July 13, 2010

Chancellor Birgeneau

University of California, Berkeley

Office of the Chancellor  
200 California Hall # 1500  
University of California  
Berkeley, CA 94720-1500

Dear Chancellor Birgeneau:

To help the University of California, Berkeley uphold its commitment to excellence and opportunity, I wish to make annual gifts in the amount of $xxxx payable to the University of California, Berkeley Foundation (UCBF) beginning in April of 2011 and continuing until April of 2040. My gifts will support the Intercollegiate Athletics Endowment Seating Program (ESP) at the University of California, Berkeley. Gifts in payment of this pledge will be in the form of cash, marketable securities, or other property acceptable to the UCBF.

I understand that the attached Exhibit A covers the rights and benefits of the Intercollegiate Athletics Endowment Seating Program for which I will be eligible in connection with payments under this pledge.

The gift is intended to provide broad programmatic support for the Intercollegiate Athletics Endowment Seating Program. It is my understanding that the full scope of the project cannot be accomplished without the construction of a new state-of-the-art facility.

I will use best efforts and fully intend to satisfy the terms of this pledge as written, although it shall not be legally binding on me or my estate.

Sincerely,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Donor Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Donor Date

The University of California, Berkeley, and the UCBF gratefully acknowledge the pledge set forth above in accordance with its terms.

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_ The University of California, Berkeley, Athletic Department

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Teresa K. Gould

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_ The University of California, Berkeley, Foundation

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Endowment Seating Program (ESP)**

**Exhibit A**

**Agreement: Terms and Conditions**

1. **ESP Donor Information** 
   1. Name:
   2. Address:
   3. Phone:
   4. Email:
   5. CADS/PAC#:
2. **ESP Seat Rights and Benefit Specification** 
   1. Club level:
   2. Section:
   3. Number of seats:
   4. Seat Location(s):
   5. Parking:
   6. Additional benefits included as outlined in the Building Champions – Endowing the Future brochure of January 2009
3. **Seat Rights**

The Seat Rights and Benefits specified above are valid for all regular season University of California, Berkeley (“UCB”) home football games for 40 years commencing as of the first home game of the 2012 football season (the “Term”), and require no further payments during the Term, other than the payments listed on the attached pledge agreement.

* 1. The Stadium project (“CMS West”) is scheduled to begin following the 2010 football season and be completed for the 2012 football season. It is anticipated that Cal Football games will be played at another local stadium (Temporary Location) for the 2011 football season.
  2. Bonus Year(s) – To the extent that payments have been made prior to the completion of CMS West, the ESP Donor will receive 2 seat(s) for all regular season UCB home football games prior to completion for no additional ticket cost or required donation. During each Bonus Year(s), the ESP Donor will be entitled to certain amenities (improved parking, hospitality etc.) at no additional cost.

1. **Renewals**

In April of the final year of the Term, the ESP Donor (or assigned successor) shall be given the preference for thirty (30) days to renew the seat location.

1. **Payments**

Payments are due in April of each year. Payments shall be made payable to the University of California, Berkeley Foundation and delivered to the University of California, Berkeley Athletic Department at 195 Haas Pavilion Berkeley, CA 94720.

1. **Termination**

ESP Donor:

* 1. If, for any reason, the CMS West does not begin by January 1, 2012, the ESP Donor may (i) defer additional payments to the program until the Renovation begins or (ii) request a refund of the philanthropic portion of the prior ESP Gifts and terminate this agreement.
  2. Any change to the CMS West schedule as outlined in Section 3.a. which necessitates a delay in CMS West will constitute grounds for (i) payment deferment or (ii) if the delay exceeds 365 days (12) calendar months, termination at the election of the ESP Donor.
  3. Upon termination by the ESP donor pursuant to Section 6.a. (ii) or Section 6.b. (ii) above or for any reason, all rights of the ESP Donor shall terminate and all previously paid fees shall be forfeited. Any such terminated ESP seat may be reassigned or resold by the University with no further obligation to the original ESP Donor.

University:

* 1. In the event of a termination pursuant to Section 6.a.(ii) or Section 6.b (ii). above, or other termination by the ESP donor or the University for any reason, the University shall have the right to withhold admission tickets and to terminate Seat Rights and Benefits.
  2. In the event of a termination for any reason, the only recourse of the University is to have the seat(s) revert back to the University for reassignment and / or resale.
  3. The University shall have the right to terminate Seat Rights and Benefits as a result of the failure of anyone using the ESP seats or benefits outlined in Section 2 above to observe all laws, ordinances, rules and regulations applicable to attendance by ticket holders at Cal football games.
  4. The University shall make its own determination of the ESP Donor’s creditworthiness and if it deems it not satisfactory, refund any deposit paid and terminate the agreement.
  5. If a payment is not made by June 1st of the agreement year, the University may elect, following 30 days written notice to the ESP Donor, to terminate the agreement with the ESP Donor and return the ESP seat(s) to the University for reassignment and / or resale.

