the State Board for review and approval no less frequently than once every three (3) years or more frequently if otherwise requested by the State Board.

**6. Modification:**

Any modification to the Operating Agreement or Exhibits hereto shall be in writing and signed by both Parties.

**7. Providing Document to and Obtaining Approval from the University:**

Unless otherwise indicated herein, any time documents are to be provided to the University or any time the University's approval of any action is required, such documents shall be provided to, or such approval shall be obtained from, the University's President or an individual to whom such authority has been properly delegated by the University's President.

**8. Providing Documents to and Obtaining Approval from the Foundation:**

Unless otherwise indicated herein, any time documents are to be provided to the Foundation or any time the Foundation's approval of any action is required, such document shall be provided to, or such approval shall be obtained from, the Foundation's Board of Directors or an individual to whom such authority has been properly delegated by the Foundation's Board of Directors.

**9. Notices:**

Any notices required under this Operating Agreement may be mailed or delivered as follows:

To the University:

President  
Idaho State University  
921 S 8<sup>th</sup> Avenue, Stop 8310  
Pocatello, ID 83209

To the Foundation:

Managing Director  
Idaho State University Foundation, Inc.  
921 S. 8<sup>th</sup> Avenue, Stop 8050  
Pocatello, ID 83209

With an additional copy to:

Foundation Board Chair  
Idaho State University Foundation, Inc.  
921 S. 8<sup>th</sup> Avenue, Stop 8050  
Pocatello, ID 83209

**10. No Joint Venture:**

At all times and for all purposes of this Memorandum of Understanding, the University and the Foundation shall act in an independent capacity and not as an agent or representative of the other Party.

**11. Liability:**

The University and Foundation are independent entities and neither shall be liable for any of the other's contracts, torts, or other acts or omissions, or those of the other's trustees, directors, officers, members or employees.

**12. Indemnification:**

To the extent allowed by law, the University and the Foundation each agree to indemnify, defend and hold the other Party, their officers, directors, agents and employees harmless from and against any and all losses, liabilities, and claims, including reasonable attorney's fees arising out of or resulting from the willful act, fault, omission, or negligence of the Party, its employees, contractors, or agents in performing its obligations under this Operating Agreement. This indemnification shall include, but not be limited to, any and all claims arising from an employee of one Party who is working for the benefit of the other Party. Nothing in this Operating Agreement shall be construed to extend to the University's liability beyond the limits of the Idaho Tort Claims Act, Idaho Code §6-901 et seq.

**13. Assignment:**

This Operating Agreement is not assignable by either Party, in whole or in part.

**14. Governing Law:**

This Operating Agreement shall be governed by the laws of the State of Idaho.

**15. Severability:**

If any provision of this Operating Agreement is held invalid or unenforceable to any extent, the remainder of this Operating Agreement is not affected thereby and that provision shall be enforced to the greatest extent permitted by law.

**16. Entire Agreement:**

This Operating Agreement constitutes the entire agreement among the Parties pertaining to the subject matter hereof, and supersedes all prior agreements and understandings pertaining thereto.

IN WITNESS WHEREOF, the University and the Foundation have executed this Operating Agreement on the above specified date.

Idaho State University

DocuSigned by:  
*Kevin Satterlee*  
By: \_\_\_\_\_ Its:  
President

Idaho State University Foundation, Inc.

DocuSigned by:  
*Dave Jeppesen*  
By: \_\_\_\_\_ Its:  
Chair



**EXHIBIT "A"**

Loaned Employee Agreement

Not applicable at this time

**EXHIBIT "B"**

Service Agreement

**EXHIBIT "C"**

Investment Policy

See Foundation's Public Website

**EXHIBIT "D"**

Articles of Incorporation See  
Foundation's Public Website

**EXHIBIT "E"**

Bylaws

See Foundation's Public Website

## **EXHIBIT "F"**

### Conflict of Interest Policy

**EXHIBIT "G"**

Code of Ethical Conduct

## **EXHIBIT "B"**

### **SERVICES AGREEMENT**

THIS SERVICES AGREEMENT is entered into by and between IDAHO STATE UNIVERSITY, a state educational institution and a body politic and corporate organized and existing under the Constitution and laws of the State of Idaho ("University"), and IDAHO STATE UNIVERSITY FOUNDATION, a private Idaho nonprofit corporation ("Foundation").

#### **RECITALS**

- a. As stated in the Operating Agreement, the Foundation exists to support the mission and priorities of the University, including but not limited to managing private resources and providing opportunities for students that may not otherwise occur.
- b. Currently, each and every one of the employees in the University's Advancement office are employees of the University. Currently, there are no employees employed by the Foundation.
- c. Because the Foundation has no employees, it relies entirely and exclusively upon one or more University employees to provide the support services it needs to fulfill its responsibilities, mission and purpose timely, adequately and competently. The Vice President for University Advancement has committed the necessary support and services to enable the Foundation to timely, adequately and competently fulfill its responsibilities and mission.
- d. At this time, the University and Foundation are entering into this Service Agreement with the purpose of memorializing their discussions and understanding.

