

## **GRANT AGREEMENT**

This grant agreement (this "Agreement") is made effective on July 23, 2018, (the "Effective Date") between the **Arizona State University Foundation**, an Arizona nonprofit corporation (the "Foundation"), **Arizona Board of Regents** (The "Board") for and on behalf of **Arizona State University** (the "University"), an instrumentality of the state of Arizona, and the **Charles Koch Foundation**, a Kansas nonprofit corporation (the "Donor"). This Agreement is for the benefit of the Academy for Justice (the "Center"), which is housed in the Sandra Day O'Connor College of Law (the "College") at the University. The Foundation, the University, and the Donor are sometimes referred to in this Agreement individually as a "Party" and collectively as the "Parties." The Parties agree as follows:

1. **Promoting Academic Freedom.** Consistent with the Donor's principles of supporting open inquiry and a diversity of ideas in higher education, the Donor's grant is intended to help promote a republic of science at the University where ideas can be exchanged freely and useful knowledge will benefit the well-being of individuals and society. Thus, the Parties agree that the academic freedom of the University, the Center, and their faculty, students, and staff is critical to the success of the Center's research, scholarship, teaching, and service.
2. **The Foundation and the University's Proposal.** The Parties enter into this Agreement based on the Foundation and the University's proposal, which is hereby incorporated into and made part of this Agreement and the substance of which is attached as Attachment A (the "Proposal"). As stated in the Proposal the mission of the Center is to pursue scholarly research and analysis of criminal laws, procedures, policies, and practices (the "Center's Mission"). The Center will be led by a Director, (the "Center Director"), who will be selected by the University according to its normal procedures.
3. **The Center Programs.**
  - a. **Generally.** To support the Center's Mission, the University desires to create the following positions and activities to affiliate with the Center, collectively referred to as the "Center Programs." The Center Programs are described more fully in the Proposal and include two "Tenured or Tenure-Track Professorships," the "Center Director Stipend," an "Executive Director/Program Manager," an "Administrative Assistant," a "Professional Editor," "Student Editors," and "Center Support." The Foundation and the University shall each use any funds received under this Agreement to support the Center Programs in accordance with the terms of this Agreement. According to the University's normal procedures, the Center Director is responsible for directing the Center Programs, which includes allocating and administering the Center's budget, supervising Center staff, mentorship, and other duties to advance the Center's Mission as deemed appropriate by the Center Director.
  - b. **Selection According to the University's Normal Procedures.** The Parties mutually agree that the selection of the foregoing positions and fellowships by the University will follow the University's normal procedures for selecting such positions and fellows for the applicable academic units. As a matter of academic freedom for academic units at the University, individuals who hold positions with or are affiliated with the Center must be approved by the Center Director, in accordance with Sandra Day O'Connor College of Law and University's normal procedures.
4. **The University's Support for the Center.**
  - a. **Resident Fellowship.** Separate from the Donor's support, the University shall support the Center by providing a Resident Fellowship affiliated with the Center. The position is more fully described in Attachment A.
  - b. **Generally.** The University shall support the Center Programs to advance the University's mission. As part of this support, the University shall ensure that the faculty, students, and staff working with the

Center have adequate space to achieve the Center's Mission. Therefore, the University will provide the Center with office space, meeting rooms, conference space, furniture, and information technology sufficient to fulfill its operational needs on terms consistent with other centers at the Sandra Day O'Connor College of Law.

**5. The Donor's Support for the Center Programs.**

a. **Contributed Amount.** Subject to the terms of this Agreement, the Donor will contribute funds to the Foundation solely to support the Center Programs to advance the Center's Mission (all or part of such funds are referred to as the "Contributed Amount(s)"). The maximum Contributed Amount for each Center Program is as follows:

<b>Center Programs</b>	<b>Contributed Amount</b>
Salary and fringe benefits for the two Tenured or Tenure-Track Professorships	Up to \$1,755,000
Costs and expenses for the Center Director Stipend	Up to \$ 735,000
Costs and expenses for the Executive Director/Program Manager	Up to \$ 650,000
Costs and expenses for the Administrative Assistant	Up to \$ 276,000
Costs and expenses for the Professional Editor	Up to \$ 414,000
Costs and expenses for the Student Editors	Up to \$ 367,200
Costs and expenses for Center Support	Up to \$2,302,800

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

**6. Grant Process and Administration.**

a. **The Foundation Grant Request.** The Foundation shall submit an annual written request according to the schedule below to the Donor for the Donor's consideration (the "Foundation Grant Request"). If the Donor approves the Foundation Grant Request, the Donor shall make a contribution up to the amount listed in the below schedule to the Foundation, and the Foundation shall accept such Contributed Amount on behalf of the University. If the Donor does not approve the Foundation Grant Request, the Donor is under no obligation to contribute any funds to the Foundation or the University.

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

<b>Foundation Grant Request Date</b>	<b>Donor Response and Proposed Contribution Date</b>	<b>Contributed Amount</b>
Submitted as the Proposal	Within sixty (60) days of the Parties signing this Agreement	Up to \$1,081,160
June 1, 2019	On or about August 1, 2019	Up to \$1,331,760
June 1, 2020	On or about August 1, 2020	Up to \$1,362,360
June 1, 2021	On or about August 1, 2021	Up to \$1,362,360
June 1, 2022	On or about August 1, 2022	Up to \$1,362,360
<b>Total Maximum Aggregate Contributed Amount:</b>		<b>\$6,500,000</b>

c. **The Fund.** The Foundation shall place all of the Contributed Amount in a segregated and restricted fund on its books and records called the "AJC-CKF Fund" (the "Fund"). The Foundation and the University shall solely use the Fund to support the Center Programs as stated in this Agreement. The Foundation shall make the Fund available for contributions from other donors. If another donor makes a contribution to the

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

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

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

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

j. Third Party Rights. This Agreement does not confer any rights or remedies upon any third party other than the permitted assigns of the Parties.