1. **Transfer By Gift or Bequest**
   1. Subject to approval by the University, the ESP Donor may transfer the Seat Rights and related Benefits by gift or bequest. The University has the right to reject a transfer; however the University will not unreasonably withhold consent to a transfer by gift or bequest. Once an ESP Donor (“Transferor”) transfers a Seat Right to a new person (“Transferee”), the Transferor will no longer have any rights associated with the Seat Right.
   2. No transfer will be complete until University has consented to the transfer in writing and the Transferor **or their assignee/representative** and Transferee have both signed. In the event that an annual payment option was in effect, the Transferee must sign a new pledge agreement at the time of the transfer documenting and agreeing to the remaining terms of the pledge agreement. The Transferor will pay a transfer fee to the University in the amount of $100 at the time of University consent, which consent will not be unreasonably withheld.
   3. No Seat Right may be transferred more than once per season, except in the case of death or disability of the ESP Donor.
   4. No Seat Right may be mortgaged, pledged, hypothecated or otherwise encumbered.
2. **Sale**
   1. In the event that the ESP Donor would like to sell a Seat Right and related Benefits, the University shall have the right, but not the obligation, to match any bona fide offer and purchase the seat.
   2. Seat Rights may not be sold until they have been paid in full and no further payments are scheduled to the University.
   3. The University has the right to reject a sale; however the University will not unreasonably withhold consent to a sale. Once an ESP Donor (“Seller”) sells a Seat Right to a new person (“Buyer”), the Seller will no longer have any rights associated with the Seat Right.
   4. No sale will be complete until University has consented to the sale in writing and the Buyer **or their assignee/representative** and Seller have both signed. The Seller will pay a transfer fee to the University in the amount of $100 at the time of University consent, which consent will not be unreasonably withheld.
   5. No Seat Right may be sold more than once per season, except in the case of death or disability of the ESP Donor.
   6. No Seat Right may be mortgaged, pledged, hypothecated or otherwise encumbered.
   7. A gratuitous transfer by gift or bequest is not considered to be a sale.
3. **Renovation of Stadium / Seat Unavailability**
   1. The University shall have no liability to the ESP Donor and the ESP Donor shall have no recourse against the University in the event that the renovation of CMS West is not completed when anticipated other than the above provisions outlined in Section 6.a and Section 6. b above
   2. If the ESP Donor elects to defer ESP payments pursuant to Sections 6 a.(i) or 6.b.(i) then to maintain season tickets for years when no payment is made that are not Bonus Years as defined in Section 3 above , the ESP Donor would need to pay the fair market value of the season tickets and make any required donation
   3. The ESP Donor acknowledges that CMS West has not yet started and the actual seat location within the Club level may vary slightly based on construction. Additionally, during the Renovation and, potentially at other times during the Term, Cal home football games may be played at a Temporary Location.
   4. If the ESP seats are temporarily unavailable due to damage, repair or other reasons, the ESP Donor shall have the same rights to reimbursement, substitution or other accommodations as all other season ticket holders. If an event is cancelled due to weather, strike or other any reason, the ESP Donor shall have the same rights to the affected event as all other season ticket holders.
4. **General**
   1. The ESP Donor agrees to observe all rules, regulations and policies, including any modifications adopted or administered from time to time, pertaining to the use of the Stadium and attendance at Stadium events.
   2. Participation in the ESP does not apply to, nor grant any rights or interests in, any other events besides all regular season UCB home football games held in the Stadium.
   3. Participation in the ESP does not grant any ownership, equity interest in the Stadium or any interest in real property or any leasehold interest in the seat to which a Seat Right applies. The ESP Donor’s relationship with the University is that of a licensee and licensor. ESP seats should not be viewed or acquired as an investment as the primary purpose is to obtain the use of the seats for enjoyment and to support the University. The ESP Donor has no expectation of profit as an owner of Seat Rights and Benefits.
   4. The University hereby reserves the right to limit the number of ESP Seats licensed to any one individual or entity.
   5. This Agreement contains the complete consensus of the University and the ESP Donor and may not be modified in any matter except by a written and signed amendment by all parties.
   6. It is understood that the ESP Donor is solely responsible for all tax implications associated with the ESP.
5. **Upgrades**

a.ESP Donors interested in upgrading seats to a higher club level will be given credit for all payments excluding the administrative fee. Upgrades will apply for the original term of the ESP seat and original purchase price. Please refer to upgrade table for credit information. The right to upgrade applies only to ESP Donors participating in (or joining) the program during the charter pricing time frame.

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Signature) Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Donor**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Signature) Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Donor**

**The University of California, Berkeley, Athletic Department**

**Teresa K. Gould: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_**