NOW, THEREFORE in consideration of the foregoing and the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

#### **A. The University agrees to provide to the Foundation the following services:**

1. The Executive Director of Advancement and Foundation Services, an employee of the University, shall serve as the Managing Director of the Foundation and provide administrative, financial, accounting, investment, development and support services to the Foundation, as directed by the Foundation. The University is responsible for the employment and compensation of all University Advancement Staff who provide services to the Foundation, including the Executive Director of Advancement and Foundation Services in his or her capacity as the Managing Director of the Foundation. While providing services to the Foundation, University employees are subject to the oversight and direction of the Foundation's Board of Directors. The University acknowledges and agrees that the Executive Director of Advancement and Foundation Services will prioritize the work of the Foundation, as necessary, to ensure the timely, adequate and competent fulfillment of the Foundation's mission and responsibilities.



2. The University agrees to provide the following specific services to the Foundation:
  - a. The University's Advancement employees will provide support services required to enable the Foundation to fulfill its administrative and fiduciary duties, including but not limited to: (1) gift acknowledgment, processing and receipting; (2) management and operation of the donor database/system; (3) records maintenance; (4) routine, day to day, accounting (4) preparation of the annual financial audit; (5) filing of tax documents; (6) management of endowment and other investments under UPMIFA and in compliance with Foundation policies and procedures; (7) IT security and support; (8) maintenance of Foundation operational policies and (9) all other administrative and support services as required and requested by the Foundation.
  - b. Access to the University's financial system to receive, disburse and account for funds of the Foundation.
  - c. Accounting services, to include cash receipts and disbursements, accounts receivable and payable, bank reconciliation, reporting and analysis, and internal auditing.
  - d. Development services, including but not limited to document preparation, donor records, research, communications and special events.
  
3. The Managing Director shall:
  - a. Supervise the University Advancement staff who are also employees of the University and who will provide support services to the Foundation.
  - b. At the direction of the Foundation's Investment and/or Finance Committees, facilitate investment transactions on behalf of the Foundation. Signature authority to facilitate any investment transaction, will be subject to limits and controls specified by the Foundation, including internal controls established by any financial institution. Specifically, the Managing Director's authority to assist in investment transactions is limited to the administrative task of transferring funds: (1) between accounts within the Foundation's operational bank account; (2) between accounts within the Foundation's investment account; and (3) between the Foundation's operational bank account and the Foundation's investment account. All other financial transactions must be executed by officers of the Foundation.
  - c. Review proposed gift agreements between the University, Foundation and donors, and execute the agreements on behalf of the Foundation. Any agreement that contains an exception to the Foundation's gift acceptance policy will be reviewed by the Executive Committee of the Foundation prior to gift acceptance and execution.
  - d. Attend regularly scheduled Foundation Board meetings, including monthly and specially called committee meetings. Additionally, the Managing Director will attend all other meetings as requested by the Foundation, its board members or officers.
  - e. Promptly perform any and all tasks requested by the Foundation, consistent with the Managing Director job description.
  
4. The President, and the Vice President for University Advancement, of the University

shall serve as Ex Officio Foundation Board members, but shall have no voting rights. Executive officers of the University (President and Vice Presidents) shall not serve as Foundation Board officers.

**B. Facilities, Furnishings and Office Equipment:**

1. The business office of the Foundation shall be located in the University Advancement Office, the nature and location of which shall be in the University's discretion.
2. The University will provide office space to the Foundation, including providing all maintenance and utilities, and local and long-distance telephone service for use in the business of the Foundation. The furnishings, computers, copiers and other items of office equipment used in the Foundation's office are owned by the University but shall be made available for use in the business of the Foundation. The cost of repairing, maintaining and replacing such furnishings and equipment shall be paid by the University.

**C. Reimbursement:**

1. The Foundation is responsible to reimburse the University for the Managing Director's personnel costs, including benefits. Other than that responsibility, the Foundation shall have no further obligation to reimburse the University for the costs incurred by the University for personnel, use of facilities or equipment or for other services provided to the Foundation by the University. No payments shall be made directly from the Foundation to College employees in connection with resources or services provided to the Foundation under this Agreement.
2. The Foundation shall provide unrestricted support to the University based on its annual budget, with consideration of requests made by the University.

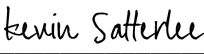
**D. Performance:**

The Foundation via the Board Chair shall, at a minimum annually, have the right and responsibility to provide performance evaluation information and a performance rating for the Managing Director position and duties. The parties agree that one or more Foundation board members or officers have the option to be present during the performance evaluation review of the Executive Director of Advancement and Foundation Services, specifically and only for the Managing Director role and duties portion. The Foundation agrees to provide the written performance information via the University performance management system and in alignment with the University performance management timelines. Upon request, the University likewise agrees to provide the Foundation with a copy of any written performance evaluations prepared by the University for employees who provide support services to the Foundation.

This Services Agreement shall be effective as of the date of the last signature thereto and shall continue in annual terms matched to the University's fiscal year until terminated by either party. This Services Agreement may be terminated by either party upon written notice of termination, such termination to be effective 30 days after notice thereof. This Services Agreement shall also

terminate at the same time as any termination of the most recently signed Operating Agreement between the University and the Foundation. In the event of termination, all obligations of the parties hereto shall cease as of the date of termination except for obligations for payment or reimbursement which accrued prior to the date of termination.

**Idaho State University:**

DocuSigned by:  
  
DC4882CEF705490...  
Kevin Satterlee, President

6/17/2021 | 3:07 PM MDT

Date

**Idaho State University Foundation:**

DocuSigned by:  
  
DD0C4F92438A4E6...  
David Jeppesen, Chair

6/17/2021 | 11:24 AM MDT

Date