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

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

If to the Foundation:

Gretchen E. Buhlig  
Chief Executive Officer  
Arizona State University Foundation  
ASU Fulton Center  
300 E. University Drive  
Tempe, AZ 85281-2033

If to the University:

Mark Searle  
Executive Vice President and University Provost  
Arizona State University  
Mail Code 7705  
PO Box 877705  
Tempe, AZ 85287-7705

If to the Donor:

Charles Koch Foundation  
1320 N. Courthouse Road, Suite 500  
Arlington, VA 22201  
Attn: Grant Administrator  
Cc: General Counsel's Office

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

Fund, the Foundation shall promptly notify the Donor of the amount donated and, if permitted by the other donor, the name of the other donor.

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

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

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

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

**8. General Terms.**

a. **Term.** The term of this Agreement is from the Effective Date to the later of July 31, 2023, or until the Foundation and the University have spent all of the Contributed Amount, unless earlier terminated pursuant to this Agreement.

b. **Termination.** The Donor has the right to terminate this Agreement if: (i) the Foundation or the University breaches any term of this Agreement; (ii) the Center Programs are not advancing the Center's Mission; or (iii) such action is necessary to comply with any law applicable to the Foundation, the University, or the Donor. For University budgeting purposes, such termination is effective upon the next academic semester from the date notice is provided by the Donor to the Foundation or the University. Prior to the effective date of termination and within fifteen (15) days of such notice of termination, the Parties agree either directly or through the assistance of such advisors as they may engage to meet and try to resolve the matter. If, within sixty (60) days from the notice of termination, the Parties do not mutually agree on a resolution, such notice of termination shall immediately become effective. If the Agreement is terminated, the Foundation and the University shall return all unspent Contributed Amounts to the Donor within fifteen days of the Donor's request. The Foundation and the University are not relying on the Donor's proposed funding under this Agreement to incur any obligation or take any action or inaction.

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

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

e. **Entire Agreement.** The terms contained in this Agreement supersede all prior oral or written agreements and understandings between the Parties related to the matters described in the attached proposal (Attachment A) to this Agreement and constitute the entire agreement between the Parties with respect to the matters contained in this Agreement.

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

**ARIZONA STATE UNIVERSITY FOUNDATION**

By: 

Name: Gretchen E. Buhlig

Title: Chief Executive Officer

Date: 7/24/18

**ARIZONA STATE UNIVERSITY FOUNDATION**

By: 

Name: Virginia E. DeSanto

Title: Treasurer

Date: 7/24/18

**ARIZONA BOARD OF REGENTS**

for and on behalf of

**ARIZONA STATE UNIVERSITY**

By: 

Name: Mark Searle

Title: Executive Vice President and University Provost

Date: 7/25/18

**CHARLES KOCH FOUNDATION**

By: 

Name: Brian Hooks

Title: President

Date: 7/25/18

## **ATTACHMENT A**

### **Arizona State University Foundation and Arizona State University Proposal to Support the Academy for Justice**

#### **Mission**

The mission of the Center, which is housed in the Sandra Day O'Connor College of Law at the University, is to pursue scholarly research and analysis of criminal laws, procedures, policies, and practices.

#### **Center Programs**

##### **Tenured or Tenure-Track Professorships**

The University will select two individuals for the Tenured or Tenure-Track Professorships to be housed in the Sandra Day O'Connor College of Law. The individuals selected for the Tenured or Tenure-Track Professorships will be affiliated with the Center and will devote a significant amount of time and resources to the work of the Center, including research, teaching, and outreach related to the Center's Mission. It is the University's intention to seek to fill these positions by fall of 2020.

##### **Center Director Stipend**

The Center Director Stipend will compensate the Center Director for leading the Center consistent with the Mission. This compensation will allow the University to attract and retain the leadership necessary to advance the center.

##### **Executive Director/Program Manager**

The University will provide support for an Executive Director to support the Center. This individual will work with the Center Director and be responsible for managing day-to-day operations, coordinating events, and promoting the Center's Mission across the University and the academy.

##### **Administrative Assistant**

The University will provide the Center with administrative support to assist the Center Director, Executive Director, and Center affiliated faculty with the Center's operations and related activities. Responsibilities include, but are not limited to, managing calendars and scheduling, coordinating travel arrangement and meetings, and assisting with programmatic activities hosted by the Center.

##### **Professional Editor**

The Professional Editor will be involved in all aspects of the Center's publication process, with a particular emphasis on pre-writing, writing, and review stages. This individual will promote the Center's Mission by assisting in overseeing the Center's published works and supervising the student editors.

##### **Student Editors**

The University will provide support for a minimum of six student editors to work with the Center staff in supporting the written works to be published by the Center. These individuals will be selected by the Center staff and be expected to promote the mission of the Center in their work.

##### **Center Support**

The University will provide the Center with office space, furniture, and information technology and support for its operational needs on a basis consistent with its provision of such items to other centers at the Sandra Day O'Connor College of Law. The Center will design and edit a website for the distribution and promotion of its research, related work, and publications, will provide honoraria to engage internal and external faculty in the mission of the Center, provide travel expenses for Center affiliated faculty, and support the publicity and distribution of its research and other publications as necessary to accomplish its mission.

**Resident Fellowship**

The University will provide a Resident Fellowship that will be affiliated with the Center and contribute to the Center's Mission through research, teaching, and mentorship. It is the University's intent that the first Resident Fellow will begin providing services to the University in the 2019-2020 academic year. Individuals selected for this fellowship may hold the fellowship for consecutive years.